

1 March 2001

RECREATIONAL¹ FISHING RIGHTS: Report to the Minister of Fisheries by the Joint NZRFC/MFish Working Group on recreational fishing rights

This paper reports back to the Minister of Fisheries on the outcomes of the Joint Working Group's policy development and consultation process regarding options for the future management of New Zealand's recreational fisheries. It describes the process of developing options and seeking public input on the options. The bulk of the report comprises comments on the results of the consultation process. The report does not attempt to cover every issue raised. Instead, key issues and trends are highlighted by major sector (recreational, Māori, commercial and environmental interests).

A BACKGROUND:

Where have we come from?

1 New Zealand Fisheries are managed under legislation that provides for utilisation of fisheries while ensuring their sustainability. Sustainability is ensured in most major fisheries by setting a Total Allowable Catch and by measures to manage the effects of fishing on the aquatic environment. The QMS is the management system that provides for allocation and management of commercial fisheries within the total allowable catch.

2 Over the past decade recreational fishers became increasingly concerned about some aspects of marine recreational fisheries management, with much of their frustration focusing on access to local fisheries.

3 Recreational fishers made their concerns known to the government. The Minister of Fisheries of the time, Hon John Luxton, came to the conclusion that that many problems could be resolved by increasing the management rights and responsibilities of recreational fishers. His government was already following this course of action for customary and commercial fishers.

4 At the New Zealand Recreational Fishing Council (NZRFC) annual conference in July 1998, Mr Luxton challenged the NZRFC to work collaboratively with Government to test the public's views about better defining recreational fishing rights and management responsibilities.

5 The NZRFC responded positively and accepted this challenge. A joint NZRFC/Ministry of Fisheries working group (JWG) was formed to develop options to identify and secure New Zealand recreational fishing rights and responsibilities. Membership of the JWG is shown in Appendix 1. The first meeting of the JWG was held on 7 September 1998.

6 Regular meetings of the JWG were held in late 1998 and early 1999 to develop background

¹ Recreational fishers are a diverse group from a wide range of ethnic backgrounds and cultures. Recreational fishing encompasses a range of different motivations for fishing including sport and sustenance among others.

papers for discussion with NZRFC members. Six papers on recreational fishing rights were discussed during workshop sessions at the 1999 NZRFC annual conference in Auckland. Following the workshop sessions the JWG continued to meet to develop a draft public discussion document based on the feedback received. In December 1999 the JWG met with SeaFIC, Te Ohu Kai Moana, ECO and Royal Forest & Bird to seek their views on the draft document.

7 The JWG prepared a revised draft public discussion document, based on the feedback received from the workshops and the meetings with the other sector groups. As part of process of obtaining Cabinet approval to release the discussion document, the draft was circulated to government officials (Environment, Conservation, Te Puni Kokiri and Treasury) for comment in May and again in June 2000.

8 On 22 June 2000 the JWG met the current Minister of Fisheries, Hon Pete Hodgson, to discuss the draft document. The Minister noted that licensing of recreational fishing was not Labour Government policy and the JWG noted that licensing was not NZRFC policy. However, the JWG requested that licensing remain in the document so that the full range of options would be presented to the public. **The Minister agreed in order not to stifle debate.** The Minister recognised NZRFC as the “public representative” in the recreational rights process, but he noted the NZRFC did not have an exclusive mandate, as there were other interested groups.

B PUBLIC CONSULTATION:

July-December 2000

9 The Minister of Fisheries released the discussion document—*Soundings*—at the NZRFC annual conference in Nelson on 21 July 2000. Table 1 summarises the options presented in *Soundings*, which were presented to promote debate. Each option contained a number of components giving submitters the ability to mix and match from the different options to reflect their views.

Table 1. *Soundings* purpose, objectives, and options

<p>Purpose: to protect and enhance recreational/public fishing in New Zealand</p>		
<p>Objectives:</p> <ul style="list-style-type: none"> • More clearly specify the relationship between recreational, commercial and customary entitlements • Encourage greater management responsibility by recreational fishers' organisations • Develop better tools to address spatial management • Improve information on recreational catch 		
<p>Option 1: Discretionary share</p> <ul style="list-style-type: none"> • Status quo, ie <ul style="list-style-type: none"> ➢ Recreational allowance made by Minister ➢ Spatial management through fisheries plans, dispute resolution procedure, s. 311 ➢ Government management 	<p>Option 2: Proportional share</p> <ul style="list-style-type: none"> • Establish on-going proportional shares in key recreational fisheries • New coastal zones to provide preferential access for recreational fishers (Continued Government Management) 	<p>Option 3: Recreational management</p> <ul style="list-style-type: none"> • Option 2; plus- • Establishment of recreational fishing management groups, recognised by government either Voluntary or Statutory • Shared management of recreational fisheries

10 Within the available budget the JWG sought to maximise the public involvement. To achieve this a combination of the discussion document and public meetings and Huis was used.

