Report

Hokianga Accord

Oturei 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.

19 – 20 April 2007

"If you are going to make a splash throw a big rock,"

Paul Haddon, Ngapuhi Representative on Hokianga Accord

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Executive Summary

This document is the record of the Hokianga Accord hui held at Oturei Marae, Dargaville, Ngati Whatua, 19th and 20th April 2007. This report covers the topics discussed during the Accord's eighth overnight hui and includes appendices relevant to the Forum's activities.

The Hokianga Accord is the mid north iwi fisheries forum encompassing the interests of iwi and hapu of Te Tai Tokerau. The Forum is intended to assist the Minister of Fisheries (the Minister) 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. (Fisheries Act 1996, section 12 (1) (b))

The majority of the hui's focus was on both the Ministry of Fisheries' *Shared Fisheries* policy proposals and process and also the implications of the High Court ruling from the judicial review of the Minister of Fisheries' 2004 and 2005 kahawai decisions. Both processes were analysed and discussed in depth. Initial analysis of the High Court decision is in Appendix One.

Maori interests have significant commercial fishing rights, all of the customary rights and are a major participant in the 'recreational' fishery. The recreational fishing right was the most 'useful' of all the fishing rights because that is the right that Maori exercise when fishing to put food on the table and to feed the mokopuna.

The clear understanding of the importance of the right to fish for food was instrumental in bringing all the parties of the Hokianga Accord together. It is up to Maori to acknowledge and keep that right so their children and mokopuna could fish in the future.

In recognition of the significance of the recreational fishing right to Maori in Tai Tokerau, Te Runanga A Iwi O Ngapuhi (TRAION) had supported the Kahawai Legal Challenge and provided a very powerful affidavit signed by its Chairman, Raniera (Sonny) Tau. This hui was the first major opportunity, since the March High Court ruling, to present the evidence of TRAION's commitment to the judicial review. (Appendix Two)

A presentation on the Marine Protected Areas (MPA) Policy Protection Standards and consultation process was given to the hui. The MPA policy is a joint project by the Ministry of Fisheries (MFish) and the Department of Conservation (DoC). The classification process provoked healthy debate and raised some important issues about the lack of recognition of customary area management tools and the Crown's statutory responsibility to have particular regard to kaitiakitanga.

In addition to the policy issues, matters of local interest were also discussed during the hui. Many participants had lived around the Kaipara Harbour for most of their lives and were heartened by the conversation of kaitiakitanga, area management by local communities and mechanisms to address localised depletion of important fisheries.

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.

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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.

Background

Prior to the Oturei marae hui the Hokianga Accord had held hui at Whitiora marae, Bay of Islands, Whakamaharatanga marae in the Waimamaku Valley Hokianga, Naumai marae on the Kaipara and Whakapaumahara marae, Whananaki. Two Working Group hui have also been held in Auckland.

It was a privilege once again to be manuhiri (guests) of Ngati Whatua for the eighth hui of the Hokianga Accord. On the previous visit to the Kaipara Ngati Whatua kaumatua, Hugh Nathan, gave the Forum a simple message regarding the depleted fisheries. The Accord was pleased to be back to report on progress to "fix it".

Since the July 2006 hui several major events had occurred. The first was the release of the document *Shared Fisheries. Proposals for Managing New Zealand's Shared Fisheries: a public discussion paper*, by the Ministry of Fisheries (MFish). The announcement at the end of October 2006 sparked intense debate amongst non-commercial fishers.

Both customary and recreational fishing representatives spent several months responding the *Shared Fisheries* proposals. The first public response was a 140-page document titled *A Preliminary View on the Ministry of Fisheries Shared Fisheries discussion paper*. This was distributed in mid December 2006 in anticipation of receiving feedback for the final submission due for completion by 28th February 2007.

The People's Submission was delivered on time and an updated 130-page submission sent to MFish on March 2nd 2007. Advocates objected to MFish pushing the *Shared Fisheries* proposals through without waiting for the High Court's interpretation of the law. They also rejected any legislative changes to the Fisheries Act 1996 (the Act) and its purpose, which is to manage fisheries to enable people to provide for the social, economic and cultural wellbeing.

Later in March the High Court delivered its judgment following the judicial review of the Minister of Fisheries 2004 and 2005 decisions for the management of kahawai. Justice Rhys Harrison's ruling on the Kahawai Legal Challenge (KLC) was released on March 21st.

The High Court confirmed many arguments made throughout *The People's Submission*, that every man, woman and child in this country has a common law right to fish to provide for their needs. The ability to exercise that right comes down to access to the marine environment and the availability of fish of an acceptable size.

After years of mismanagement of inshore fisheries, amateur and Maori fishing interests are now working together to ensure ongoing sustainable management of the precious fisheries (taonga) and the protection of the marine environment.

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The Hokianga Accord, the mid-north regional iwi fisheries forum, is a prime example of this increasing awareness and mutual respect for traditional and customary values in fisheries management.

Introduction

After such a successful hui at Naumai Marae in July 2006 there was much anticipation for another successful hui amongst those gathered at the waharoa (gateway onto the marae) of Oturei Marae, Dargaville.

Following the powhiri, cup of tea and a chat, Chairman for the day, Raniera (Sonny) Tau welcomed everyone to the eighth Hokianga Accord hui. Standing chairman of the mid-north regional iwi fisheries forum, Judah Heihei, was unavailable due to work commitments and had sent his apologies. Graeme Morrell and Scott Macindoe would be chairing proceedings the following day as Sonny had to leave the hui later that evening.

A rearranged agenda meant there was a rare opportunity for everyone in attendance to briefly introduce themselves. Around 50 people took a few moments to explain their background and interest in fisheries management or marine protection issues. This was a worthwhile exercise and will no doubt be repeated if time allows at following hui.

It was a pleasure to have Alan Fleming, a marine protection ranger from the Whangarei Department of Conservation (DoC) office, at another Hokianga Accord hui. He was due to give a presentation on the marine protection standards and consultation process later in the day.

The absence of Ministry of Fisheries (MFish) staff was discussed, as was their continued refusal to recognise and support the mid-north iwi to achieve their input and participation into fisheries management. The outstanding invoice for payment of the $1500.00 hui fee for the Hokianga Accord hui held at Naumai Marae nine months ago, was also a point of discussion.

At this hui were representatives from Te Runanga A Iwi O Ngapuhi, Te Runanga o Ngati Whatua, Te Roroa, Te Uri o Hau, Mayor Peter King of the Kaipara District Council, Guardians of Mimiwhangata, Zone One (northern) and Zone Two (Auckland) based clubs affiliated to the New Zealand Big Game Fishing Council, the NZBGFC management team and option4 representatives.

Although time had been set aside on the agenda for both Te Ohu Kaimoana (TOKM) and the New Zealand Recreational Fishing Council (NZRFC) to address the hui on the joint stakeholder initiative for *Shared Fisheries*, neither organisation had sent representatives. Apologies had been forwarded to Sonny so he would explain to the hui the development process of the joint initiative.

A number of documents had been reproduced for the hui. Everyone was invited to take copies of the material, read and distribute amongst their people. Copies of the Kahawai Legal Challenge (KLC) judgment, the very powerful Ngapuhi affidavit in support of the KLC, Fiona Reihana-Ruka's contribution to the *Shared Fisheries* debate and *The People's Submission*, a joint submission to the MFish *Shared Fisheries* proposals were available. Each document would be discussed throughout the course of the hui.

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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 Steve Sangster and Brett Oliver. The Maori Television film crew recorded some of the events that occurred on the first day of the hui as did Te Karere reporter Hirini Henare – thank you to these media for their ongoing investment in reporting the Hokianga Accord.

Apologies

Judah Heihei (Ngapuhi), Mike Austin (Guardians of Mimiwhangata), John Chibnall (NZBGFC and Bay of Islands SFC representative), Matu Clendon and Robert Willoughby (Ngati Kuta), Robbie Cullen (Maungaturoto), Alan Dempsey, Jonathan Dick (MFish), Phil van Loghem, Grant Dixon (NZ Fishing News editor), Tim Donoghue, Tony Fox, Angela Griffen, Victor Holloway (Ngati Kahu), Chris Jenkins and Vince Kerr (DoC), John Kenderdine (Doubtless Bay Marine Bay Protection Society), Evan MacKay (Doubtless Bay NZBGFC delegate), Fiona Reihana-Ruka, George Riley (MFish), John Retimana (Ngati Whatua), Bill Cooke, Phil Heatley (National fisheries spokesperson), Laws Lawson and Tania McPherson (TOKM), Naida Glavish (Ngati Whatua), Keith Ingram, Geoff Rowling and Sheryl Hart (NZRFC), Michelle King (NZ Herald), Mark Edwards and Terry Lynch (MFish), and Owen Symmans (SeaFIC) all sent their apologies.

Apologies were accepted.
Moved: Joe Bristowe (Ngapuhi)
Seconded: Richard Baker (NZBGFC).

Shared Fisheries

Paul Barnes, option4 project leader

Paul Barnes has been the project leader of the option4 team since its inception in August 2000. He had been fishing since he was a child and remembers his mother sending him out on a charter boat to catch fish for the family. A day's successful catch used to feed their family for a week and was an affordable alternative to buying fish from a shop.

Paul graduated into commercial fishing and was still involved when the quota management system (QMS) was introduced in 1986. By 1988 he had sold his quota and established a business designing and manufacturing kite fishing equipment, which he still manages today.

Conservation has always been an interest for Paul. Over five years research and work had gone into developing and producing a new type of fishing hook – the Target Snapper Hook[1] – which could save around a million fish per annum. An underwater setting device to prevent albatross capture on tuna longliners had also been developed for the Department of Conservation (DoC).

By the early 1980's people were realising that fisheries were not being managed effectively and this was particularly obvious to commercial fishermen. These commercial fishers realised the stocks were declining and they would not be able to continue fishing, as they were, for much longer. Catches had peaked in the late 1970s – early 1980's and there were concerns that irreparable damage was being done to the fisheries.

[1] http://fishingkites.co.nz/htmfiles/rechooksc.htm

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The QMS was developed between the Government and the fishing industry. The principle of giving people a property right to manage and enhance the fisheries was a sound proposition, particularly as commercial fishermen were to be given a valuable asset in a scheme where catch levels were kept at sustainable levels. It was envisaged that the value of that property right could be increased through conservation and the surety of catch associated with those rights.

However, problems quickly arose when the larger commercial fishing companies succeeded in buying the quota from smaller operators and then leasing quota back to those individual fishermen. One of the consequences of this change in quota ownership was the loss of incentive to conserve. The husbandry aspect to care for and enhance the fishery disappeared because those fishermen were now striving to catch fish for the corporates at the cheapest possible price.

Within the QMS other problems have arisen such as dumping, deeming, black marketing and fish caught but not reported. Dumping seems to have decreased since the outset of the QMS but deeming has continued unabated in some important shared fisheries. Deeming is a mechanism that allows commercial fishermen to exceed the sustainable catch limits set by the Minister of Fisheries.

Concurrent with the introduction of the QMS fisheries managers worked out what the sustainable catch levels would be in each fishery. A calculation was then made to determine what cuts were required to achieve that sustainable limit. The government paid out more than $40 million dollars in compensation to commercial fishermen so they would reduce their catch[2].

In addition to the compensation process, the Government established a tribunal to consider appeals from commercial fishermen who were not satisfied with their revised quota allocations or the amount of cash they had received. The Quota Appeals Authority (QAA) issued an additional 30 percent of quota in some important fisheries. Inexplicably, MFish did nothing to reduce those inflated quotas back to their original estimated sustainable catch levels.

Most of the QAA increases still apply today in fisheries that are important to recreational and customary fishers. It had been an ongoing struggle to have realistic quotas re-established in shared fisheries. These inflated quotas and deeming above sustainable catch limits are two reasons why some fisheries have not rebuilt.

If the QMS had been implemented as intended and those original catch levels adhered to, most if not all, of the inshore shared fisheries would have rebuilt as promised in 1986. This lack of constraint on commercial fishing has been the flaw in New Zealand's fisheries management regime.

MFish Shared Fisheries Proposals

MFish realise there are not enough fish in the water to satisfy demand so they have been looking at ways to solving the problem. At the end of October 2006 MFish issued a

[2] Compensation paid excluding deepwater fisheries.

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discussion document called *Shared Fisheries. Proposals for Managing New Zealand's Shared Fisheries: a public discussion paper.*

This MFish document seemed to be an attempt to convince the public that somehow they, as non-commercial fishers were the problem and it was they who had caused the depletion in the inshore fisheries, by taking too many fish!

On closer examination of the MFish *Shared Fisheries* proposals it is clear that their intention, without directly saying so, was to cap or reduce recreational catch to prop up the ongoing unsustainable commercial catch that is mainly exported to overseas markets. Reductions of up to 50 percent could be applied in some important fisheries because MFish proposed to use current allowances as the baseline 'allocation'. Both recreational fishing representatives and MFish know that current allowances are not a true reflection of what amateur fishers actually catch.

For example, in the Snapper 8 (SNA8) fishery on the west coast of the North Island the current overall recreational allowance is 312 tonne. Harvest estimates have calculated the actual take by recreational fishers over the period of a year could be more than 600 tonne. Any attempt to reduce catch levels to the current allowance would mean massive reductions in daily bag limits.

Another example of chronic overfishing can be found in the Flounder 1 (FLA1) fishery. The FLA1 area extends from Tirua Point (north Taranaki) to Cape Runaway on the East Coast. MFish have issued so much FLA1 quota, that over the past twelve years catch has averaged 66 percent of what has been allocated[3]. There is no constraint on commercial fishing effort at current quota limits.

Kaipara communities had been very vocal in their opposition to the mismanagement of flounder within the Harbour for many years. In 2005 MFish attempted to solve the overfishing problem in FLA1. MFish' solution was to cut commercial catch back by a small amount and also cut recreational limits back to the lowest possible level.

Then to make it 'equal' MFish would then apply the same percentage reduction to the recreational allowance as what they had proposed to apply to the commercial limits. This is called a proportional allocation system and has been discussed at previous hui[4].

The outcome of this scenario would be that the public would have had real fish taken off their table while the fishing industry would only have lost 'paper fish' – fish that they have never been able to catch and never had a catch history for. Worse still, there would be very little chance of rebuilding that depleted fishery.

During the Scampi inquiry MFish pleaded with the judge that it wasn't their job to be fair. *Shared Fisheries* seems to be evidence of that continued belief.

Important Factors

MFish has very little idea of how many fish recreational fishers actually catch. Landing at a multitude of boat ramps and access points makes interception by survey staff a difficult if not impossible task.

[3] In the twelve years from 1993/94 fishing year to 2004/05.
[4] http://www.option4.co.nz/Fish_Forums/har11055.htm

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Catch taken by people under 15 years old is not counted in harvest estimates although children do catch fish. It is acknowledged that measuring the catch of up to a million random recreational fishers is not an easy task and has not been successfully achieved despite several attempts. Consequently current allowances are based on underestimates of what is actually caught by those fishing for food.

The danger for everyone is that MFish had proposed to use these known underestimates as the basis for an ongoing allocation. This allocation will be a fixed share of the total fishery, which would then be fully divided between commercial and recreational fishers. If at a later date MFish realised an insufficient allocation had been made for recreational fishers the only way to correct that error would be to buy quota from the fishing industry.

The government had already assured commercial fishers that if reallocation was required they would act on a willing buyer/willing seller basis. The difficulty arises in fisheries where there is a massive underestimate of actual recreational catch.

The recreational allowance could be underestimated by as much as 50 percent in the Snapper 8 fishery. Actual catch could be closer to 600 tonnes per annum compared to the current 312 tonne.

Using Snapper 8 as a case study for *Shared Fisheries* MFish would have two options:

1. Reduce recreational catch by 50 percent.
2. Buy enough quota to cover actual catch.

Reducing actual catch

In SNA8 the average daily catch by recreational fishers is less than two per person when averaged out over the fishing population and coastline. To achieve a 50 percent reduction in actual catch the daily bag limit would have to be less than one snapper per person per day. This is not possible without imposing a seasonal closure.

Respondents to the *Shared Fisheries* proposals were clear that this outcome would not meet the current legislative requirement on the Minister to 'allow for' recreational and customary catch before setting commercial catch limits.

Unless there was reliable information on which to base future recreational allowances the *Shared Fisheries* process should not continue.

It is inconceivable that people fishing for food would be denied access to such an important fishery while commercial fishers continued to take their quota, including the QAA increases and deemed fish.

Buying quota

The second option to buy quota to cover the shortfall seemed reasonable. However due to the government's earlier promises, there needed to be a willing seller. Sanford Limited own around 60 percent of quota in Snapper 8 and have indicated they are not willing to sell any quota they own. In addition, Maori commercial operators are constrained by who they can sell their quota to.

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So the question arises, where is the Government going to get the extra tonnages required to make up the shortfall in important shared fisheries? The fish do not exist. The *Shared Fisheries* proposals are deceiving people. The reality is recreational fishers will be under - allocated in perpetuity and there will be no way of fixing it.

MFish had proposed reallocation could occur if certain factors arose such as an increased value to one sector compared to the other, or population growth. The same limitation of no willing seller exists to address this option so it is another unrealistic solution.

Allocation versus allowances

The outcome of the Kahawai Legal Challenge is that under current legislation it would be wrong to give recreational fishers an allocation in the form of an explicit share of the fisheries. The Minister has to 'allow for' non-commercial catch, both customary and recreational, before he sets the total allowable commercial catch (TACC). How much fish non-commercial fishers catch is whatever it is, within an overall allowance. The overall allowance is not constrained by a specific amount or allocation.

MFish are trying to resolve issues associated with over allocating through the QAA process and their failure to constrain commercial fishers to their quota allocation. In SNA8 chronic deeming and QAA increases have led to over 6000 tonnes of extra fish being removed from this fishery since the introduction of the QMS. The fishery requires an additional 8000 tonne to rebuild it. If the excesses had not been taken then there would have been no need for two previous Ministers to make decisions to reduce total catch levels to engineer the required rebuild.

Recreational fishing right

The recreational fishing right is the most 'useful' of all the fishing rights because that is the right that people exercise when they go fishing to feed their whanau. In coastal communities it is even more significant because it gives people the opportunity to manaaki manuhiri - provide kaimoana for guests. This behaviour not only enhances people's mana but also their sense of wellbeing.

Justice Rhys Harrion's kahawai decision specifically mentions the reality that people can no longer afford to buy fish to feed themselves. Hence it was more important and a mandatory consideration to 'allow for' the catch, the health and wellbeing of all New Zealanders

The High Court has largely upheld claims made by recreational fishers and supported by Ngapuhi, that where non-commercial fishing interests exist they must be 'allowed for'. The Minister may not necessarily have to 'allow for' all of the catch but he has to make provision for sufficient fish so people can provide for their own wellbeing and that of their whanau.

It was important for tangata whenua to understand the implications of *Shared Fisheries* and the KLC ruling as Maori are the largest ethnic group participating in recreational fishing[5]. Excluding immigration, Maori are also the fastest growing ethnic group. Hence it was fundamental for Maori to protect their freedom to fish and provide kaimoana for the whanau.

The message to the Government needs to be very clear – that there is insufficient information on which to base firm allocations in important shared fisheries and that no progress should be made in any fishery until that vital information is available.

[5] SPARC Facts '97-01, Sport & Recreation New Zealand, page 34.

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Once the information is available, a thorough analysis would be required to determine whether people's wellbeing was being provided for within the current allowances compared to what is actually being taken.

Clarity is required to establish how recreational fishing rights and the High Court's interpretation can be made to mesh in with commercial fishing rights to achieve more certainty. With the ultimate goal being *more fish in the water/kia maha atu nga ika i roto te wai* there needs to be incentives for people to conserve fish. There is nothing in the *Shared Fisheries* proposals that offers any type of conservation incentives.

Shared Fisheries is all about privatising recreational fishing, capping what is taken and reducing recreational catch. *Shared Fisheries* is an enemy of all New Zealander's freedom and right to feed their families.

Customary Fishing

The collective response to the *Shared Fisheries* proposals was a 130-page document called *The People's Submission*. Detailed comment was made regarding customary issues in at least six of the sixteen papers contained within the reply document.

The People's Submission accepts the absolute priority of customary rights to shared fisheries and access for cultural purposes to provide kaimoana for the purposes of the marae, particularly hui mate or tangi.

Sonny explained in Te Reo what was covered in *The People's Submission* and the effort put into presenting the arguments in support of customary fishing and area management rights.

Maori have much of the commercial fishing rights, all of the customary fishing rights and are a major participant in the recreational fishery when fishing to feed the whanau. As such, Maori are in the best position to balance the needs of all these sectors.

As the Maori population grows more weight may need to be given to the recreational right, as this is the right exercised when Maori are fishing to put food on the table. This is particularly important, as the retail price of fish is most likely to further increase over time.

Maori Input and Participation

The Minister of Fisheries through MFish had not provided for the rights of tangata whenua as set out in section 12 of the Fisheries Act 1996 (the Act). This aspect of management was discussed in depth at the Whakamaharatanga Marae hui in late 2005[6].

The effect of section 12 is that, before giving any approval or carrying out any functions specified in relation to sustainability measures the Minister **shall** - there is no discretion - *provide for input and participation* of tangata whenua and *consult* widely.

Section 12:

1. Before doing anything under any of sections 11(1)..(sustainability measures), the Minister shall:

[6] http://www.option4.co.nz/Fish_Forums/har11052.htm#s12

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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.

No Maori Input

Despite the unambiguous legal requirement to provide for the input and participation of Maori into fisheries management decisions, this had not occurred. Paul had been to countless meetings over the years where the information to assist decision-making was being formulated and Maori were not there.

There seemed to be two reasons for this absence, one was resourcing and the other was the apparent reluctance of MFish to engage tangata whenua in a meaningful manner to allow them to exercise their section 12 rights. Maori need to start demanding 'a seat at the table' so effective input and participation could be had.

Another difficulty is getting this message across to tangata whenua nationwide so they could firstly know what their statutory rights are and secondly determine to what extent they wanted to exercise their section 12 rights.

There are currently eight functional iwi customary forums around the motu (country) and only two of those had formal Memorandum of Understanding (MOU) with MFish. The Hokianga Accord needs to discuss how to take the Forum's collective knowledge and share the information it has with others to educate the other forums and create that demand.

What needs to be clarified is:

1. The different nature of the rights that exist.
2. That Maori have a very powerful recreational fishing right. It is this recreational right that is used when fishing to feed the whanau.
3. The explicit customary right has been defined and can be used as prescribed, with a permit for cultural occasions on the marae.

Any attempt to privatise, give explicit shares or allocations in fisheries will have the most impact on Maori. The clear understanding of the importance of the right to fish for food was instrumental in bringing all the parties together. It is up to Maori to acknowledge and keep that right so their children and mokopuna could fish in the future.

What happens if there is not enough fish?

The Government needs to get out of the mode of 'frontier' type fisheries management where those who wreak the most havoc wins most of the catch history and therefore future catching

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rights. The last frontier is the recreational fishing right and *Shared Fisheries* is an attempt to encroach on this right that belongs to all New Zealanders and Maori foremost.

Managing fisheries below optimum levels had suppressed recreational catch for many years. The reduced numbers of fish in the water has made fish harder to find and therefore access is constrained. Recreational fishers don't tend to increase fishing effort if there are less fish about; they just go home with less fish in the bag. At the opposite end of the scale, commercial fishers keep fishing until they have caught their quota, or more in some cases.

If fisheries are divided into explicit shares then any future increases are allocated in equal proportions. The historical low catch levels by recreational fishers will equate to lower increases in allocations as fisheries rebuild. Commercial fishers, having the lion's share of catch history, would enjoy greater benefits of rebuilding fisheries under this same regime. This is neither fair nor equitable for Maori and non-Maori.

Taking the long-term view and making an effort to conserve and enhance fisheries has to be the goal of both commercial and non-commercial fishers. There are some fairly simple measures that could be taken to rebuild fisheries.

Kaipara Flounder

The Kaipara flounder fishery is a prime example of a fishery that would benefit from an increase in net mesh size. An increase of half an inch in mesh size would most likely result in one, possibly two, difficult fishing years. After that time the size of the flounder would have increased not only in size but also value.

Flounder are fast growing fish so the short-term effects of a simple increase in mesh size would ultimately produce a greater yield (tonnage) from less fishing effort. Instead commercial fishers are still slaughtering small fish and preventing a rebuild in the flounder stocks.

Another factor not accounted for is the missed yield opportunity if fisheries are run at higher biomass (stock) levels. Larger fish are more productive than smaller fish. If larger fish were more abundant there would be more eggs and ultimately more offspring swimming around, growing bigger and eventually those additional fish would be available to catch.

The People's Submission

The People's Submission is a document written in response to MFish's *Shared Fisheries* proposals. It was a collective effort to explain the nature of the recreational fishing right and how the Minister should give effect to existing legislation so people can provide for their wellbeing.

The submission was produced over a period of four months by many of the people involved in the Hokianga Accord. It includes discussion on customary, recreational and commercial fishing rights. Area rights, kaitiakitanga and the effects *Shared Fisheries* would have on Maori were covered thoroughly, in separate papers. The sixteen papers and the process has been captured online and can be downloaded from
http://www.option4.co.nz/sharedfisheries/index.htm

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Much of the discussion focused on the need for the Minister to properly 'allow for' non-commercial fishing interests where they exist, and ways the Minister could do that.

The ruling from the Kahawai Legal Challenge came very close to matching the description of recreational fishing rights contained within *The People's Submission*.

Another important element to future fisheries management was the need to provide incentives for people to conserve fisheries.

In many fisheries that had been depleted for a long time, it was difficult to argue that the Minister, through MFish, had properly 'allowed for' people's interests when there were very few fish available to catch. There is only one way to 'allow for' non-commercial fishing and that is to have more fish in the water.

The People's Submission was about:

1. More fish in the water/kia maha atu nga ika i roto te wai
2. Allowing people free access to a reasonable amount of fish
3. Applying sensible constraints where required
4. Rewarding those who conserve in fisheries

The suggestions put forward were simple proposals to benefit everyone.

It is MFish who are trying to complicate matters by proposing in *Shared Fisheries* an 'allocation' as opposed to simply 'allowing for' what non-commercial fishers take. MFish had tried and failed over a number of years to count how many people actually go fishing and how much fish is available to be taken. How can they possibly enforce an allocation in these circumstances? Their proposals are not a realistic proposition and are designed to fit recreational fishers into the QMS.

If there is no realistic way of counting the numbers of people who participate in fishing then another perspective needs to be taken. For example, if MFish considered what recreational fishers took as a form of natural mortality then what would need to be monitored are the trends in the fishery.

Are there many old fish left in the fishery? If not, then it means too many have been taken and the natural balance of the fishery has been distorted. Therefore fishing needs to be reduced to increase the numbers of fish in the water. The Snapper 8 fishery on the west coast is an example of a fishery where not many bigger fish are caught compared to 10 -15 years ago. The fishery had declined to a point where the old fish are virtually gone and are not generally available to the average recreational fisher any longer.

Ways to address this scenario could be to reduce catch overall, use more conservative fishing methods that kill less fish per tonne or more selective fishing methods which catch less of the optimum size fish that should be left in the water. For some fisheries it may be best to catch less big fish and in other fisheries it could be to use methods that avoid smaller fish being caught.

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Fish Numbers

Currently fisheries are managed by tonnes however there are only a certain number of fish in the water. If 20-pound snapper are targeted then there are 100 fish per tonne. Conversely, if 25cm (legal commercial size) fish are targeted then around two thousand fish are killed per tonne of catch. If a fish is harvested when it is bigger there is a greater return for that one fish as opposed to if it is caught when it is 25cm. The bigger size gives a better yield per recruit.

Equally, if the numbers of juvenile (undersized) fish that are killed during the catching phase is reduced then that is far more productive than the amount of fish produced through an artificial enhancement programme that uses eggs. This is because an undersized fish has already survived the growing stage; all it needs is the opportunity to grow larger.

In addition, as fisheries become depleted there are less large fish available and smaller fish are more abundant, creating a scenario where more fish are killed during the fishing process.

There needs to be incentives for people to change their old technology to new harvesting methods such as increasing mesh sizes in trawl nets or using less damaging hooks to stop killing small fish.

Incentives to Conserve

An incentive to conserve could be as simple as offering more quota to a commercial fisherman if he reduces his mortality rate. If a fishing vessel kills one thousand fish per tonne of fish caught instead of two thousand per tonne, then more quota could be made available in acknowledgement of that conservation effort. That vessel has caused far less damage to the environment and to the fishery because it has targeted the larger fish and let the juvenile fish escape.

Discussion

There was some discussion whether the one nautical mile (nm) trawl exclusion zone that currently applies on the west coast should be pushed out to 4nm. There was also some debate whether snapper are actually targeted or just by-catch within the Kaipara Harbour and that the 25/27cm (commercial/recreational) minimum legal size limits (MLS) should be both increased to 30cm.

Increasing the minimum fish size

If the commercial MLS were changed to 30cm then all the trawl nets would need to be replaced. A change to larger mesh sizes would mean commercial fishers would no longer catch their profitable by-catch of gurnard, tarakihi and trevally. There would need to be hefty incentives for fishers to change their existing gear otherwise there would be no perceived benefit for them to do so.

The 30cm minimum size limit equates to around one thousand fish per tonne killed, which is a huge improvement on the current mortality rate of between 1700 to 2000 fish killed per tonne at the 25cm size limit.

It is inconceivable that the size limit would be increased to 30cm without changes in quota and technology. It is not in the interest of the fishery, the environment or people if there is significantly more trawling required to catch the allowable quota. In addition, there would be adverse impacts on a range of by-catch species such as sharks, dogfish and kahawai.

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Any new process would need to be strategically thought out and implemented to avoid a massive increase in fishing effort and the associated adverse effects.

Similar concerns arise if the MLS was increased to 30cm for recreational fishers. New technology or improved methods such as using bigger fishing hooks would have to be implemented and enforced before any net gain is made. Otherwise all that would be achieved is a significant increase in the numbers of fish dying after being caught, gut hooked and released.

Kaipara solution

Ways to address the exploitation of the Kaipara Harbour had been discussed at a number of Hokianga Accord hui[7]. One suggestion was to make the harbour a separate quota management area (QMA) but that required the agreement of 75 percent of all quota owners, this was highly unlikely to occur in the near future.

Another idea is to apply customary area management tools so that local rules could be applied such as no trawling within the harbour limit and restrictions could be imposed on fishing gear, numbers and sizes.

The drawback to the application of an area tool such as a mataitai was the 'prevent test' threshold that MFish applies to any area management tool to determine whether the application of a mataitai (or other tool) would have a severe impact on commercial fishers' ability to land their catch.

There was some discussion whether it would be realistic to expect commercial fishers to decrease their snapper catch to zero in Area 8 and encourage investment away from commercial fishing and into more lucrative assets or ventures. It was highly unlikely this would occur. The west coast was a mixed fishery of snapper, gurnard, sharks, kahawai, tarakihi, trevally and other species. Plus there were multiple quota owners including corporates who had vested interests in maintaining their access to Area 8.

Enforcement is a major problem, particularly in more remote areas on the west coast. It is difficult for Maori, who appreciate the need to conserve, to be aware of ongoing illegal fishing but being unable to address it without MFish support. Many coastal communities are tired of waiting for compliance staff to make an appearance let alone act as a deterrent to repeat offenders.

Customary Interests

There is a widely held belief among Maori that their interests have been well catered for under the customary regulations. However, the *Shared Fisheries* proposals look to disadvantage Maori in all sectors, commercial, recreational and customary.

It had been reported that Maori were sending the whanau out to gather kaimoana for a hui or marae occasion using their recreational right because the customary permit regime was so cumbersome.

[7] http://www.option4.co.nz/Fisheries_Mgmt/fmmr7053.htm

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Customary allowances are based on 'general criteria', a set of guidelines published in MFish' management proposals for fisheries under review. These proposals are called Initial Position Papers (IPPs). The general criteria seem to change over time, without notice and are applied differently depending on the species being discussed. Often the difference is only noticed if a previous year's IPP is meticulously compared with later IPPs.

The major issue for customary fishers is the numbers of fish in the water. If there are not enough fish available locally then it is irrelevant what is on a permit. The lack of fish makes the permit virtually worthless.

There are many fisheries where the customary allowance has not been fully taken during any year and it was interesting to note during the Kahawai Legal Challenge that commercial interests argued that uncaught allowances should be made available to the sector that could catch it i.e. commercial fishers. However, those fish are only 'paper fish', they had never been caught and do not exist in reality.

Kahawai Judicial Review

Background

The High Court judicial review was a test case to help better define the nature and extent of the public's right to fish. In challenging the Minister of Fisheries' 2004 and 2005 management decisions for kahawai, recreational fishers asked the High Court to clarify how the Minister should be making decisions for all shared fisheries not just kahawai. The primary objective was to achieve a rapid rebuild of depleted kahawai stocks.

This was the first time the Minister had been challenged in court by amateur fishing groups. The New Zealand Big Game Fishing Council and the New Zealand Recreational Fishing Council took the case to the High Court supported by option4 and Te Runanga A Iwi O Ngapuhi (TRAION).

Ngapuhi has remained firm in its commitment to the legal challenge and provided a very powerful affidavit in support of the judicial review, signed by TRAION Chairman, Raniera (Sonny) Tau. (Appendix Two)

The affidavit from TRAION only came about after extensive process and consultation with the many hapu that makes up the iwi. Great care was taken to ensure opportunity for people to achieve understanding of the complex issues at stake. The process timeline is now online at http://kahawai.co.nz/ngapuhi.htm and will be updated as necessary.

High Court decision

Bruce Galloway, lawyer, Kensington Swan

The groups who took the case to the High Court welcomed the March 21st decision. Justice Harrison confirmed every New Zealander's non-commercial right to fish as a ***well settled common law right*** *subject only to express statutory limitation to fish and provide for his or her needs* where *that right has particular value in a country where easy proximity to the sea in a temperate climate contributes to the popularity of fishing as a recreational pastime*[8].

[8] CIV-2005-404-44495 heard on 6, 7 and 9 November, and 11 December 2006, para. 59(3).

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A commitment was made at the Naumai hui to report back after the outcome of the Kahawai Legal Challenge was known. Bruce Galloway had studied Justice Rhys Harrison's decision and had produced a paper *Kahawai judicial review – what the recent High Court decision means for the future management of New Zealand's fisheries.* This paper was an initial view of the ruling; much more study was required before a comprehensive analysis would be available. (Appendix One)

The purpose of the Fisheries Act 1996 (the Act) is the foundation on which all fisheries management decisions are made. The purpose of the Act is to provide for the utilisation of fisheries resources while ensuring sustainability.

Ensuring **sustainability** has two parts:

- 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 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.

Supporting the Act's purpose are the environmental and information principles. Fishing has to be conducted in a manner that minimises the effects of that activity on the environment and other fisheries. Information principles enable the Minister to make management decisions in the absence of complete data. These principles have to be taken into account when fisheries management decisions are made.

It is important to note that all parts of the Fisheries Act link together, cannot be considered in isolation and need to be applied together to achieve the purpose - which is sustainable utilisation *to enable people to provide for their social, economic and cultural wellbeing.*

The Court held that on a plain reading of section 8 of the Act, **the bottom line is sustainability.** That must be the Minister's ultimate objective. Without it, there will eventually be no utilisation[9]. In other words the obvious that if there are no fish then you cannot catch them.

Total Allowable Catch (TAC)

When deciding on the use of fisheries the Minister has to first decide on what the sustainable catch level will be in order to achieve the purpose and principles of the Act. This total catch limit is called the total allowable catch.

The setting of a TAC under section 13 of the Act is a sustainability measure. Before setting the TAC, the Minister must:

- consult on the proposed measure; and
- provide for the input and participation of tangata whenua having a non-commercial interest in the particular stock concerned and have particular regard to Kaitiakitanga: section 12.