11 Advertising about the availability of the discussion document and the public meetings was placed in fishing, local, and national media in August, September and October. In response to growing public interest, the deadline for submissions was extended from 30 November to 20 December.

12 *Soundings* was posted to stakeholders on the NZRFC mailing list, MFish fisheries management mailing list, government departments, and individuals that had earlier indicated an interest. The document was also distributed in response to requests. About 14,000 copies of *Soundings* were distributed over the public consultation period.

13 Thirty-five public meetings were held throughout the country. In addition a number of

clubs organised meetings of their own and invited speakers from the JWG and Option 4 Group.²

14 A total of 62,117 submissions were received. The overwhelming majority of all submissions received were from recreational fishers (99%). A significant feature of responses is the form letter distributed by the Option 4 Group, which attracted a total of 61,178 submissions. In addition to this, about 950 other submissions were received (610 *Soundings* submission forms and 329 letters from individuals and organisations). An independent contractor prepared a summary of the submissions and their report is attached as Appendix 2.

Hui round

15 In early August, the JWG sent a letter to the MFish iwi/hapū/marae mailing list (about 800 addresses) inviting tangata whenua to comment on issues and options raised in *Soundings* and seeking their views as to how they wanted to be consulted. Enclosed with the letter was a *Soundings* package—the discussion document, summary flyer and submission form.

16 The MFish Māori network indicated strongly that MFish should actively raise awareness and consult with tangata whenua on the proposals in *Soundings*. In addition there was concern that the Government was consulting simultaneously on recreational fishing, aquaculture and marine reserves—creating both consultation overload and confusion. The JWG determined that *Soundings* should not be discussed at the same hui as the marine reserves review. However, it was accepted that if tangata whenua wanted discussions on *Soundings* and the aquaculture reform at the same hui, this could occur. In the event, there were no hui held in which *Soundings* was the only topic on the agenda. Rather, tangata whenua preferred to have hui in which a number of related matters were discussed, most often *Soundings*, aquaculture and, especially in the North, implementation of the customary regulations.

17 MFish staff initiated contact with tangata whenua in early October. By mid February 13 hui had been held. In the South Island hui were held with representatives from Te Tau Ihu and Te Rūnanga o Ngāi Tahu. In the North Island 11 hui were held, and a number of other tangata whenua groups were contacted but no hui was sought.

18 The JWG acknowledges that input from tangata whenua is not complete, but notes that issues raised at hui were also raised in the submissions received from Māori organisations. Many of the submissions from Māori organisations were from groups that did not request hui. The views expressed at the hui and in the submissions from Māori organisations are summarised in section D of this report. It should be noted that the hui round is continuing.

² Refer to para 19

C RECREATIONAL SECTOR VIEWS

19 The recreational sector's response to *Soundings* was substantial. Of the 62,117 submissions received 99 per cent were from recreational fishers. The form letter distributed by the Option 4 Group attracted a total of 61,178 submissions. About 870 other submissions were received which can also be attributed to the recreational sector.³

Option 4

20 An informal grouping of recreational fishers with a common point of view evolved and grew into the "Option 4" group. This group set up a web site, and called on like-minded people to sign submissions that supported the Option 4 beliefs.

21 The Option 4 form letters supported the following four points:

- No licensing of recreational fishers
- Recreational priority right over commercial fishers for free access to a reasonable daily bag limit in Government legislation
- The ability to exclude commercial fishers from recreationally important areas
- The ability to devise plans to ensure future generations enjoy the same or better quality of rights, while preventing fish conserved for such purposes being given to the commercial sector.

22 While the issue of no licensing captured attention, the remaining points are primarily about creating a better definition of rights for the recreational sector. There is a strong view that these rights have been eroded and that greater security of rights is the answer. The Option 4 view is that any recreational effort to conserve fish is not worthwhile at present because recreational fishers will not reap the benefits of their effort. There is also recognition of the spatial aspect to rights, which has been acknowledged by Option 4 as a potential mechanism to strengthen rights. A desire to participate in the management of the recreational fishery is also represented.

23 The primary issue for Option 4 is recognition of the public right to harvest seafood. The recreational entitlement is seen as being a fundamental human right that a government should not alienate. This is seen as having two components: a harvest right and an area right. Once these rights are recognised, then it will be possible to address management structures and frameworks. Option 4 sees conflict between commercial fishers and recreational fishers, but they do not see any conflict between recreational fishers and customary fishers. Rather they view recreational fishing as having a customary component. There is agreement that more intensive management is necessary to realise a common objective of improving the health of inshore fisheries.

24 After a clear definition of rights, Option 4 advocates a "national, independent publicly elected body" to represent recreational angler's interests to government and to provide management of the recreational catch. Funding should be primarily through central government as the basic entitlement to fish is a public good. Funding would be supplemented by the groups themselves through voluntary funding mechanisms. However, there needs to be recognition of the various indirect mechanisms already employed to levy fishing such as road tax on boat fuel and GST on gear. Compulsory funding mechanisms are rejected.