[9] CIV-2005-404-44495 heard on 6, 7 and 9 November, and 11 December 2006, para. 17.

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The Minister's mandatory obligations under section 12 have been discussed at previous Hokianga Accord hui and will undoubtedly be discussed again[10].

Within the TAC the Minister has a statutory obligation to 'allow for' non-commercial interests, both customary and recreational, and also for an amount of fish that are killed during the process of fishing. This amount is called 'other mortality' and the rate varies depending on the fishery. In trawl fisheries the rate is usually set at around 10 percent of the commercial catch limit. In more targeted fisheries methods such as purse seining the rate is between three and five percent.

Total Allowable Commercial Catch (TACC)

Once the allowances have been set the TACC can be established. The TACC is supposed to be the upper limit of sustainable commercial catch from each fishery, although TACCs are exceeded in many fisheries.

Official estimates are that commercial fishers take around 500,000 tonnes of fish per annum compared to 25,000 tonne of non-commercial catch.

An important factor in the judge's decision was the clarification that it was open to the Minister to set the TACC at zero but not the allowance for recreational fishers. If non-commercial interests exist in a fishery then both customary and recreational interests ***must be*** provided for before a commercial catch limit is set.

The High Court also found that the allowance for recreational interests reflected in the level of a TACC should appropriately recognise the extent to which kahawai provides for their wellbeing. In this context 'wellbeing' must mean the **state of people's health or physical welfare.** People provide for their wellbeing either by catching kahawai or by purchasing it from retail outlets[11].

The court observed a regrettable fact of economic life over the past 20 years or so, since fishing quotas were introduced, that people's wellbeing has suffered due to the market forces of supply and demand driving the retail prices for some desirable fish, most notably snapper, out of the reach of many households[12].

In effect, the Court found that the Minister, and MFish as advisers, had been misconstruing the purpose of the Act when allowing for recreational interests in setting the TACC.

The approach the Minister and MFish must now take, as directed by the Court, will have particular relevance to the management of all fish stocks in which non-commercial fishers have an interest.

Setting the TAC is about sustainability whereas setting the TACC is about utilisation, the TACC being use of the fish available ***after*** non-commercial fishing interests and mortality have been taken into account and 'allowed for'.

[10] http://www.option4.co.nz/Fish_Forums/har11052.htm#s12
[11] CIV-2005-404-44495 heard on 6, 7 and 9 November, and 11 December 2006, para. 55.
[12] CIV-2005-404-44495 heard on 6, 7 and 9 November, and 11 December 2006, para. 56.

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In simplistic terms, in the case of kahawai, the Court has said that the Minister did not do what the Act required him to do - to enable all New Zealanders to provide for their social, economic and cultural wellbeing. In a phrase leave "more fish in the water" for New Zealanders.

MFish' *Shared Fisheries* proposals omit to explain that every man, woman and child in New Zealand has a common law right to fish, that non-commercial fishing rights must be 'allowed for.' Neither does *Shared Fisheries* clearly explain why our inshore fisheries are under pressure.

The People's Submission in response to MFish' *Shared Fisheries* advocated that the public's right to fish should not be removed lightly, and that the Fisheries Act should be applied fully and as intended, before any changes are made. It was gratifying to read common themes in the High Court judgment that reflected the statements made in both the Preliminary View[13] and *The People's Submission*[14].

Discussion

Questions were raised concerning the commitments MFish had made regarding the High Court judgment.

Bruce explained that the Minister had been directed to make a fresh decision before the new fishing year starting on October 1st 2007 but the commercial companies had appealed against the decision and that there is a possibility that judgment may not be implemented pending the outcome of the appeal to be heard in February 2008.

Sonny confirmed that Mark Edwards, MFish' National Policy Manager, had attended the same Maori fisheries hui in Napier that he and Scott had attended. The hui was hosted by Ngati Kahangunu and held at the beginning of April. At that hui Mark had said the judge's decision was not helpful and had not clarified anything. In that regard, it seemed as if MFish' attitude at least, had not changed.

Foreshore and Seabed

A consequence of *Shared Fisheries* if implemented before the High Court had the opportunity to clarify and decide on the outcome of the Kahawai Legal Challenge would have been to change the law and alter New Zealander's non-commercial right to fish.

To date there has been insufficient time to give effect to the High Court ruling, and despite this MFish' *Shared Fisheries* process appears to be proceeding. A possible parallel is the Foreshore and Seabed Act where the Government changed the law before enabling people to test the effectiveness of the court's decision in that matter.

Giving effect to the KLC decision

We will be eagerly watching the language used by MFish in the relevant management documents such as the Initial Position Papers (IPP) and Final Advice Papers (FAP) which will demonstrate whether MFish is taking heed of the High Court's directions.

[13] http://www.option4.co.nz/sharedfisheries/preliminaryview.htm
[14] http://www.option4.co.nz/sharedfisheries/peoplesubmission.htm

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Wellbeing

In the KLC judgment Justice Harrison determined that when setting a TACC the statutory starting point is to identify and make an appropriate allowance for recreational interests by reference to the social, economic and cultural value of the fishery to their wellbeing[15].

In practical terms the only true measure of whether people's wellbeing is being met is to ask them directly. This process cannot be measured using a computer model. If the vast majority of people are dissatisfied with their catch rate then obviously the Minister is not providing for their wellbeing, as required by law.

It is unclear, at this stage, whether the High Court decision has implications for other legislation and how wellbeing is taken into account. Wellbeing was only considered during the KLC in the context of the Fisheries Act and how that applies to fishing interests.

Catch history and compensation

In 2004 the United Future political party tabled a Supplementary Order Paper in parliament to try and prevent the introduction of kahawai into the QMS. At the time both the Minister and MFish argued that they had no choice but to use catch history as the basis of allocation of kahawai to commercial fishers, irrespective of how that catch history had been amassed.

Concerns were that purse seiners had been used to scoop up millions of fish with no regard to the effect on non-commercial fishers. Following the judge's comments on the hierarchy of considerations when making management decisions that argument could now be invalid.

The subsequent allocations to commercial fishers could be reviewed in light of the mandatory requirement on the Minister to provide for non-commercial fishing interests as a starting point.

The validity of compensation claims could also be an issue if the initial allocations were deemed to be unlawful.

These matters would have to be put to the legal team to consider if they arose during the next phase of Ministerial management decisions for kahawai. Paragraph 67 of the judgment[16] would need to be examined more thoroughly to determine further arguments on this point.

Panel Discussion

Kim Walshe, Paul Haddon, Stephen Naera, John Holdsworth

Discussion Topic: *Considering the KLC judgment and Shared Fisheries, what are the future implications for the non-commercial allowances and the TACCs?*

The KLC decision and *Shared Fisheries* do not seem to offer much practical change for customary fishers. There is still no clarity on how customary non-commercial fishing interests will be 'allowed for'.

[15] CIV-2005-404-44495 heard on 6, 7 and 9 November, and 11 December 2006, para. 55.
[16] http://kahawai.co.nz/documents/KLCdecision21307.pdf

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If the KLC decision invalidates the *Shared Fisheries* proposals then there would be a requirement for MFish to reconsider how customary interests are catered for. What does wellbeing actually mean for both customary and recreational fishing interests?

The irony is that customary interests are supposedly already considered first in the decision-making process. The reality however is that customary interests are not being provided for as there are localised depletion issues and Maori cannot always gather what they want for their marae functions.

It remains to be seen whether MFish actually give effect to the KLC outcome and offer any clear definition and provision for the wellbeing of tangata whenua.

For Maori the judgment could be taken two ways. From a customary perspective wellbeing is 'everything' as it includes the cultural and social aspects. It is up to Maori to define what that wellbeing is.

Wellbeing could be defined in having sufficient biomass (fish in the water) to access over a whole fisheries management area which would straddle different rohe. Going back to the purpose of the Act, Maori want fisheries managed sustainably and at a level that allows that wellbeing and rights to be exercised.

A second consideration is, are those fish available in local waters? If not, then the biomass may need to be increased so tangata whenua can access those fish within their own rohe. This will obviously depend on natural environment and whether particular species can reasonably be expected to inhabit that area.

The judge has not distinguished between recreational and customary, he discusses non-commercial fishing interests together. However, the judgment could be applied separately and is an opportunity for Maori to consider defining their own wellbeing.

Recreational fishers could also develop a 'social and cultural' indicator system whereby wellbeing can be measured. Fishers could be surveyed and asked whether they are satisfied with what they have now and what changes would be required to provide for their needs. Simple questions relating to catch rates and size of their catch would be an obvious starting point.

Crown Law is likely to be more influential in how the KLC decision is interpreted than the Minister or MFish. MFish would already have sought an opinion from Crown Law on their interpretation of the decision. This is standard practice for all Government departments after a court ruling.

Crown Law is likely to be more objective in its appraisal of Justice Harrison's decision. They are likely to give the Minister and MFish fairly strong directions on how to interpret and broadly give effect to the High Court decision.

The proof of this advice will be in the new Initial Position Paper (IPP) for kahawai due out soon. Proposals for future management will most likely reflect the advice and directions given by Crown Law.

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Because the wellbeing aspect for Maori customary is so broad it is likely that all New Zealanders are going to benefit from a wider view taken in future fisheries management decisions. However, until this year's IPPs are released all conversation is purely speculative.

Conversely it could be argued that everyone's wellbeing is the same. It all relates back to having sufficient fish in the water to provide for everybody's needs. Some people may need to take more fish than others because they have a bigger whanau to feed, but the same numbers of fish need to be available to all non-commercial fishers.

Notwithstanding that more fish in the water reduces catching costs and increases the yield for commercial fishers as well.

Non-commercial Fishing Rights

A significant outcome of the decision has been the clarification of what non-commercial rights are. The judge has recognised the pre-existing rights to fisheries that belong to every man, woman and child in New Zealand. Maori have pre-existing rights that are recognised in the 1840 Treaty of Waitangi. Recreational non-commercial fishing rights also existed before commercial rights were introduced.

Commercial fishing imposed itself over the top of these important pre-existing rights. These commercial rights were absorbed into the QMS when it was formed in 1986. Those rights then became tradable and are now worth around $3.8 billion dollars[17].

Maori challenged the Government in court to establish their rights. Commercial rights were settled through the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and an understanding reached regarding customary rights. Commercial rights belonging to Maori are now worth several hundred million dollars and have been absorbed into the QMS.

Both the *Soundings* (2000) rights reform proposals and the *Shared Fisheries* (2006) discussion document propose to absorb the non-commercial fishing rights into the QMS. Once achieved, those pre-existing non-commercial fishing rights would then become just another 'share' in the TAC pie which can be allocated an explicit amount, much like the current allocation to commercial fishers.

When people realise they already have a pre-existing and very strong common law right to fish it is unlikely they will want to give it away and swap it for an 'allocation'.

Recreational fishing representatives have been advocating for many years that the Minister must 'allow for' non-commercial fishing interests, both customary and recreational, before he gives an allocation to commercial fishers. The KLC decision has confirmed this stance. Non-commercial fishers are now in a stronger position due to the confirmation from the High Court.

Alternative Consultation Process

Currently MFish are the agency that publishes proposal papers and in doing so suggest they are the only ones with all the knowledge on how best to manage the fisheries. MFish offer the public an opportunity to respond to their proposals.

[17] Statement of Intent for the period July 2007 to June 2012, Ministry of Fisheries, May 2007, page 2.

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Acting as judge and jury MFish then decide if any of the suggestions within the submissions are valid to go into their final advice paper for the Minister. This is not an equitable or sustainable process if we are to progress a fisheries management regime that all sectors can have faith in.

An alternative method of consultation is to conduct a two-stage process with the initial phase being an information gathering stage where all parties are invited to provide their Initial Position Papers (IPPs). All interest groups, including MFish, then have the opportunity to provide their input into the IPPs and give advice on those papers.

Once the information is gathered it can be assessed and recommendations can be made to the government. This alternative method offers a thorough, equitable information gathering process, an opportunity to analyse the different proposals and the prospect of negotiating robust outcomes.

The suggestion that tangata whenua and other recreational fishers promote their own IPPs is a valid concept and one the Hokianga Accord could consider.

Kaipara Harbour Management Plan

Peter King, Kaipara District Council Mayor

Peter is part of the Kaipara Harbour Sustainable Fisheries Management Study Group (KHSFMG) that had been working since 1999 to develop a strategy to address overfishing within the harbour. The study group is unique in that it held multiple meetings and hui in order to ensure awareness and inclusion of the local community, tangata whenua, recreational and commercial fishers.

The group released a draft management plan for consultation in July 2003 and the final report *Fishing For The Future – A Strategy for the Fisheries of the Kaipara Harbour*, in December 2003. This was presented to the Fisheries Minister at the time, Pete Hodgson, and very little has happened since.

The main thrust of the strategy was to develop a separate management plan for the Kaipara including a code of practice and method controls such as set net sizes and mesh size. Since the discussions were initiated the harbour fisheries had declined even more and this was unfortunate outcome for the people that had such good intentions.

David Benson-Pope followed Hodgson as Minister of Fisheries. His comments that the harbour commercial fishermen were only involved in the study discussions out of self-interest destroyed much of the goodwill of the community.

Peter agreed with the earlier discussions regarding fisheries mismanagement and considered that the Kaipara Harbour had suffered the most severe consequences of the failure to implement the QMS as intended. Concerns about depleted snapper stocks were one of the spurs to getting the management group underway.

Kaipara Scallops

A meeting had been held with MFish to discuss the current two-year temporary closure to harvesting scallops within the Kaipara Harbour during the past week.

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There were two difficulties; one is that MFish did not commission any research to gather baseline information at the outset of the closure. The other is that no research has occurred during the past two years to determine the current health of the scallop beds.

Consideration is being given to either extending the temporary closure or re-opening access as of July 2007, however this decision would have to be made in a vacuum of scientific information.

The concern is that the scallop beds would re-open in July and become depleted within a very short timeframe, which is not what the Study Group considered is sustainable for the fishery or community.

MFish had written to Te Uri o Hau to ask their view on the alternatives of either extending the temporary closure or re-opening the scallop beds for harvesting.

Peter was unsure if the public consultation process that would follow initial talks with Te Uri o Hau would be completed before the July deadline.

It was confirmed during the hui that MFish had tendered a research project in 2006 to study the scallop population and had indicated the project would be approved this year. The KHSFMG had not received confirmation from MFish that the project was being progressed.

There was a faint hope that MFish were starting to accept the concept of a separate management area for the Kaipara. At this stage it is only an impression, based on MFish comments, but the KHSFMG were more optimistic than they had been in the past.

Finfish Fisheries

Much of the concerns around the Kaipara stemmed from the mismanagement of the grey mullet and flounder fisheries. MFish had advised there would be a review of the northern grey mullet fishery in 2006/07 including the east/west populations considering the management area is from Tirua Point north of Mokau around the top and down to East Cape. Other planned studies are that of the productivity of flatfish (flounder) and northwest rig (shark) population.

There had been some discussion about defining the management boundary between east and west coast fisheries at North Cape. The split is viewed as a positive step for Kaipara fisheries management. This initiative would also address biosecurity concerns relating to set nets that could contain damaging organisms, being transported between the east and west coasts.

Set Nets

A recent meeting was held with the Auckland Regional Council (ARC) representative, Christine Rose, who is promoting a set net ban in the west coast harbours. There is discussion of separate management plans to address the threats to Maui Dolphins. No public meetings had yet been held to discuss this project.

Discussion

Not a lot of progress had been made to improve management of the Kaipara Harbour, however the KHSFMG was determined to maintain discussion and promote better management strategies for the Kaipara.

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The KHSFMG believe a separate fisheries management plan was the best avenue to pursue to achieve their goals. In 1999 MFish were promoting Fisheries Plans as the panacea for local management issues. More recently neither MFish nor successive Ministers have been particularly proactive in helping the community formalise a management plan under the provisions within section 11A of the Fisheries Act.

In theory the Fisheries Act provides for local management plans but the reality is quite different particularly considering the vast areas covered by one Quota Management Area (QMA). For example, Area 1 for the grey mullet and flatfish fisheries extends from north Taranaki to Cape Runaway on East Cape.

Opposition from the fishing industry to adjust the large management areas is a major stumbling block for communities to achieve their objectives for local fisheries. Historically MFish had been reluctant to initiate discussion with commercial fishers about reducing the size of QMAs. From experience legislative change seems the only solution to enable more localised management. The Kaipara people were advised not to pin their hopes on any changes until the Fisheries Act was amended to enable smaller management areas.

MFish are currently considering a new type of fisheries plan, the west coast plan is expected to cover all the finfisheries on the coast. This arrangement is not likely to deliver on the aspirations of communities such as the Kaipara.

Fisheries issues for the Kaipara community had been complicated by other matters such as the proposed catchment plan to encourage replanting around the fringes of the waterways plus the Crest Energy proposal to install underwater power generating turbines.

The Crest Energy proposal had changed recently so the exit point for the power cable is now planned for Pouto. It is envisaged around 200 underwater turbines will be placed at the entrance to the habour. The KHSFMG had made a submission to the Crest Energy proposal.

Supplementary People's Submission

Trish Rea, option4 researcher

The People's Submission[18] was sent to MFish late February and was a joint response to the Government's *Shared Fisheries* proposals. The authors of *The People's Submission* included many of the people involved with the Hokianga Accord and those who had attended previous hui.

In the submission the authors questioned the necessity of MFish asking New Zealanders to submit on the *Shared Fisheries* proposals without the benefit of the decision of the High Court relating to the judicial review of the Minister of Fisheries' 2004 and 2005 decisions for kahawai[19].

Within the joint submission MFish were advised that further comment would be provided after the outcome of the Kahawai Legal Challenge was known.

[18] http://www.option4.co.nz/sharedfisheries/peoplesubmission.htm
[19] The Kahawai Legal Challenge. http://kahawai.co.nz

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Specifically,

> "It is abhorrent that the public is being asked to submit to 'Shared Fisheries' proposals without having the benefit of the High Court decision relating to the Kahawai Legal Challenge. The Government, the Minister and MFish are well aware that the issues argued in that case include the purpose and principles of the Act, how they are supposed to work and how the Minister properly 'allows for' non-commercial interests. We reserve the right to submit a supplementary submission after the decision is released, analysed and discussed amongst non-commercial fishing interest groups. [20]"

A supplementary submission had been drafted and circulated amongst the Hokianga Accord Working Group. The actual High Court decision would be part of the supplementary submission. This was both in recognition of the number of points raised in *The People's Submission* and confirmed in Justice Harrison's ruling, and the succinct manner in which the points are made.

It is envisaged the supplementary submission will be completed and provided to MFish by the end of April. MFish had indicated they had received around 600 submissions to their proposals. MFish originally planned to complete the summary of *Shared Fisheries* submission by the end of March. However, due to delays the summary was not expected till mid-May. It was the group's expectation that the revised timeframe would allow the incorporation of the additional points and the KLC into the summary of submissions.

There was ongoing debate whether the KLC decision invalidates MFish' proportional allocation policy and the approach taken in *Shared Fisheries*. Of particular interest was the judge's ruling that non-commercial fishing interests had to be 'allowed for' if they existed in a fishery, as opposed to being given a fixed allocation that everyone had to fish within. This issue needed to be clarified by the legal team before further comment was made in the supplementary submission.

With an increasing population and reports that Maori represent 33 percent of all adult recreational fishers[21] the proportional allocation debate is of particular significance to tangata whenua.

While a report produced by SPARC[22] based on the combined figures from three Sport and Physical Activity Surveys between 1997 and 2001 found that 25 percent of the population had participated in fishing during the previous 12 months, a more recent Colmar Brunton public opinion survey commissioned by the fishing industry[23] found that 40 percent of those surveyed had been recreational fishing within the past 12 months, and that 75 percent of those polled had exercised their right to fish at some time.

The same SPARC survey also found that fishing was a more popular activity with Maori adults than with all other adult New Zealanders.

Inadequate management of our inshore fisheries means many people return home empty-handed after a day's fishing. Clearly, the Minister had not 'allowed for' their fishing interests.

[20] *The People's Submission*, joint working group, February 2007, page 9.
[21] SPARC Facts '97-01, Sport & Recreation New Zealand, page 34.
[22] Sport & Recreation New Zealand.
[23] Omnibus Recreational Fishing Survey, Seafood Industry Council, March 2007, p20.

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The supplementary submission advocates that MFish should just get on with helping the Minister fulfil his duty to provide more fish in the water to enable people to feed themselves and their whanau.

Discussion

In reference to 'allowing for' people's interests it was concerning that the government was planning to sell its shares in the Kahawai 8 (KAH8) fishery. A suggestion was made to send a letter to the Minister and MFish asking why they are selling those shares in this west coast fishery that stretched from North Cape to Wellington.

The Minister had been directed by the High Court to make a fresh decision by October 1st and it was concerning the Government was selling its shares without knowing how the Minister would assess and 'allow for' non-commercial fishing interests in KAH8.

Participation in recreational fishing

It has been a bone of contention for many years that MFish continued to promote inaccurate figures about participation rates in amateur fishing and that only 20 percent of the population exercised their right to fish. Most recently this figure has been repeated in the MFish *Statement of Intent* document[24]. This downplaying of the numbers was hotly debated at the Napier fisheries conference with commercial fishers, particular given the industry's Colmar Brunton survey results.

A more accurate description of participation rates in fishing would be for MFish to describe that a certain percentage of people had gone fishing for food and/or recreational in the past year, or within the survey period. The concern is that without this extra clarification it seems as if only 20 percent of New Zealand's population actually go fishing over their lifetime. This is certainly not the case for Maori, based on the information to hand.

This misrepresentation of the truth damages any goodwill between non-commercial fishers and those promoting the incomplete statistics.

In addition, other officials use the 20 percent participation rate when making decisions in the belief that it is an accurate reflection of how many people go fishing. Using these estimates the natural assumption is that 80 percent of the population do not fish. This approach also gives more leverage to commercial claims to fishing rights.

During the KLC arguments were put forward that commercial fishers should have access to fisheries so they could supply the retailers and ultimately those who didn't catch fish themselves. Promoting this half-truth about participation in recreational fishing only serves to add weight to commercial demands.

Better catch information

One of the objectives of *Shared Fisheries* was to have better information on catch rates to assist with decision-making. It had been noted that MFish were conducting aerial flight surveys to measure recreational catch and questions were raised as to what the results were.

MFish has completed the overflight surveys of the Hauraki Gulf and the Snapper 1 (SNA1) area from North Cape to Cape Runaway, East Cape. The Snapper 7 (SNA7) overflight survey

[24] Statement of Intent for the period July 2007 to June 2012, Ministry of Fisheries, May 2007, page 2.

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had been completed around the top of the South Island. MFish were now working over the SNA8 area, from Wellington to North Cape. The results of the SNA8 survey had been presented to the MFish Snapper Working Group but it is unclear whether MFish had accepted the report.

If a certain percentage, for example 20 percent of the TAC, is allocated to recreational fishers the major question is, how will MFish know when that allocation has been caught?

Firstly it has to be recognised that fisheries are so diverse that there will be a different answer for each. For example, MFish do not know and are never likely to know how many john dory are taken by non-commercial fishers, because they have such poor information.

Snapper on the other hand is one of the most researched shared fisheries. In SNA1 the average weight and number of fish caught did not vary much between the 1994, 1996 and 2000/01 harvest surveys. The missing ingredient is the numbers of people who fish.

The estimated participation rate climbed from around 10 percent in the 1996 national survey to over 30 percent according to the 2000/01 survey. Clearly the survey methodology used is not good enough. It is currently being reviewed to develop a more accurate surveying system. Debates have been had with MFish to try and have a fishing related question(s) added to the national population census. So far this has not been successful.

The Minister's next decision for kahawai is eagerly awaited for a number of reasons. Major interest is in how the Minister is going to implement changes to give effect to the 25 percent reduction in recreational catch that was originally imposed in 2004 (15%) and 2005 (10%).

Most people who fish are not constrained by the current bag limit of 20 mixed finfish per person per day[25]. Unless targeting kahawai, many people do not catch more than three or four kahawai in a day's fishing. To reduce their actual daily take by 25 percent the bag limit would have to be cut from 20 to around three or four per person. People who purposely targeted kahawai to put food on the table would be most affected by a decision of this magnitude.

This scenario is inconsistent with the fundamentals associated with the pre-existing right to fish and the judge's ruling that non-commercial fishing interests must be 'allowed for' where they exist in a fishery. It is patently unjust to expect people fishing for food to take less purely to sustain a commercial fishery that is of little value.

Joint Stakeholder Initiative

Sonny Tau, Te Runanga A Iwi O Ngapuhi Chairman

In recognition of Maori's unique position in fisheries being both commercial and non-commercial rights holders, Sonny organised a hui so that Maori commercial representatives from Te Ohu Kaimoana (TOKM) and Aotearoa Fisheries Limited (AFL) could talk with the recreational fishing fraternity and make some progress in fisheries management.

As well as representing customary interests in the discussion Sonny also chaired the meeting held in Auckland on March 1st. TOKM representatives at the meeting included the Chief Executive Peter Douglas, Ngahiwi Tomoana, Tania McPherson and Craig Lawson. Robin Hapi of AFL also attended. Kim Walshe provided expert advice during the course of the

[25] Applicable to northern waters and excluding snapper catch.

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meeting. Jeff Romeril and Keith Ingram represented the New Zealand Big Game Fishing Council (NZBGFC) and the New Zealand Recreational Fishing Councils (NZRFC) respectively. Paul Barnes, Scott Macindoe and Trish Rea of option4 also participated in the discussions.

The *Shared Fisheries* submission process had been the catalyst of statements from TOKM and others that the proposals would erode the Treaty Settlement, if implemented. It was considered a worthwhile exercise to try and find some common ground between Maori commercial and recreational fishing interest groups.

Everyone at the meeting agreed to work together to find a solution to fisheries management issues. All commercial, recreational and customary representatives at the meeting agreed on a number of points, the most significant being that the *Shared Fisheries* process could not proceed as there was insufficient information on which to base allocations on. A joint media statement was released after the hui to reflect the outcome and agreements reached at the meeting. (Appendix Three).

It must be noted that there was some debate afterwards whether the NZRFC had agreed that the *Shared Fisheries* process should not proceed as is. The NZRFC has subsequently issued their own statements confirming their commitment to work with the Government, through the *Shared Fisheries* process, to seek a resolution to management issues[26].

A second meeting was arranged which Sonny, Scott and Paul attended. The Napier hui was held on April 3rd and was a follow-up to the Auckland meeting. TOKM had invited SeaFIC to the meeting as they represent the majority of commercial stakeholders. Keith Ingram of the NZRFC also attended the hui. Another media statement was to be released after this meeting but Keith was uncomfortable with the idea so no joint statement was made.

An agreement was reached that everyone would work on Terms of Reference describing how the groups would work together. TOKM would develop a paper, send it out to the groups for feedback and offer it to the Minister of Fisheries an alternative to *Shared Fisheries*.

The draft paper was circulated to all groups and both customary and recreational representatives provided feedback. It is still unclear what, if any, feedback was provided by the NZRFC. Essentially TOKM/SeaFIC dismissed much of the feedback from the non-commercial sector representatives of Ngapuhi, Ngati Whatua, option4 and the NZBGFC.

The commercial representatives did not want the Kahawai Legal Challenge judgment or analysis to form part of the feedback to the Minister. They also dismissed claims to have the NZBGFC involved in further discussions; their reasoning was that the NZRFC was the representative ‘umbrella’ organisation that could represent recreational fishing interests. The proposal to have representatives from all the customary iwi forums was rejected outright.

Sonny has promoted himself as the customary representative in any further talks and is available to talk to any iwi forum about the discussions. It was inappropriate for TOKM to represent customary interests as they are primarily representing commercial interests.

TOKM sent the amended document back for comment, as they wanted to finalise the paper so they could meet and give it to the Minister before he left to go overseas. The non-commercial

[26] Amateur fishers refute commercial claims, media release, NZRFC, 2 March 2007.

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representatives, excluding the NZRFC, would not agree to approach the Minister with the document as it was. There were important issues that needed further discussion amongst the group before anything was presented to Jim Anderton.

It was made very clear to TOKM that there was no endorsement of both the document nor meeting with the Minister, without everyone involved. The understanding is that TOKM/SeaFIC and the NZRFC were due to meet with the Minister's advisor around the same time this hui started. At this stage of the hui it was unclear what the outcome of that meeting was.

One of the contentious points was the claim for MFish to fund the participation of the non-commercial representatives, both customary and recreational, in the Working Group process that was to emerge from these joint discussions. TOKM/SeaFIC would pay for their own involvement in the process and had suggested a sum of $20,000 to cover non-commercial participation.

Feedback to TOKM/SeaFIC was that $200,000 was more realistic considering the commitment required of both recreational and customary representatives. TOKM/SeaFIC's final feedback acknowledged that the $20,000 was insufficient, $200,000 was unrealistic and that $70,000 should cover the costs of the process[27].

Sonny had supported the stance taken on behalf of the Hokianga Accord as there was no way to make progress without first:

1. Analysing and including the KLC ruling into the joint discussions.
2. Having more information about each fishery, including historical data.
3. Applying the current legislation in the way intended to achieve more abundance, without resorting to changing the law.

The approach to *Shared Fisheries* through the Joint Stakeholder Initiative (JSI) was a valid concept if the basics could be agreed upon.

Discussion

Any further discussions with commercial interests needed to be informed by the KLC judgment, that the Minister's starting point when considering utilisation was to 'allow for' non-commercial fishing interests, that the Act needs to be applied as intended and according to the purpose of the legislation – to enable people to provide for their social, economic and cultural wellbeing and most emphatically that non-commercial fishing rights are not for sale.

Opinions on current legislation seem to be poles apart. Industry is advocating that the present law will not deliver adequate outcomes. *The People's Submission* on the other hand was firm in its commitment to the current Act. The missing ingredient was a willingness from the Minister and MFish to implement the Act's tools and mechanisms to achieve the purpose of the Act.

If this is not the correct path to be taking then what is the alternative?

[27] Amendments to the joint shared fisheries proposal, TOKM/SeaFIC, 17 April 2007, page 3.

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Non-commercial representatives are committed to continuing to make progress with the fishing industry. Realistically there would be very little that will be agreed upon at the outset because the interests of both groups are so different however this should not stop both sectors continuing discussions until an agreement can be reached on what work needs to be done.

Fisheries information overview

Once understanding is reached discussions can focus on specifics such as the Kaipara flounder fishery, a particular crayfish area or even SNA8. A case study would include the history of a fishery, mortality, deeming, dumping, and illegal fishing. All this information adds up to build an overview of what is, and what needs to be done, to address issues within that fishery.

This same process could be duplicated in as many fisheries as required. The potential exists to be putting joint proposals together with industry and environmental representatives and submitting them to the Minister. It would be unlikely that a Minister would deny such a thorough and well-constructed process.

Awareness of motives

Non-commercial fishers have to be fully aware that *Soundings* and *Shared Fisheries* are both code words for recreational quota. It does not suit MFish, the Minister or industry to have a sector that does not have an allocation as opposed to an unconstrained overall allowance. Neither does it suit them to have rights that are so different within the quota management system. The push to have recreational catch fitted into the QMS should not be underestimated. This needs to be kept in mind if discussions progress with industry and/or MFish.

Support for Sonny

The Hokianga Accord tautoko (support) Sonny's position as a customary representative in these joint discussions. It was important that Sonny understood the strength of the support for the work he is doing on everyone's behalf.

Resolution
Moved: Ngapuhi
Seconded: Ngati Whatua

Caution for Hokianga Accord

Caution was expressed about revisiting old ground by getting involved in another process to discuss future fisheries management. MFish had ignored the Hokianga Accord and so could TOKM/SeaFIC. Another danger lay in spreading the Accord's effort too thin and losing traction in all discussions.

The mismanagement by MFish and the excesses of the fishing industry should be exposed to the wider public. This could be achieved through another website. The Minister should be told to just get on with his job. If he needs help, he can refer to the solutions in *The People's Submission* or he is welcome to approach the Hokianga Accord.

The KLC judgment and *The People's Submission* had proved comprehensively the public's right to access important fisheries. These successes should also be promoted to a wider audience.

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The motives of TOKM in these joint discussions were questioned. It was an ongoing concern they continued to promote themselves as both commercial and customary representatives. This is TOKM playing a dubious double role. It was difficult to reconcile their stance when they held the assets of other iwi aside from Ngapuhi and Ngati Whatua.

Fisheries Act Review

Trish Rea, option4 researcher

The Minister of Fisheries has proposed a change to section 10 of the Fisheries Act 1996 to allow him to take a more precautionary approach when making management decisions.

Section 10 sets out the information principles of the Act and is an important part in the scheme of the Act. Section eight includes the purpose of the Act, that is sustainable utilisation, and section nine covers the environmental principles that need to be applied in fisheries management.

In October last year industry successfully challenged the Minister's decision to reduce the catch limits in the Orange Roughy 1 fishery (ORH1). The interim hearing of the High Court supported industry's argument that sustainability and utilisation were equal considerations during the decision making process. (Keeping in mind that this occurred prior to the KLC decision being delivered).

Jim Anderton decided not to defend the case in January this year and had sought to amend sections 10 (c) and (d) to allow the Minister to make a conservative decision where information about a fishery is uncertain or limited.

The benefit of now having Justice Harrison's decision is the confirmation that sustainability is the 'bottom line' and that utilisation, or use of that fishery is a secondary consideration[28].

In light of the KLC decision, it seems that this amendment is unnecessary as the Minister can apply a more precautionary approach now, without any changes to the Act. However, option4 were taking the opportunity to support the Minister in this initiative and stressing the point that we do not support changes to other sections of the Act unless non-commercial fishers are thoroughly consulted.

A precautionary approach is good news for the fisheries, non-commercial fishers and environmental interests, as it will allow the Minister to alter catch limits if he has concerns and make decisions based on sustainability alone.

The submission deadline had already passed however an extension had been granted till the end of April. The Primary Production Committee was due to meet again in May to consider the feedback on the Fisheries Amendment Bill and make recommendations to parliament.

The Accord was fortunate to have Clive Monds of the Environment and Conservation Organisations of NZ (ECO) at the hui. ECO had already submitted their paper to the Committee and Clive had provided a copy to the Forum. option4 would be supporting ECO's concerns that amendments to section 10 of the Act should be clear that the decision-maker is applying a precautionary approach.

[28] CIV-2005-404-44495 heard on 6, 7 and 9 November, and 11 December 2006, para. 17.

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One suggestion was to find out which Members of Parliament was on the Primary Production Committee and when they are scheduled to meet. Trish would get this information and distribute it with the final submission.

ECO's Submission

The ECO submission set out international legislation, the law of the sea, and instances where the precautionary approach is enshrined in law and how it is applied. They have provided this information to MFish previously but thought it was worthwhile presenting that information to the Select Committee. There tends to be a hierarchy that comes down from the law of the sea and is applied in a range of international agreements, which do have an effect on local agreements.

Discussion

During the 1994 Fisheries Act review committee processes environmental representatives argued for sustainable use being the main principle of the Act. Industry argued to have utilisation as the primary principle. Unfortunately for the fisheries, environmental and non-commercial interests this major argument was lost. The significance of this outcome has been maximised by the industry since that time.

Commercial fishers have continued to argue that utilisation comes first with sustainability as the next consideration. This approach has affected many fisheries management decisions since the mid 1990's.

A parallel could be drawn between this process and the *Shared Fisheries* process. The Minister is clearly willing to change the legislation to suit his stance if he loses in court. The advantage for participating in this process was the understanding gained about the potential that exists for Jim Anderton to amend the Fisheries Act to enable the *Shared Fisheries* proposals to be enacted.

Concerns were raised that both commercial and non-commercial fishers could have reduced catch limits if this precautionary approach was applied. The explanatory note accompanying the Amendment Bill mentions the possibility of short-term losses. More work was required to determine the risk factor associated with this line of thought. Bruce would consider this point and report back before the submission was completed.

The proposed amendment could be considered an improvement on the current legislation. As with all fisheries legislation, it is how the Minister and MFish actually apply the law that makes the difference.

The opportunity to present, discuss and debate legislative amendment with the hui was acknowledged. The input from all perspectives: environmental, commercial, customary and recreational was appreciated.

Support was to be given to the Minister and his amendment as it is more likely to achieve the collective goal of *more fish in the water/kia maha atu nga ika i roto te wai.*

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Mandate

Sonny Tau, Te Runanga A Iwi O Ngapuhi Chairman

It was concerning that this was now the eighth hui of the Hokianga Accord and yet the Forum still did not have traction with MFish. Despite acknowledgement from the Minister of Fisheries in August 2005[29], MFish were not taking much notice of the Forum or its demands.

The fractious relationship between the NZBGFC and the NZRFC seemed to be hindering any progress as agreements are made and then not supported. This was creating difficulties in the joint discussions.

Commercial interests seemed to be capable of making decisions and standing by them. The same applied to option4. Ngapuhi had given their mandate to Sonny to speak on their behalf. Ngati Whatua had not given unconditional mandate but was 'bouncing off' what Ngapuhi were doing, once they were informed of progress. Ngati Wai was still dealing with their own issues and needed time to sort them out. Te Uri o Hau and Te Roroa were not mandated iwi organisations although they did have their own agreements for their rohe, with MFish.

Those involved in the Forum needed to examine their stance so there was more certainty of support and so progress could be made. It was not a good strategy to go into serious discussions without solid mandate as this provides an opening for others to exploit.

New Zealand Recreational Fishing Council

The NZBGFC is a foundation member of the NZRFC and helped to establish the body around twenty years ago. It was formed to represent the interests of recreational fishers. Both commercial, trade and recreational fishing organisations belong to the NZRFC.

The NZRFC have consistently suffered from poor funding and resourcing. The NZBGFC has had to 'bail out' the Recreational Council financially on a number of occasions. They had also endeavoured to support and assist its growth, particularly over the past five years. Two years ago those efforts were perceived as a conspiracy to overtake the Council and were bluntly rejected.

Scorecard for the NZRFC does not look good. They have existed for 20 years and achieved very little in fisheries management terms. It does not operate in a transparent manner, an example of this is that it has been ten months since the last AGM and no minutes had been provided to members. However, it was acknowledged that the Council's secretary had passed away not long after the 2006 AGM.

The NZRFC conducts very limited consultation with its membership although there was an improvement during the *Shared Fisheries* process, albeit through funding from MFish. It is unclear how much money was provided to the NZRFC for consultation.

Of note for the Kaipara fishers was the NZRFC's recent TV announcement that they are promoting compulsory attendance of set nets. It is unclear where they have got their mandate from to be promoting that policy.

[29] http://www.option4.co.nz/Fish_Forums/images/halminr805.gif

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The NZBGFC has a policy of not supporting the use of gill nets on off-shore reefs and is due to review their netting policy over the next year or so.

The NZRFC had been openly critical of option4 and has struggled to work cooperatively with them. The NZRFC executive had consistently and publicly undermined the Kahawai Legal Challenge project and process.

There seemed to be very little support from the NZRFC for the Hokianga Accord. Their involvement has been very limited and is a disappointment to the NZBGFC.

Despite this track record the Government does recognise the NZRFC's mandate as it suits their agenda to do so.

New Zealand Big Game Fishing Council

The NZBGFC is fifty years old, is the largest mandated recreational fishing organisation in the country with 32,000 members from around 60 clubs nationwide.

Over the past 20 years the Council has become increasingly involved in fisheries management. They openly consult with their members and others, to encourage transparency and good process. The Council is reasonably resourced and is financially stable.

NZBGFC unreservedly support option4 and have done so since the *Soundings* rights reform process in the year 2000. The Council was one of the parties to the KLC and was very pleased with the outcome. However they did acknowledge that success would not have been achieved without the support of Scott Macindoe and the option4 team.

Most significantly, the NZBGFC have the mandate from their members to fully support the Hokianga Accord.

option4

option4 formed because MFish captured the NZRFC through the 2000 *Soundings* rights reform process. The NZRFC had been involved in the development of the proposals pre-2000. Their willingness to now work within the *Shared Fisheries* process, with the Minister and MFish to find "solutions that the Minister may feel comfortable with…[30]", is clearly against what the majority of recreational fishers believe is the best approach.

The NZRFC continue to claim they have a close association with northern Maori and that they consult with northern Maori through the involvement of the NZBGFC in the Hokianga Accord.

The NZRFC is well aware of the current debate within the NZBGFC clubs and zones whether the Council should continue to give their mandate to, and be members of, the NZRFC. These matters should be resolved shortly and the Hokianga Accord would be advised of the outcome.

Discussion

Quite clearly the Joint Stakeholder Initiative (JSI) could not proceed without the NZBGFC.

[30] Keith Ingram, President New Zealand Recreational Fishing Council, 18 April 2007.

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Sonny was keen to organise another meeting in Auckland with the NZBGFC and the NZRFC to clarify once and for all where each group stands. It was unrealistic to be contemplating discussions with the commercial sector if the recreational sector was not united.

Bottom lines

The Hokianga Accord was asked to endorse the resolution for the four bottom lines necessary to continue engagement in the JSI:

1. The New Zealand Big Game Fishing Council has to be involved in the discussions.
2. Customary non-commercial fishers needed to be represented in the discussions.
3. The Kahawai Legal Challenge outcome is analysed and informs the discussions.
4. MFish must adequately resource the participation of customary and amateur representatives in the joint process.

Resolution
Moved: NZBGFC
Seconded: Ngati Whatua

MFish Behaviour

Further discussion followed on the lack of MFish recognition for the Hokianga Accord as the mid north iwi Forum. Tangata whenua within the Forum represented many facets of the community. Iwi had recognition from other Government agencies, MFish were choosing to ignore the Hokianga Accord as being representative of non-commercial fishing interests.

This lack of recognition smacked of discrimination by a government department towards Maori. The Hokianga Accord did not need to go begging for recognition, **it is** the mid north iwi Forum. It was time MFish accepted the fact and took some responsibility.

The $1500.00 fee from the July 2006 Naumai hui remained unpaid by MFish. Ngapuhi and option4 had covered costs to compensate for the lack of MFish support. MFish has the budget to support the Forum, it just chooses not to.

It is untenable MFish continued to ignore the mid north iwi Forum representing the majority of Maori while working with other iwi forums around the motu (country). This form of discrimination needs to be publicly exposed.

Awareness

The merits of inviting political party fisheries policy writers to a Hokianga Accord hui prior to next year's election was discussed. It was the policy people's input that influenced the political stance on various topics. Having them participate was an opportunity to show them how both Maori and non-Maori can work collectively to resolve shared fisheries issues.

It was important in any discussions with other agencies to keep in mind that every New Zealander, Maori or non-Maori, has a common law right to fish. That right has been confirmed by the High Court decision of the Kahawai Legal Challenge.

The Hokianga Accord needs to champion the right for everybody to fish for food. While Maori were majority stakeholders in fisheries and acknowledge the benefits from the commercial asset, the ability to feed the whanau was paramount.

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The perception that Maori were somewhat different to non-Maori in terms of non-commercial fishing needed to be addressed. The law recognised customary fishing with a permit for the marae. When the facts are examined customary fishing activity, as officially defined, was very limited. And as objectionable as it may seem to most Maori, the regulatory authorities classified putting food on the table for the mokopuna as 'recreational' fishing.

Marine Protected Areas Policy

Protection Standards Consultation Process

Alan Fleming, Department of Conservation Marine Protection Ranger

Alan is a marine protection ranger from DoC's Whangarei office and had given presentations at several Hokianga Accord hui. The Ministers of Fisheries and Conservation had announced the Marine Protected Areas Policy (MPA) and Implementation Plan in January 2006. A key component of the plan is the classification of marine ecosystems and habitat.

The draft classification and protection standards consultation document was due for release in June followed by a two-month public consultation period. Alan gave a PowerPoint presentation outlining the principles on which the policy was based and offered the hui copies of a booklet and a CD *Northland Marine Library*.

The consultation document was in two parts. The first discussed the principles and approach taken to classifying the various marine environments i.e. how protection sites would be identified, it also listed existing protected areas and discussed guidelines on the way in which protection tools will be chosen. The second part is DoC's implementation plan, how they plan to give effect to the principles.

This work is based on the New Zealand Biodiversity Strategy, released in 2000. The Strategy's aim is to create a network of marine protected areas around NZ encompassing 10 percent of the Exclusive Economic Zone (EEZ) by 2010. More information is available on the biodiversity website www.biodiversity.govt.nz

Classification

The classification approach for offshore areas would be based on the Marine Environment Classification (MEC) system currently being developed by NIWA. Parameters such as depth, water temperature, salinity, latitude and turbidity (murkiness) will be used to identify the offshore sites.

Inshore areas had been split into different bio-geographic regions and would also be identified according to habitats and ecosystems.

Governance

Governance issues are currently being discussed between DoC, the marine conservation unit (DoC) and MFish. Some of these issues are likely to have caused the delay in the release of the draft discussion document. The plan is to create regional forums that will be representative of interest groups within each area. These community groups would be the forums that select the marine protected areas within their region.

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Existing Fisheries Act sustainability measures and marine protection tools may be complementary to this new process. Alan stressed this is a policy process not legislation so people do have input into the outcomes of the MPA strategy.

The departments recognise some community groups had already initiated their own protection strategies and identified initiatives such as those planned for the Bay of Islands, Mimiwhangata, Whangarei Harbour, Hokianga, Tutukaka, Whangaroa and Doubtless Bay.

The Bay of Islands group had resurrected the concept of the Bay of Islands Maritime Park. The group has become an incorporated society and recently released a document, *Reclaiming the Bay of Islands Maritime Park.* This group is seeking to employ two fulltime people to facilitate the programme.

The classification document does discuss MPA tools that protect particular parts of the water column to enable selected activity, such as surface fishing, to continue.

There was no guarantee the Hokianga Accord would qualify as a regional forum; it could possibly be a sub-regional Forum. Any forum needs to be representative of all interest groups not just fishing.

The *Northland Marine Library* CD is an attempt to gather all the marine information in Northland and have it available from one accessible point. The CD is in two parts, maps and documents about research material, aquaculture, kaimoana regulations, shorebirds and existing marine reserves. The CD is available from any DoC office and will be loaded online in due course.

Under the protection standards planning principle II all protection tools must meet a defined standard/threshold that adequately protects marine diversity and to qualify as an MPA. The document was quite vague on what that standard is as they are still being developed.

Marine reserves

At the last hui Alan agreed to provide some feedback on the review of marine reserves. According to legal advice a marine reserve can be reviewed by stipulation in the Order in Council. An example of this is the Whangara marine reserve. When it was created the joint (with DoC) applicant, Ngati Konohi wanted a review every 25 years, essentially a generational review.

There is nothing in the Marine Reserves Act that says a review can be undertaken. However, the way the Act has been interpreted it allows for anything to be reviewed. For instance, in 1998 the Minister of Conservation undertook a review of the Poor Knights marine reserve because he had the ability to do so.

Discussion

Alan confirmed there had been two delays in releasing the draft classification and protection standards document. It was originally due for release in June 2006. That changed to February 2007 and Head Office had advised it was now expected in June 2007.

It was important for the Hokianga Accord to keep in mind that while some of Alan's focus had been on Northland issues there are initiatives happening on the east coast between Kaiwaka and Auckland that neither the Forum nor the Northland Conservation Board were

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aware of. Greater communication and cooperation between the Northland and Auckland conservancies and conservation boards was required.

Three Kings Islands

Alan was not aware of any initiative planned for the Three Kings area although it was outlined on the DoC area identification map. The NZBGFC estimate around 30 percent of the game season's capture was taken in the Three Kings region and want to be involved in any future discussions about changing the nature of access to the area.

Fisheries management failure

Alan was asked to describe what discussions had occurred between the departments as to why the need had arisen for an initiative such as the MPA strategy. Often it was the perceived failure of fisheries management constraints, poor land management and other historic failures plus DoC's push for marine reserves that motivated communities into action. Most often this was a reaction rather than a positive thrust. Alan could not answer this question in full but committed to researching and providing an answer after the hui.

It was clarified that the classification document does not contain fishing related catch information. It is more to do with habitat than monitoring the sustainability of fishing, that was considered to be MFish' role.

Ecological systems, natural species composition including all life-stages is bigger than any one marine reserve such as Goat Island or the Poor Knights. The protected areas will have to be very large to be able to meet the standards DoC/MFish seemed to be proposing, to the extent that extensive marine reserves are the obvious tool to qualify and would have to be of the magnitude of the Aotea (Great Barrier) proposal just to meet the MPA threshold.

Alan assured the hui that the MFish/DoC strategy is more for a network of protected areas rather than large swathes of reserves. It could be achieved through applying a range of tools including mataitai, provided they meet the threshold. There was obviously far more discussion required before any specifics are finalised, this was more policy development.

It was important for everyone to understand this initiative was a **policy** not an Act. It was merely a strategy of how the Government wants to coordinate the tools that are available for marine protection. The plan, as explained, was that once the decision had been made on the appropriate protection tool then the statutory process would follow.

Given that this policy is not going to be in statute then whatever tool is chosen would be implemented under existing legislation i.e. mataitai or taiapure under the fisheries legislation, reserves via the Marine Reserves Act (1971).

So the government's wish list seems to be a process to streamline the protection of fisheries and aquatic environment when the very same government is unable to put fish in the water.

This ultimately comes down to a question of people's rights.

On the one hand MFish has failed to manage fisheries so there are sufficient fish in the water for people to exercise their common law right to fish and feed themselves. Added to that is a Minister of Fisheries who has failed to 'allow for' people to provide for themselves and exercise their rights as per the law.

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Instead of acknowledging these failures both government departments are essentially saying because MFish cannot manage the fisheries they are going to shut them down. The tension is between mismanagement, overfishing and the perceived need to lock up areas.

Alan acknowledged the status quo as not being ideal and that it had lead to this Ministerial initiative that includes all marine protection mechanisms within one plan.

Alan confirmed there cannot be a marine reserve in a mataitai nor a mataitai within a marine reserve, however they can both be enveloped around each other.

Resources

There did not seem to be any acknowledgement in the MPA discussions of the mismatch of resourcing for different protection mechanisms. Most biodiversity dollars are being spent on marine reserve initiatives when there was little or no resourcing for public education, awareness and support to implement customary management.

The Crown has an obligation to tangata whenua to provide for these mechanisms yet the support was not forthcoming. Hence there was a 'race for space', first in got the best area and the most resourcing and usually this was marine reserve initiatives not mataitai or taiapure applications[31].

It was irrational MFish were talking with tangata whenua about gazetting rohe moana when DoC and MFish were also pushing this MPA strategy and its protection standards. Alan agreed this was not ideal and that joint discussions would present more opportunities to discuss a wider approach to marine protection.

Feedback

The Accord appreciated Alan's effort to attend the hui and explain the MPA strategy. There was an important message that he needed to taken back to DoC.

A 60-day consultation period did not even begin to meet the community's requirement to firstly learn a new language and what the new words mean, secondly to discuss the protection standards amongst themselves and determine how the process might affect them.

The public doesn't trust the Crown anymore. People have learnt the hard way that the words might not always mean what they say, particularly when it comes to fisheries and marine protection issues. The Aotea (Great Barrier) marine reserve process was an example of the destruction of organisational credibility by the Department of Conservation, let alone the Minister.

After squandering a year the proposed 60-day consultation process was totally inadequate and would not allow proper process or the development of considered and inclusive feedback.

[31] http://www.option4.co.nz/Fish_Forums/har11057.htm

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Alan agreed to provide feedback to the hui on the following:

1. Race for space issue
2. Governance issues, any discussions as to the need for this initiative, prior to the development of the MPA strategy
3. Resourcing
4. Consultation timeframe

Cultural Exchange

Tepania Kingi, Ngati Whatua

Tepania concluded the evening's discussions with an enlightening session on history explaining that the Maori concept of the Creation underpins the way tangata whenua think and behave, tikanga Maori, ancient and sacred principles and values.

If the Accord can stand strong and hold true to those values, stand for what is right, stand against what it knows is wrong, as a collective the Hokianga Accord cannot go wrong.

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Friday 20th April

There were around twenty-six people present as Graeme Morrell and Scott Macindoe began the opening session on day two of the hui. More arrived as work got underway to discuss the Accord's origins and functionality, agree on a pathway forward regarding the *Shared Fisheries* debate, hear a progress report on the Guardians of the Sea Charitable Trust and wrap up the evaluation session with a sumptuous hakari (lunchtime feast).

Hokianga Origins

Tepania Kingi explained that Ngati Whatua's origins trace back to the Hokianga Harbour and hence it was important for them to be part of the Accord. Ngati Whatua in and around Auckland were included in this korero, as they were part of Tai Tokerau.

All Northern tribes can trace their origins to one or more of the three waka (canoe) that arrived in the Hokianga many years ago. So irrespective of which iwi or hapu people in Tai Tokerau belonged to, the irrefutable origins step back to the Hokianga. It therefore made logical sense that all those people belonged to the Hokianga Accord.

Discussion

Next hui

Everyone at the hui was encouraged to bring another person along to the next hui to learn, achieve understanding and tautoko the work the Accord is doing. While regulars to the hui had a good understanding of the issues, not many people outside of our fishing realms had grasped the importance of the issues being discussed.

Kaitiakitanga

Kaitiakitanga had been institutionalised to the extent that a requirement when establishing a taiapure was the inclusion of at least one community representative on the management committee. Mataitai on the other hand was exclusive, in that there was no requirement to have the community involved aside from an annual meeting.

The Hokianga Accord defies that institutionalisation and insists on being inclusive. This model can be applied throughout the country if other groups want to behave in an inclusive manner.

The proof of success for the Hokianga Accord will be when tangata whenua in the north try to implement customary management within their rohe. Having a more informed public that understand the benefits of kaitiakitanga, the role of kaitiaki and what rohe moana means should pay dividends for tangata whenua around Tai Tokerau.

Another way of looking at mataitai was that while the governance of a mataitai was exclusive to tangata whenua the benefits accrued to everyone in the community. Manaakitanga (respect for others) is a sacred obligation and kaitiakitanga was a means of providing for that.

Crown obligations

The Crown had failed to fulfil its statutory obligations to tangata whenua as per section 12 (1) (b) of the Fisheries Act 1996, section 10 of the Settlement Deed and to have particular regard

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to kaitiakitanga. There had been no demonstrable intent or desire on the Crown's part to educate the public about the principles and understanding of kaitiakitanga.

The allocated Crown money had been spent with little regard to their obligations to tangata whenua. It seemed to be the Crown's worse nightmare of white money backing brown values, this has been evidenced through MFish' refusal to recognise and support the Hokianga Accord.

Other forums

The concept of "more fish in the water/kia maha atu nga ika i roto te wai" could be applied nationwide. Other forums could encourage participation by both Maori and non-Maori so everyone with an interest in the sea could get together and discuss management initiatives.

MFish had decided not to support the Hokianga Accord, as the forum was not what they envisaged i.e. tangata whenua sitting around talking customary issues. The Accord had learnt a lot by associating with recreational fishing representatives and had started to ask the 'hard' questions.

The Hokianga Accord needed to devise a strategic plan of how it can share the information it has within the Forum with others. Other forums are keen to achieve the same understanding and communicate with recreational fishing representatives within their regions. Particular mention was made of tangata whenua in Wairarapa, Whakatane, Tauranga and the Waikato.

Public awareness

It was incumbent on the Hokianga Accord to disseminate and deliver a simple message about what the Kahawai Legal Challenge outcome means and the impact on both Maori and non-Maori.

There was more political mileage to be made by getting people to understand that it was a decision for the people, for both Maori and non-Maori, not just white recreational fishers. It was a 'win' for all New Zealanders and the sustainability our fisheries for the next generations.

The courage of Ngapuhi to submit such a powerful affidavit[32] in support of the KLC has to be recognised. (Appendix Two). While the affidavit did not address specific points of law it gave a perspective, which was reflected in the High Court judgment. Having gathered the knowledge Ngapuhi had engaged in the process. Knowledge is power and it was now time to share that understanding with others.

Communication Strategy

A draft communication strategy setting out the message, and how the Accord want to achieve widespread understanding, would be circulated for feedback.

Steve Sangster agreed to coordinate the project and the Working Group. Distribution amongst Maori could be achieved through existing communication channels such as runanga and takiwa contacts.

[32] http://kahawai.co.nz/documents/Affidavit_Tau_10_8_05.pdf

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Participants in the Working Group needed to commit to being active in putting the communication strategy together. Initially the Working Group would be Steve, Graeme Morrell, Brett Oliver, Hally Toia, Steve Radich, Paul Batten and Max Purnell.

First draft of strategy would be distributed within a fortnight following the hui. Statistics to back up the text was a good way to disseminate information and get understanding. Visual components needed to be given priority too; many people struggled to get the message purely from text.

It would be more acceptable if Maori could be seen to be giving the message to other Maori rather than being told by Pakeha 'this is how it is'.

Elements of strategy:

- Media (including Maori radio Waatea)
- Advertising
- Spokespeople
- Branding – The Hokianga Accord – mid north iwi fisheries forum

Accord Recognition

While MFish play with words and insist that Ngati Wai must be part of the Hokianga Accord before they will recognise it as the mid north iwi Forum the reality is different. Every two months the northern iwi chairmen get together to discuss a range of matters. That group backs each other including Sonny's work with the Hokianga Accord.

The Hokianga Accord does not exist to take away people's right to speak it is there to protect everybody's interests. The kaupapa is clear - "more fish in the water/kia maha atu nga ika i roto te wai". The 2000-year-old tikanga of tangata whenua is – protect the environment.

It was clearly a waste of effort continuing to communicate with MFish. It was time to deal with the Minister and clearly articulate that the Accord speaks on behalf of the people of Tai Tokerau. It will ultimately be the Minister who chooses who he listens to and decides if he considers that those people have the mandate of the people.

The answer to the question as to why MFish are being so obstructive towards the Hokianga Accord lies in the *Shared Fisheries* debate. The *Shared Fisheries* proposals will have more impact on Maori than any other group yet other iwi forums had been given little opportunity to understand the implications of the proposals and what effect it would have on their ability to feed their whanau.

Customary rights

MFish had tried to promote the perception amongst tangata whenua that the customary right addresses all Maori non-commercial fishing issues. Clearly this is not the truth. Permitted customary rights only apply to kaimoana gathered for marae functions and not to individuals fishing for food.

The customary regulations were MFish' way of trying to control what tangata whenua do. The regulations do not help any Maori in how they live from day to day and get a feed of fish.

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Traditional customary practices included seasonal fishing, identifying who was most 'qualified' to fish for the whanua or hapu, how kaimoana was taken and dealt with once it was gathered. During the 1990's discussions on Maori rights the Crown would not accept these principles as part of the customary regime.

When Ngai Tahu were settling their claims with the Crown in 1997 they insisted on having their customary issues ratified. Regulations were issued which were then, as a matter of convenience, applied nationwide. Attempts to have the Crown recognise fishing for food (as opposed to customary fishing) identified as 'sustenance' fishing failed, hence the reason why fishing to feed the whanau is now officially classified as 'recreational'.

Judicial review

Another approach could be to ask for a judicial review of MFish' processes and criteria on the establishment of iwi forums.

Graeme Morrell would draft a proposal outlining the basis on which MFish could be challenged. The issues are around section 10 (1) b of the 1992 Deed of Settlement and the statutory obligations associated with the Fisheries Act 1996, the 1998 Kaimoana Regulations, Maori Fisheries Bill 2004 and the NZ Biodiversity Strategy. The Crown's statutory obligation to tangata whenua under section 12 (1) (b) of the Fisheries Act is an obvious starting point. Another point is that MFish are denying Maori their ability to manaaki through their actions.

The draft would include bullet points on particular issues that the Accord considers warrant review and setting out the paper trail that has occurred between the Accord and MFish. This draft would be circulated initially amongst the Accord's Working Group for feedback.

The proposal would identify the process and demonstrate that every avenue had been pursued with no satisfactory outcome and as a consequence of MFish' contemptible behaviour towards northern iwi the Accord was considering a judicial review as its next step.

Alternatives to judicial review

A judicial review is an expensive process and the threat should not be made without the full commitment to pursue the legal process. Another option is to present the draft proposal directly to the Minister and give him the opportunity to address the issues. A complaint to the Ombudsman could also be appropriate. These and other courses of action will be tabled as the judicial review outline is circulated for discussion.

An alternative approach is to name those people responsible for obstructing the recognition of the Hokianga Accord. Names that immediately spring to mind are Stan Crothers, Terry Lynch, John Glaister[33] is responsible as MFish Chief Executive. Jonathan Peacey and Mark Edwards as national managers are also culpable. Indelible evidence to prove any allegations would need to be produced for the Minister.

A list of correspondence between MFish and the Hokianga Accord has been compiled and can be used as a proof of engagement with MFish. (Appendix Four)

[33] John Glaister resigned as CE of MFish as of 30th June 2007.

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Far North Forum

Ngati Kahu invited the Hokianga Accord to a hui in December 2006. Jerry Garrett attended the Kaitaia hui armed with reports from previous Accord hui, correspondence between MFish and the Accord, an update on *Shared Fisheries* and the soon to be released (15th December) Preliminary View[34] on the MFish *Shared Fisheries* proposals.

A highlight for Jerry was the action plan drawn up by Abe Witana during their discussions. The plan was agreed to by those present at the hui and distributed with a meeting record three days after the hui.

With the help of George Riley, MFish Pou Hononga, the far north tribes were looking to form their own iwi forum with a focus on customary issues. They did not seem to be addressing the *Shared Fisheries* issue as a collective.

Shared Fisheries

Where to from here?

There had been unanimous agreement the previous day to have Sonny Tau represent customary interests and those of the Hokianga Accord during the Joint Stakeholder Initiative (JSI) *Shared Fisheries* discussions.

As of the second morning of the hui there had been no communication from TOKM or SeaFIC reporting on the meeting between them, the NZRFC and the Minister Jim Anderton. This was unacceptable behaviour from parties who wanted to be in partnership.

If non-commercial fishing interests are going to engage in talks with corporate fishing companies then a protocol needed to be developed and agreed to so all parties involved in discussions knew their responsibilities to each other.

The non-commercial groups are committed to working with other stakeholders and have not given up on working with MFish or the Minister. However without agreed case studies the process was unlikely to deliver robust outcomes.

As the JSI talks begin it is unlikely there will be much to agree on. Non-commercial management objectives are quite different to commercials, as are the political agendas and property rights. The fishing industry's economic aspirations were very different to the social and cultural wellbeing of the people.

However, disagreement cannot be used as an excuse to not complete the work that needs to be done. All sectors would benefit from a clear overview of the issues by species, or by fishery. Understanding each sector's position in regards to rights is a good start.

In *Shared Fisheries* MFish describe people's right to fish in section 4.1 as:

> The basic right to catch fish
>
> Many New Zealanders feel that the freedom to cast a line to catch a fish is a cultural tradition that should be maintained. They are concerned that changes to the

[34] http://www.option4.co.nz/sharedfisheries/preliminaryview.htm

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> management of shared fisheries might mean restrictions or limitations were placed on this tradition. This value is part of our national identity and should be protected.

With the benefit of the KLC decision it can be stated categorically that every man, woman and child in New Zealand has a pre-existing right to fish for food, enshrined in law. Enabling people to provide for their needs is a mandatory consideration for the Minister, as per Bruce's earlier analysis of the KLC decision.

The *Shared Fisheries* discussion document is flawed given that the basic right, as described in section 4.1, is the baseline assumption.

Non-commercial representatives from the Forum wanted to stop changes to legislation. Commercial fishers have expressed views that it is a potential expropriation of the Treaty settlement. The informed view of the non-commercial representatives is that the *Shared Fisheries* process is a threat to all New Zealander's common law right to fish.

It was hoped that some common ground would be found by working within the joint process. It would be an intensive process and the non-commercial representatives, both customary and recreational, would need resources to participate. To go into the process without adequate resources would be an amateur and unacceptable response to a vital process. Mark Edwards, MFish Fisheries Policy Manager, once told recreational representatives *advocacy without resources is an illusion*. He was and still is right.

SeaFIC is an umbrella body established by commercial fishers to represent their collective interests. They work in closely with TOKM on some matters including this JSI. Corporate fishing companies Sanford and Talleys heavily influence SeaFIC. Both TOKM and SeaFIC have sufficient resources to fund their own participation in this joint initiative.

It was important for the non-commercial representatives to remain focussed on the sustainability issue and be aware that the objectives of the commercial interests are based on economics and not necessarily the health of the fisheries.

Understanding the recreational fishing right

The Maori fishing conference held in Napier at the beginning of April was characterised by conversations about *them and us*. The Hokianga Accord has achieved the understanding that whether Maori or non-Maori, the recreational right to fish is the right exercised when fishing to feed the whanau. That clarity does not seem to exist outside of the Hokianga Accord.

A very high quality process was undertaken by Ngapuhi to approve the affidavit in support of the KLC. It has been documented online at http://kahawai.co.nz/ngapuhi.htm and is recognition of the importance of recreational fishing to tangata whenua.

It had been an ongoing battle to dispel the notion that customary rights fulfil the day-to-day needs of Maori. To be accepted, this message needs to come from Maori. *Mana* magazine would be a good forum to use however they have been reluctant so far to accept any copy offered to them from option4.

Maori at flaxroots level had not ignited on the *Shared Fisheries* issue like they did for the Foreshore and Seabed issue. Contributing to the failure to engage was the lack of clarity regarding customary and recreational fishing rights.

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An initial strategy is required to explain what customary fishing ***actually*** is. Maori have been duped into believing that the customary regulations are all that matters and they will always be able to 'get a feed'. This is clearly not the case. Customary fishing using permits is to sustain the marae, not individuals.

Kaimoana regulations

The Kaimoana Regulations had been helpful in assisting tangata whenua to establish their rohe moana. Once confirmed, the customary regulations can be used to initiate mataitai or taiapure. However, many Maori do not understand that a mataitai is a reserve i.e. a no-take area, and that a taiapure allows certain take from within a specified area.

Another possible reason for Maori's reluctance to acknowledge their recreational fishing right is that by doing it would diminish the status of customary fishing. And that many Maori feel the customary regulations are 'all they are going to get' and therefore want to hang to what they already have. History has proven that very little has come to Maori without a fight.

In light of the KLC decision and clarification of social and cultural wellbeing Maori may even want to relitigate the customary management regime.

There is an obvious need to upskill tangata whenua as some Maori view customary permits as a legitimate way of gathering more kaimoana without getting prosecuted but this form of fishing is carried out without implementing tikanga or what is *customary* under the tupuna.

Awareness of KLC outcome

The next national iwi chairmen's hui would be a good place to disseminate the KLC outcome and *Shared Fisheries* progress, from a non-commercial perspective. Ngapuhi still had responsibility for the fisheries portfolio and Sonny would update the hui, which was due to occur soon in Te Tai Tokerau.

Everyone involved in the JSI discussions needed to remain aware that the fishing industry would be investing in the joint process to change the perceptions of the non-commercial participants. There would be benefits associated with joint discussions but there is also the risk that eventually there will be legislative change.

Industry had already articulated their view that they agree with MFish, that allocations to the recreational sector should be based on current allowances. Without full disclosure of information recreational representatives would not be agreeing to any allocation for a start and certainly none based on current known incorrect allowances.

TOKM's dismissive response to the request for customary representative participation in the JSI was explained to the hui. TOKM seem to have accepted that customary claims were 'complete' with the allocation of fisheries assets.

By accepting customary claims were completed. TOKM was letting the Crown off the hook. It was clear leading up to the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 that commercial claims would be settled, however customary issues still needed to be addressed.

Tangata whenua needed support for their claim that the current customary regulations do not address the customary needs that Maori envisaged, even at the time of the 1992 deal. MFish, TOKM or anyone else cannot use *Shared Fisheries* to sweep customary issues out of the way as they need to be addressed.

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Remembering always that there are only two sectors involved – commercial and non-commercial (customary and recreational). It was up to tangata whenua and the community to determine what the desired outcome for fisheries is. The role of MFish is to facilitate that outcome on behalf their Treaty partner and the public. Everyone involved in fisheries management, including MFish, had a long way to go before getting to that realisation.

It was reported that only three of the eight existing regional iwi forums had been consulted on the *Shared Fisheries* proposals. Aside from the Hokianga Accord discussion with MFish at the last hui, the 'consultation' with other iwi forums had consisted of a presentation from MFish with little meaningful input or discussion about the impacts of the proposals.

Dealings with MFish had been dishonest, as the Hokianga Accord had witnessed over the previous two years. More emphasis needed to be placed on the relationship with the Minister.

Mandated Iwi Organisations (MIOs) were established to receive the commercial settlement. In some instances they had also become the iwi's representative for non-commercial fishing interests. It was important to differentiate between TOKM's description of MIOs and iwi such as Ngapuhi who had taken the mantle from the national iwi chairmen to speak on non-commercial fishing issues.

Along with allocations based on current allowances, industry would be pushing the recreational sector to produce better catch information in the JSI. The only realistic technology available to measure recreational catch, such as overflight surveys, ramp surveys and web cams, were currently in use. It was inevitable the JSI discussions would turn to the issue and the responsibility of the recreational sector to measure its harvest.

Recreational representatives would be reinforcing the KLC decision and section 21 (1) of the Fisheries Act, which says the Minister *shall allow for non-commercial fishing interests*. With no legislative requirement to accept an allocation, there had been no discussion to accept an allocation.

Guardians of the Sea

Charitable Trust

Scott Macindoe, Trustee

The Guardians of the Sea Charitable Trust/*Nga Kaitiaki o Tangaroa* had received confirmation of its qualification as a charity. However, since its inception the rules had changed and the Trust was now due to reapply for its charitable status with another government agency. This process was due to get underway as soon as possible after the hui.

The Trust had tax deductibility status and could accept any donations. The initial target group was the 'High Net Worth Individuals' (HNWI) who were wealthy individuals, some of whom had already contributed to previous work. These people were well briefed and the task now was to convert that interest into tangible funds that could be used to further the aims of the Trust. The team were confident of securing the support from the HNWI and work is continuing into developing a suitable approach and documents to present to these people worth in excess of hundreds of millions of dollars.

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The KLC and campaign had soaked up around $800,000.00 plus another $3-400,000 in 'pro bono' work, done free of charge. Scott had put quite a lot of his own money into fisheries advocacy. It is imperative to get other funding in place.

The Trust has four trustees, Scott, Sonny Tau, Tom Fox and Martin Irvine, who had been at the hui the previous day. The Trust had very broad, empowering purposes which will allow the Trust to fund the work that needed to be done. The Trustees welcome grant applications so they can then make decisions on what the Trust funds will be used for.

Black Magic Tackle were the most consistent supporter of the kaupapa to date. $30,000.00 had been far raised through a levy on a range of gamefishing lures dubbed 'option4' and 'KLC' rods and reels. Haines Hunter had also contributed $10,000.00 through the efforts of their leader, Lionel Sands. Other contributions had been made over time. Collectively however, the recreational fishing industry fraternity had largely ignored the struggle to secure people's right to fish and ultimately their business success.

Hokianga Accord Funding

Te Runanga A Iwi O Ngapuhi (TRAION) had made a number of modest contributions and paid some bills supporting the work of the Hokianga Accord. There was a need for ongoing cash flow from tangata whenua to support the Forum's activities.

option4 has around $65,000.00 worth of receipts accredited to Hokianga Accord work. This amount includes the costs of printing the material such as had been supplied throughout each hui. The secretariat and recording responsibilities had also been covered by option4.

The Naumai hui fee remained unpaid by MFish. option4 had paid the $1500.00 fee to ensure the marae committee was not left out of pocket by MFish' lack of respect. It was appalling behaviour for MFish to dominate that hui's proceedings, fulfil their statutory obligations and then walk out without paying the fee.

Thanks go to the Northern Advocate for advertising the Oturei hui free of charge. Unfortunately the opportunity to place an advertisement in the Dargaville paper about this hui was missed.

Attendance at other events such as the Ngapuhitanga festival is not used to raise money. That effort is more focussed on raising awareness and understanding of the issues.

The Hokianga Accord was 'mission critical' and a lack of money could not be used as an excuse for the work to stop.

TRAION trustees were due to meet the following week and would discuss ongoing support for the Hokianga Accord. The Forum would be advised in due course of the outcome of that meeting.

The hui was also advised of discussions amongst the New Zealand Big Game Fishing Council regarding ongoing support for the Accord. That outcome would also be advised as soon as a decision was reached.

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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, appreciation was expressed for the memorable hospitality and kai provided by the hunga kainga (home people of the marae). Having the kaumatua and kuia present at the hui had enriched the experience for everyone. Winnie and Joe Clarke were acknowledged for their 'safe hands' in sorting out the details for such a well-organised hui.

Fish were taonga (treasure) and tangata whenua had a sacred obligation to both protect them from being wiped out and enhance the fisheries and environment for their mokopuna.

Whatever political manoeuvres were made in trying to establish a republic of New Zealand, the politicians should realise that Maori would always claim the right as the Treaty partner to talk with the Queen.

It was encouraging to hear the determination of the Hokianga Accord to continue on with the work started at Whitiora. Ngapuhi people were keen to continue their participation in the Forum so that their mokopuna and the country as a whole benefited from *more fish in the water/kia maha atu nga ika i roto te wai.*

A first timer to the hui expressed her enjoyment of being part of the occasion, her willingness to come back and learn more as she hadn't understood all the conversation but realised that she had a family to feed and the discussions were important.

Another felt very heartened by the outcome of the KLC. It was pleasing to hear such an in-depth explanation of the judgment and its implications for other fisheries. It must have been a particularly pleasing result for the individuals who had put so much time and effort into the High Court action over the past couple of years.

What the Hokianga Accord did over the next few months was critical to the progress of the joint discussions and would determine if there was any legislation change. The Forum was encouraged to keep up the momentum and pressure on MFish and the fishing industry.

Out of the last five hui this had been the most productive as no time had been wasted listening to the 'standard, canned version of events' from government officials. The otherwise 'lost' hours had been put to productive use.

To the Hokianga Accord, ke tu, just stand. Let Maori and Pakeha make progress together, get on with the work that needs to be done without relying on government agencies to tell the Forum what needs to be done and how it should be achieved.

It was about time the television networks, Maori TV in particular, came along to do a documentary on the radical changes taking place in fisheries and between tangata whenua and Pakeha.

Funding was important to support ongoing Hokianga Accord hui as many available Maori are unemployed and cannot afford to get to the hui.

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Communication was the key to the success of the work of the Forum. The Accord needed to get started on the messages as soon as possible. Tangata whenua had an obligation to go home and explain what happened at the hui and some of the subjects had to be simplified so the good news could be explained.

Support was given to the suggestion that everyone bring at least one other, preferably a younger, person to the next hui. There was no doubt that a 'watchdog' would be an ongoing requirement and youth was the key to extending the life of the Forum.

The communication strategy discussed during the hui was vital to achieving the goal of *more fish in the water/kia maha atu nga ika i roto te wai*. It was a goal that would see more kaimoana on the tables of those who need it most.

It was encouraging to have so many Pakeha at the hui. The Crown and MFish must now know they cannot keep pushing Maori around in fisheries issues at least. While it seems to Maori that they have been fighting all their lives it was good to be working with Pakeha to achieve a common goal.

Hirini Henare had spent a day and night at the hui. If communication was the key, he was an asset to tangata whenua.

Much of what had been achieved by the Accord to date would not have happened without the influence and input of Naida Glavish.

The willingness of Titewhai Harawira, Vapi Kupenga and Jim Perry from Waatea Radio had helped lift the awareness of the Hokianga Accord and what it is doing. Waatea 603AM were acknowledged for their commitment to spreading the word about the Forum's kaupapa. The same could not be said for mainstream media and they had a lot to answer for.

Everyone's thoughts go to Ray Kapa and his whanau. Ray is very unwell but he and the Marangai Taiamai team had been consistent attendees at previous hui.

A highlight had been Bruce Galloway's presentation and explanation of the KLC outcome and the Fisheries Act. The interconnectedness of sustainability and utilisation and where non-commercial fishers fit in is now a lot clearer. It is only when it is explained in such simple terms can it be appreciated how 'evil' MFish had been in their misinterpretation of the legislation and its application.

Commercial fishers do what they are permitted to do and Fisheries Ministers come and go. MFish, with the seeming approval of the Cabinet, continue to get away with treating non-commercial fishers with no respect. How long that behaviour continues is speculative but ultimately it was Cabinet's responsibility.

Hugh Nathan assured everyone on behalf of the kaumatua and kuia that it was an honour to have such important discussions take place at Oturei Marae. There were 15 marae around the Kaipara and they had all struggled to build their whare to provide a base for their people to return to. Maori would continue to learn and were particularly keen to protect the taonga. Everyone was welcome back any time.

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Appendix One – Kahawai Judicial Review

What the recent High Court decision means for the future management of New Zealand's fisheries.

Introduction

1. Initial commentary is that the recent (21 March 2007) High Court decision of Harrison J on the application for judicial review widely known as the Kahawai challenge[35] is a test case win and 'relief' for recreational fishers.

2. In his judgment Harrison J clearly and succinctly explains the scheme of the Fisheries Act 1996 ("the Act"), in particular:

   a. Sustainability *is the* ***bottom line*** in fisheries management without which *there will eventually be no utilisation*: para [17];

   b. How the Minister of Fisheries ("the Minister") must allow for non-commercial fishing interests when he or she sets or varies the TACC: para. [53] et seq.

3. The decision is likely to be of some relief to non-commercial fishers in that it confirms every new Zealanders' non-commercial right to fish as a ***well settled common law right****, subject only to express statutory limitation to fish and provide for his or her needs where that right has particular value in a country where easy proximity to the sea in a temperate climate contributes to the popularity of fisheries as a recreational pastime:* para. [59(3)].

   [emphasis added]

4. In the time available today I will concentrate on the Court's decision and comment on:

   a. The broad scheme or sustainable utilisation purpose of the Act;

   b. The total allowable catch (TAC) as a sustainability measure; and

   c. The Minister's mandatory obligation to allow for non-commercial interests in setting or varying the TACC.

Purpose of the Act – section 8, Part 2

5. The purpose of the Act is to provide for the utilisation of fisheries resources while ensuring sustainability.

6. *Ensuring sustainability* has two parts:

[35] CIV-2005-404-44495 heard on 6, 7 and 9 November, and 11 December 2006.

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a. Maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations; and

b. Avoiding, remedying or mitigating any adverse effects of fishing on the aquatic environment.

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

8. In addition, *conservation* is defined in section 2 to mean…*the maintenance or restoration of fisheries resources for their future use.*

9. As noted above, the Court held that on plain reading of section 8 ***the bottom line is sustainability***. *That must be the Minister's ultimate objective. Without it, there will eventually be no utilisation.*

   [emphasis added]

TAC – a sustainability measure – Part 3

10. The setting of a TAC under section 13 of the Act is a sustainability measure.

11. Before doing that, the Minister must:

    a. Consult on the proposed measure; and

    b. Provide for the input and participation of tangata whenua having a non-commercial interest in the particular stock concerned and have particular regard to Kaitiakitanga: section 12.

    The Minister's mandatory obligations under section 12 were discussed at previous hui of the Hokianga Accord, and I am sure will be on the agenda of future hui.

Setting/varying the TACC, and allowing for non-commercial interests – Part 4

Setting the TACC

12. Where the Minister decides to introduce a species into the quota management system (QMS) then he or she must set the TACC for that stock: section 20(1).

    The TACC shall not be set unless the TAC has been set. Nor should the TACC be greater than the TAC: s20(5): para. [22].

13. In setting or varying the TACC the Minister must have regard to the TAC for that stock and ***allow for*** *both non-commercial fishing interests in that stock,* and *all other mortality to that stock caused by fishing:* section 21

    [emphasis added]

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14. In that regard Harrison J:

    a. Agreed with submissions for the Minister that:

        - A TACC cannot be set without the Minister first allowing for non-commercial fishing interests;
        - It would be open for the Minister to set the TACC at zero but not the allowance for recreational fishers.

        > *In that sense non-commercial interests, both Maori and recreational, must be provided for where they exist. The same **does not apply** for commercial interests:* para. [24].
        >
        > *[emphasis added]*

    b. Held that setting a TACC is *a mechanism for **allocating the utilisation** of use of the TAC between competing interests once the appropriate level of sustainability has been set*, and contrasted sustainability with utilisation as recognised in the different purposes of TAC and TACC respectively.

        In setting the TAC the Minister is obliged, first, to have regard to the TAC and, second, to allow for non-commercial fishing interests in the stock: para [54].

        [emphasis added]

Utilisation

15. In the Court's view, because the TACC is a means of providing for the utilisation of a fisheries resource the criterion of enabling people 'to provide for their social, economic and cultural wellbeing' is a mandatory consideration at (the) stage of allowing for recreational interests in the stock: sections 8 and 21(1): para [55].

16. The Judge:

    a. Found that:

        - Utilisation, as defined involves use as well as conservation, enhancement and development of a fishery; and
        - The allowance for recreational interests reflected in the level of a TACC should appropriately recognise the extent to which kahawai provides for their wellbeing which must means the ***state of people's health or physical welfare*** provided either by catching kahawai or by purchasing it from retail outlets: para [55].

        [emphasis added]

    b. Observed that the regrettable fact of economic life over the past 20 years or so since fishing quotas were introduced, that people's wellbeing has suffered due to the market forces of supply and demand making fish so expensive: para [56];

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c. Held that utilisation also provides for *economic* wellbeing of commercial fishers – para [57]; and

Minister's responsibilities

17. The Court held that when setting a TACC the statutory starting point is to identify and make an appropriate allowance for recreational interests by reference to the social, economic and cultural value of the fishing to their wellbeing being both a quantitative – *economic* – and qualitative – *social and cultural* – exercise of judgement.

18. The Judge found that the Ministry of Fisheries' (MFish) evaluation in its 2004 Initial Position Paper (IPP) of social and cultural wellbeing *was an **exclusively economic** exercise* by applying *a solely quantitative or economic measure as the index for assessing the requisite social or cultural value of kahawai to recreational fishers…..A **micro analysis** was used to satisfy a distinctly **macro purpose:*** para [64].

    [emphasis added]

19. In particular, Harrison J held that a *policy preference for catch history cannot take precedence over a mandatory requirement to adopt a utilisation approach:* paras. [67] and [69].

20. In noting that MFish had rejected a utilisation approach in favour of a policy preference for catch history – para [67] – the Court subsequently refers to the judgment exercise of weighing up and balancing the right of non-commercial fishers to provide for their *social, economic and cultural wellbeing* when setting a TACC, and contains a helpful summary of the approach to be taken by the Minister:

    *the Minister must have regard **first** to the TAC and **then** allow for non-commercial fishing interests in the stock. This is an **exercise in judgement**, to be carried out by **weighing up and balancing** the recreational fishers' right to provide for their social, economic and cultural wellbeing by fishing for kahawai against the extent, if any, to which the peoples, in the sense of the wider general public, wellbeing is served by commercial interests in satisfying consumer demand*……paras. [72]; see also para. [74].

    [emphasis added]

21. In effect, the Court found that the Minister, and MFish as advisers, have been misconstruing the purpose of the Act when allowing for recreational interests in setting the TACC.

22. The approach the Minister, and MFish as advisers, must take as laid down by the Court will have particular relevance to the management of all fish stocks in which non-commercial fishers have an interest.

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Qualitative factors – social and cultural wellbeing

23. Concerning the social and cultural – qualitative – components the Court held in relation to kahawai that:

    a. Recreational fishers' progressive loss of access to other more highly-prized inshore species including snapper;

    b. Kahawai's minimal value to people other than recreational fishers, as reflected in the small retail market for kahawai;

    c. The recreational fishers' well-settled common law right to fish and provide for his or her needs, subject only to express statutory limitations;

    d. Patterns and levels of recreational catch history although not decisive but of assistance in determining whether proper allowance is being made for recreational fishers' interests *subject to the Minister's satisfaction that it meets current needs:* para [59].

24. Moreover, the Court held that the Minister must weigh these factors in the mix: para [60].

Judgment

25. Harrison J held that it was appropriate to grant declarations that the Minister's decisions in 2004 and 2005 were unlawful to the extent that the Minister:

    a. Fixed the TACCs for kahawai for all KAHs without having proper regard to the social, economic and cultural wellbeing of the people;

    b. Failed to take any or proper account of sections 7 and 8 Hauraki Gulf Marine Park Act 2000 when fixing the TAC for KAH1.

26. Also, it was appropriate to grant a declaration that the Minister failed without giving any proper reasons to consider advice from MFish to review bag catch limits for recreational fishers.

27. The Minister was directed to reconsider or review his 2005 decisions to take account of the terms of the declarations of unlawfulness.

What the decision means for future management of our inshore fisheries

28. The Court has provided helpful guidance and comment on a range of linked subjects and issues in the scheme of fisheries management as set out in the Act including:

    a. Sustainability

        - Sustainability *is the bottom line* in fisheries management;
        - Without sustainability *there will eventually be no utilisation*.

    b. TAC

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- The TAC is a sustainability measure;
- That having set the TAC, the setting of the TACC is a means of providing for the utilisation of a fishery.

c. TACC
when setting a TACC the **starting point** is to identify, make and appropriately **allow for** non-commercial fishing interests by reference to ***social and cultural*** – qualitative – criteria, and ***economic*** – quantitative – criteria relative to enabling people to provide for their wellbeing.

d. Non-commercial common law right to fish

Concerning people's social and cultural wellbeing, each and every New Zealander possesses a common law right, subject only to express statutory limitation, to fish and provide for his or her needs.

29. In very simplistic terms, in the case of kahawai, the Court has said that the Minister did not do what the Act required of him to do to enable all New Zealanders to provide for their wellbeing. In a phrase leave "more fish in the water".

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Appendix Two – Sonny Tau Affidavit

In the High Court of New Zealand
Auckland Registry CIV2005

Under Part I of the Judicature Amendment Act 1972

In the matter of an application for review

between

The New Zealand Recreational Fishing Council Inc, and New Zealand Big Game Fishing Council Inc

Plaintiffs

and

Minister of Fisheries

First Respondent

and

The Chief Executive of the Ministry of Fisheries

Second Respondent

and

Sanford Limited, Sealord Group Limited, and Pelagic & Tuna New Zealand Limited

Third Respondents

Affidavit of Raniera TeiTinga (Sonny) Tau in Support of Application for Review

Sworn this day of August 2005

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I, Raniera TeiTinga ("Sonny") Tau of Kaikohe, swear:

1. I am the Chairman of Te Runānga-Ā-Iwi-O-Ngāpuhi ("TRAION "), a body elected by tribal members to represent the interests of the Ngāpuhi nation.

2. I am authorised by TRAION[36] to make this affidavit in support of the challenge against the kahawai decisions of the Minister of Fisheries for the 2004/2005 fishing years.

3. I regularly fish in the waters around the Bay of Islands, Hokianga, Whangaroa, Mitimiti, Whangarei and many other areas in the North.

4. Before addressing the reasons why this case is supported, I set out some background about TRAION and Ngāpuhi.

Te Runānga-Ā-Iwi-O-Ngāpuhi

5. Te Runānga-Ā-Iwi-O-Ngāpuhi was established under the Charitable Trusts Act 1957 for the representation of Māori identifying as Ngāpuhi.

6. Te Runānga Ā Iwi O Ngāpuhi has a simple vision – 'kia tu tika ai te whare tapu o Ngāpuhi' - 'that the sacred house of Ngāpuhi stands firm'. TRAION is the representative body that speaks and works for and on behalf of the Ngāpuhi nation – to ensure that collective Ngāpuhi interests and aspirations are looked after. TRAION is also the iwi authority tasked with interfacing with the Government of the day to ensure their rights and privileges, assured under Te Tiriti O Waitangi, are provided for.

7. The Governance board of Te Runānga-Ā-Iwi-O-Ngāpuhi consists of representatives from seven Takiwā (area councils) within Te Whare Tapu O Ngāpuhi (tribal area) and two Taurahere (outposts) in Auckland. The Taurahere provide for Ngāpuhi who live outside of the traditional boundaries in South and West Auckland.

8. The Takiwā each represent a number of marae contained in a geographical area and are usually closely linked by whakapapa (genealogy). Marae elect representatives to respective Takiwā. Takiwā in turn elect one representative to the Governance board of TRAION who then become the board. TRAION currently employs a CEO and 10 staff.

9. The CEO has the added overall responsibility of overseeing the operations of two subsidiary companies, Ngāpuhi iwi Social Services Ltd and Ngāpuhi Fisheries Ltd (NFL).

10. All waka with Ngāpuhi whakapapa – that is to say genealogical lines – landed in Hokianga and spread out from there. So it is that we Ngāpuhi claim a foundation

[36] Resolution number 2005/05/05 of TRAION board dated 27th June 2005.

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or traditional tribal area whose boundaries are described in this whakatauki or proverb:

"Te Whare O Ngāpuhi, Tamaki Makaurau ki Te Rerenga Wairua. Ko nga pātu ko Ngati Whātua, Te Rarawa, Te Aūpouri, Ngati Kahu, Ngāpuhi ki roto. Ko nga rarangi Maunga nga Poutokomanawa i hikia te Tahūhū o Te Whare O Ngāpuhi."

11. This is to say…

The house of Ngāpuhi stretches from Tamaki Makaurau [Auckland] in the south to Cape Rēinga in the north,

Its walls are the sub-tribes: Ngati Whātua in the south, Te Rarawa in the west, Te Aūpouri in the north and Ngati Kahu in the east,

Ngāpuhi holds the centre of the House, and

The mountains of significance within Ngāpuhi are the pillars or poupou, which hold the ridgepole aloft.

12. In contemporary society some hapu (sub tribes) as depicted in the above whakatauki, have evolved themselves into iwi in their own right. Because of this evolution, the Ngāpuhi iwi takiwā boundaries, which is TRAION's area of operation, has been reduced to cover the middle far north district from South Hokianga through to Mangakahia, across to the Bay of Islands to the south-western Whangarei district. This area is referred to as "Te Whare Tapu O Ngāpuhi" or the sacred house of Ngāpuhi, so named as the esoteric knowledge of the Ngāpuhi nation is protected therein.

13. While this area is the 'heart' of the Ngāpuhi nation, 78% of our affiliates live in other parts of the country, mainly around the Auckland, Waikato and the Bay of Plenty regions. 6% of the iwi live in Wellington, with 4% domiciled in Christchurch.

Profile of Ngāpuhi

14. At the 2004 census, Ngāpuhi was identified as the largest iwi in New Zealand. The number of Māori who gave Ngāpuhi as their iwi in 2004 increased to 107,000. This represented 19.8% of the total Māori population. Of these nearly two-thirds say that Ngāpuhi is their only Iwi. As a comparison, the second largest iwi in Aotearoa is Ngati Kahungunu who recorded some 45,000 affiliates.

15. Ngāpuhi has a very young population base. With 79% of Ngāpuhi living outside of traditional iwi takiwā (tribal region), 60% of Ngāpuhi live in the Auckland region. With so many Ngāpuhi resident in Auckland, this means that the member Ngāpuhi affiliates also have an interest in the quality of fishing there, including the Hauraki Gulf, Whatipu, Piha, Muriwai, Orere, Orewa and many other nooks and crannies known to Ngāpuhi recreational fishers.

16. As at 2004, the annual median personal income for Ngāpuhi aged 15 and over was $14,900.00, compared with $15,600.00 for all Māori in the same age group. The median income for Ngāpuhi men was $18,600.00, and for women

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$13,600.00. Ngāpuhi living within the iwi takiwā had a lower medial annual income than those living outside the iwi takiwā[37].

17. Ngāpuhi have a great love for food from the sea. In addition to kai moana being a food preference, the socio-economic factors that I have referred to also means that many Ngāpuhi are reliant upon the ability to gather food for the table from traditional sources such as the sea. Fish, especially kahawai, is one of the main seafood targeted by our members, who often joke about the strength and sturdy growth of their children which they directly attribute to feeding them kahawai.

Ngāpuhi Interest in Fisheries

18. Ngāpuhi have a significant commercial fishing interest in shares within the new fishing company, Aotearoa Fisheries Limited (AFL). Ngāpuhi owns 19.8% shareholding in AFL as the shares to this asset was allocated on a population basis. We also own the quota holding company, Ngāpuhi Fisheries Limited. The Treaty of Waitangi Fisheries Commission, Te Ohu Kai Moana currently holds the bulk of Māori commercial fishing interests in trust until mandated iwi organisations comply with the Māori Fisheries Act 2004.

19. Returns allocated to Ngāpuhi under the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 have been invested in building an economic base for the Ngāpuhi nation as well as directly funding Marae development, scholarships, a discretionary fund for youth as well as running an annual Ngāpuhi festival.

20. Ngāpuhi Fisheries Ltd is also 50% owner of the joint venture company Northland Deepwater Ltd, which manages the deepwater portion of our quota allocated on an annual basis.

21. In addition to Ngāpuhi's commercial fishing interest, Ngāpuhi members also have an interest as "customary" fishers by permits issued through kaitiaki, appointed under the Fisheries (Kaimoana Customary Fishing) Regulations 1998.

22. Ngāpuhi also have an interest as iwi, hapu and individuals as "recreational" fishers. We are very uncomfortable with the word "recreational" when describing Ngāpuhi non-commercial fishing interests. To us "recreational" implies that people play with their food. We do not play with our food, which is disrespectful.

23. Kahawai is a staple diet for many Ngāpuhi families who live within the tribal area, this certainly applies to the Hokianga, which I am very familiar with.

24. Snapper is touted as the premiere of fishes however in my experience many Ngāpuhi will eat a kahawai in preference to snapper. As a matter of fact many Ngāpuhi actually give a snapper away for a kahawai.

25. The kahawai is not a fish that we treat as a delicacy, this fish is a main stay or staple of the Ngāpuhi diet. Traditionally it has been harvested from a seemingly endless resource, although now kahawai is much less plentiful. Clearly when a

[37] Source: Statistics New Zealand, *Iwi Profiles: Ngapuhi*

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fishery has been allowed to have been fished low, as with the kahawai, then this jeopardises both our Māori commercial interests, and our ability to feed our families.

26. While not initially understood widely by Ngāpuhi, after the Deed Of Settlement for fisheries was signed in 1992, the bulk of fishing by individual Ngāpuhi became categorised by legislation as "non-commercial", either as "recreational", or as "customary".

27. Within the tribal region there are five approved Kaitiaki who issue permits under the Customary Fishing Regulations.

28. My enquiries with our Kaitiaki indicate that there were approximately 215[38] customary permits issued in 2004 to Ngāpuhi customary fishers.

29. To me this suggests that the great majority of fishing by Ngāpuhi members is now by so-called "recreational" fishing means.

30. Fishing in our area as "non-commercial" fishers probably differs from the experience of many recreational boaties elsewhere in the country. There is a lot of rock fishing from favourite rocks; nets are set in sheltered waters, and many homes along the coast have a dingy for coastal fishing close to the shore. On the West coast a common fishing method is to physically drag nets through the surf, especially for mullet and flounder, but this method is also used on kahawai.

31. This is an inshore fishery, with people meeting their needs from local headlands, estuaries, and other local waters, and where people catch kahawai (and other fish such as mullet, terakihi, gurnard and flounder) in order to put food on the table.

32. Ngāpuhi would measure the quality of the fishery by whether the fish are plentiful (how easily they can be caught), and also by the size of the fish.

33. Ngāpuhi also measure the quality of a fishery by our ability to provide fish in order to give fish away. This may be confusing at first but when one understands manākitanga the idea is profound. An idea of this is expressed in a German missionary's writings of his encounters with Māori (natives) when European missionaries first visited these shores. He made an entry in his diary of these experiences, and I quote: *"these natives are a peculiar people, they don't measure their wealth by what they own, but by what they give away. We must teach them to be mean."*

34. An example of this is when we catch decent size fish, one way to enhance mana is to give the biggest away. If a number of fish are caught and someone is visiting our marae, we will give away the small fish to the locals, so that we arrive at the marae with only the largest fish that are then gifted to the Marae to assist in feeding the Manuhiri (visitors).

35. This is referred to as manākitanga. Manākitanga has many meanings and I think Professor Whatarangi Winiata offered one of the most profound explanations of

[38] These figures were taken from 5 Kai Tiaki within Ngapuhi. Only MFish know how many Kai Tiaki hold permit books.

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manākitanga I have ever read. Professor Winiata described Manākitanga as: *"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. Displaying manākitanga elevated the status of all, building unity through the humility and the act of giving."*[39] Professor Winiata went on to urge people to extend these values to manuhiri and migrants.

36. Professor Manuka Henare summarises manākitanga thus: *"manāki tanga relates to the finer qualities of people, rather than just to their material possessions. It is the principle of the quality of caring, kindness, hospitality and showing respect for others. To exhibit manākitanga is to raise ones mana (manaāki) through generosity."*[40] [41]

37. Professor Cleve Barlow further explains manākitanga in this way: *manāki is derived from the power of the word as in mana-ā-ki, and means to express love and hospitality toward people. The most important attributes for the hosts are to provide an abundance of food, a place to rest, and to speak nicely to visitors so that peace prevails during the gathering. If these principles are implemented a hui will more likely be regarded as a memorable occasion."*

38. Manākitanga then in this sense, is about our ability to feed our manuhiri with the best possible traditional food available. As previously stated kahawai plays a huge role in this tikanga. *Ika ota* (raw fish) on any Ngāpuhi Marae is usually made of kahawai as this fish is meatier than other fish and one uses less fish to ensure manuhiri are well fed.

39. When schools of kahawai are less plentiful this affects not only the ability to put food on the table, but also our ability to enhance the mana of our Marae. Individual mana enhancement is also drastically reduced.

40. TRAION has resolved to support this legal challenge by the Recreational Fishing Council and the Big Game Fishing Council, which aims to increase the amount of kahawai in the sea, and to increase the quality of the fishery for non-commercial fishers to enjoy. This includes the 99.99% of the time Māori go fishing non-commercially.

41. The Minister in his decision has cut, in equal proportion, the commercial and non-commercial take. This cuts right across our Tikanga or principles, developed and upheld since the beginning of our existence as Tangata Whenua in this land. This also drastically reduces our ability to exercise our rights guaranteed in article two of Te Tiriti O Waitangi. The inability of the Ngapuhi nation to satisfy these Tikanga because of bad advice given to the Minister leading to his final decision is unacceptable to TRAION.

42. I am clear that our people require that when it comes to a reduction being required for a fish that is a staple food, that cut must come initially from the commercial sector.

[39] NZ Herald; Saturday 31 May 2005
[40] Standards and Foundations of Maori Society, pg 26
[41] Tikanga Whakaaro; pg 63

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43. Quite simply if there is to be a cut to a fishery, then our board wants to see food put on the tables of our people, ahead of it being sent to foreign tables or wasted as pet food or Australian Cray bait.

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Appendix Three – Joint Media Release

MEDIA RELEASE

1 March 2007

CUSTOMARY, RECREATIONAL AND COMMERCIAL FISHERS JOIN FORCES IN OPPOSING GOVERNMENT SHARED FISHERIES PROPOSALS

Maori leaders and representatives from New Zealand's recreational fishers today joined forces in opposing the Government's proposed "Shared Fisheries" plans.

At a meeting held in Auckland today, iwi representatives, Te Ohu Kaimoana (the Maori Fisheries Trust) and Aotearoa Fisheries Ltd met with the presidents of the New Zealand Big Game Fishing Council, the New Zealand Recreational Fishing Council and the project leader for the option4 group representing other recreational fishers.

All of the groups at today's meeting agreed the discussion process over the Shared Fisheries proposals were "woefully inadequate", that the document published by the Ministry of Fisheries was "divisive" and that the Ministry's submission form was "disgraceful".

"What is agreed by all sectors of New Zealand's fishery – customary, commercial and recreational fishers – is that there is insufficient information on the status of the recreational catch for the Government to go ahead with the Shared Fisheries proposals, and the Government should withdraw it," they said. The groups called on the Government to abandon the proposals in favour of a process of gathering more information on the full extent of fishing activity on New Zealand's valuable fishing resources.

Ngati Kahungunu Chairman and Te Ohu Kaimoana Director Ngahiwi Tomoana said there were "deep and serious concerns" with the shared fisheries proposal from all sectors of the fisheries system. "This was a meeting where all sides of the debate discussed common issues with the Government's proposals. We are pleased that the recreational representatives are committed to protecting the Deed of Settlement for Maori fisheries and acknowledged the potential adverse effect on the Maori fisheries agreement with the Crown."

The President of the New Zealand Big Game Fishing Council, Jeff Romeril, said the meeting with Maori interests and recreational representatives was long overdue. "Working closely with these groups was definitely a worthwhile prospect. We are all committed to ensuring a sustainable fishery so that all New Zealanders can enjoy the benefits of fishing."

Project Leader of option4, Paul Barnes, said there were obvious deficiencies in the way New Zealand's fisheries resources were managed, "but the 1996 Fisheries Act was not one of them."

The Chief Executive of Aotearoa Fisheries Limited, Robin Hapi, said, "There are many issues all sectors have in common and it is incumbent on us to build on that to ensure sustainable utilisation of New Zealand fisheries. The fact that the meeting was prepared to acknowledge the importance of the Deed of Settlement to Maori and to New Zealand was an extremely good position from which to start."

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Appendix Four – Correspondence with MFish

A record of written correspondence between the Hokianga Accord and MFish.

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 Whitiora 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. http://www.option4.co.nz/Fish_Forums/documents/MFinput_participation_406.pdf
26/5/06	MFish letter stating the Hokianga Accord is not an Iwi regional Forum and therefore does not qualify for Ministry funding. 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. 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. http://option4.co.nz/Fish_Forums/halmf_nwh706.htm

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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.
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.
http://option4.co.nz/Fish_Forums/halha806.htm

28/9/06 MFish advise they will not pay for the November 2006 Accord hui. In their opinion it is not a meeting of a regional iwi fisheries forum and therefore cannot fund it. They will send staff to discuss items on the agenda.
http://www.option4.co.nz/Fish_Forums/documents/MF_letter_to_HA_280906.pdf

6/10/06 MFish invite Ngapuhi to another hui to continue discussions about the development of a mid northern iwi Forum.
http://www.option4.co.nz/Fish_Forums/images/MF_letter_to_Ngapuhi_061006.gif

11/10/06 Ngapuhi advise MFish they will not be attending the Whangarei meeting as it was superfluous due to previous correspondence explaining Ngapuhi's position and understanding of the Hokianga Accord.
http://www.option4.co.nz/Fish_Forums/documents/Ngapuhi_to_MF_111006.pdf

5/12/06 Ngapuhi write to MFish pointing out their lack of funding for Hokianga Accord hui, their failure to pay marae hui fees and their continued refusal to recognise the Hokianga Accord as the mid-north Iwi Forum.
http://www.option4.co.nz/Fish_Forums/documents/halha1206.pdf

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Appendix Five – Hui Agenda

Hokianga Accord Hui 19 - 20th – 21st April 2007

DAY ONE

10.00am	**Whakatau (Welcome)**
10.30am	**Kapu Ti**
10.45am	Whakawhanaungatanga (introductions), apologies and messages from people unable to attend. Introduction to Agenda
11.45am	"The Peoples Submission" to the Shared Fisheries public discussion document proposals from MFish – Paul Barnes, John Holdsworth.
12.00pm	Question and answer session to above
12.30pm	**Lunch**
1.15pm	TOKM submission to the Shared Fisheries public discussion document proposals from MFish – Laws Lawson, Tania MacPherson.
1.30pm	Questions and answers to above.
2.00pm	Kahawai Legal Challenge judgment - Synopsis and implications for Customary, recreational and commercial fishing allowances/allocations into the Future - Bruce Galloway
2.30pm	Questions and answers – panel session.
3.00pm	**Kupa Ti – Team photo**
3.30pm	A report on Shared Fisheries covering the MFish consultation process with Maori to date and into the future. Summary of submissions received and where to from here - Mark Edwards, MFish Policy Manager
4.00pm	Questions and answer session to above
4.30pm	How commercial interests intend to work with recreational and customary interests into the future - Owen Symmans – CEO, New Zealand Seafood Industry Council
4.45pm	Questions and answer session to above
5.00pm	Taiamai Ki Te Marangai update on rohe moana and mataitai progress – Judah Heihei and team
5.15pm	NZRFC approach to shared fisheries process and report on relationship with Northern iwi as referenced in their submissions – Keith Ingram
5.30pm	Break for general discussion
6.00pm	***Dinner***
7.00pm	Kaipara Fisheries management plan – report on progress and obstacles – Peter King, Mayor of Dargaville

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7.15pm	Questions and answer session to above
7.30pm	Update on marine protection standards consultation process – DoC spokesman
8.00pm	Questions and answer session to above
8.30pm	**Kapu Ti**
9.00pm	Maori cultural exchange - Tepania Kingi
9.30pm	**Karakia-moe (sleep time)**

DAY TWO

6.00am	**Karakia**
7.00am	**Parakuihi (Breakfast)**
8.00am	Shared Fisheries agreed pathway and resourcing – panel including commercial, customary, recreational and MFish representatives (Pou Hononga)
9.30am	Update on "Guardians of the Sea" Charitable Trust – Scott Macindoe
9.45am	**Kapu Ti**
10.15am	Evaluation of Hui
12.30pm	**LUNCH – Poroporoaki (farewell)**

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Appendix Six – Glossary

August 2007

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.
D	
DoC	Department of Conservation
F	
FLA1	Flatfish/flounder management area Tirua Point (north Taranaki, Mokau) to Cape Runaway (East Cape).
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
J	
JSI	Joint Stakeholder Initiative – *Shared Fisheries* process

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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
KHSFMG	Kaipara Harbour Sustainable Fisheries Management Group
Kia maha atu nga ika i roto i te wai	"More fish in the water."
KLC	Kahawai Legal Challenge, the judicial review of the Minister of Fisheries' 2004 and 2005 kahawai decisions.
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 is 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 *Hakari* (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

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Mätaitai	Reserve
Mauri	Life force
Mihi	Greeting
MIO	Mandated Iwi Organisation, sometimes referred to as a Mandated Iwi Authority
MFish	Ministry of Fisheries
MLS	MFish minimum legal size of fish, shellfish
Moana	Sea, ocean
Moko/mokopuna	Grandchild, grandchildren, descendants
Motu	Island, country
MOU	Memorandum of Understanding, Kaupapa Whakahaere
MPA	Marine Protected Area Policy, joint project by the Ministry of Fisheries and Department of Conservation

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

QAA	Quota Appeals Authority
QMA	Quota Management Area
QMS	Quota Management System, New Zealand's fisheries management system

R

Rahui	Temporary closure of no fixed timeframe
Rangatiratanga	Sovereignty, autonomy, freedom, leadership

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Reo	Voice, language
Ringa wera	Kitchen hand(s)
Rohe	Geographical area
Rohe moana	Geographical area along the foreshore and seabed
Runanga	Leadership council

S

SeaFIC	The New Zealand Seafood Industry Council Ltd
Sealords	Sealord New Zealand
Shared Fisheries	Public discussion paper released by MFish in October 2006 outlining proposals for managing shared fisheries, where both commercial and non-commercial fishers have an interest
'Short line-out'	Working group of the Hokianga Accord
SNA8	Snapper 8, west coast North Island snapper management area from Wellington to North Cape

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
Tauiwi	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 1840
“the Act”	Fisheries Act 1996
Tika	Correct, right

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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 Kaimoana, the Treaty of Waitangi Fisheries Commission
TRAION	Te Runanga A Iwi O Ngapuhi
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

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