³ It is not possible to precisely enumerate the respondents by sector because not all submissions identified an affiliation.

25 Option 4 views the key roles of a management group as education and information gathering, a consultant on recreational fishing to the Minister and MFish, and raising funds and sponsorship. The other key role will be in local management regimes achieved through a regional structure. An incremental approach to this devolution of services will be necessary, with the first steps being consultation and a national structure followed by regional representation and direct management input to local fisheries planning.

Other recreational views

26 Other recreational submissions highlighted a range of issues, discussed below. It should be noted that Option4 echoed many of the views of the other submitters. In particular the issues of a priority right and a rejection of licensing regimes.

Support for change

27 There is strong support for change in general, with the overwhelming majority of submitters mentioning the need to enhance and protect inshore fisheries. There was no real disagreement over the vision of where people want the resource to be in the future. All agree that recreational stocks need to be improved and managed more effectively leading to higher and better quality catches. There is widespread recognition that this is a difficult task.

28 Recreational fishers view their right of access to the fishery as a basic human right and this was also expressed through such concepts as birthrights and heritage rights. The principle of free access to the ocean is deeply embedded. Most of the responses also recognised the need to define this right in various ways and to take account of customary and commercial fishing interests.

Improved legitimacy

29 A strong theme emerged calling for improved inter-sector communication and co-operation, recognising the shared nature of the fishery resource. Supporting this was the need for more information and education about the fishery and the management of fisheries in general. Buy-in and support for an improved management structure will depend on the provision of good information and education for recreational fishers.

Unfairness

30 There was also a perception of unfairness and grievance stemming from the view that both the commercial and customary sectors have reduced the ability of recreational fishers to catch fish. This was represented in many ways, from the view that commercial methods damage the environment and provide unfair competition through to outright indignation at the strength of customary rights and the need to have one set of rules for all New Zealanders.

31 In this regard it is also significant that many claim the dispute resolution process needs improving. The current structure is considered to be ineffective and cumbersome.

32 There was general agreement among recreational fishers that enforcement is inadequate. Illegal fishing and the sense of unfairness that people have about this are undermining confidence in the management of the recreational fishery. Improving the quality of recreational fisheries management will depend in part on addressing this issue.

Management structures

33 Different viewpoints emerged on increasing local participation. There was strong support for more participation at a local and regional level. However, there was even stronger support for the view that fishers just want to go fishing and are not interested in politics. There was however support for establishing statutory management structures in one go across the country.

34 Surprisingly, opinion was divided, among respondents using the *Soundings* submission form, about willingness to pay for the management of the fishery. Many respondents were prepared to pay if it leads to improved fisheries. However, compulsory payments were not preferred and the amount that people would pay was variable. Balancing this is a strong view rejecting payments and in particular any payments to the current structures or the government.

35 Alongside this there is a strong message that the government is responsible for managing fisheries, and that recreational fisheries management should be funded through public good mechanisms. There was recognition amongst recreational fishers of the range of indirect mechanisms used to fund fishing including the road tax levied on petrol used for boat engines and the GST levied on fishing gear.

Closed Areas

36 There was strong support amongst recreational submitters for stronger spatial and temporal definitions of rights. The ability to close areas to commercial fishing was an issue that came up repeatedly in responses from recreational fishers. Option 4 listed this as one of its main principles and other submitters raised the issue in a variety of ways. The comments included both restricting commercial methods and also restricting commercial access to recreational areas. Local clubs and organisations also raised the issue of restricting some or all fishing at certain times of the year according to local conditions and fish breeding patterns.

D MÄORI VIEWS

Iwi/tangata whenua

37 In response to the *Soundings* discussion document, 14 submissions were received from Māori organisations. The following issues were raised frequently at the hui and in submissions from Māori groups:

- Some tangata whenua would have preferred that the JWG had sought their views before releasing *Soundings*
- Stronger definition of recreational fishing rights may adversely affect customary fishing rights
- Under Option 3, the recreational sector is aspiring to the same status that Māori fought to secure through the courts over many years
- Proposals to allow fund raising and provide Crown funding for recreational management groups is inequitable because no such funding options are available to kaitiaki under customary regulations
- Inshore fisheries need to be protected and enhanced
- Need for improved information on recreational catch.

38 A wide range of other views was also expressed, reflecting the experience and interests of the particular groups. Submissions included support for Option 1 (status quo), Option 2 (proportional share), and Option 4. Other views included:

- Management of recreational fishing should be embraced within the customary regulations
- Recreational representatives should talk to tangata whenua about their joint interest in improving the non-commercial fishery
- Support for the establishment of recreational management groups
- Offer to assume management responsibility for recreational fishing
- Opposition to the creation of inshore zones, other than through existing mechanisms
- The management regime should be customised to take account of local requirements
- More information on the charter fishing catch is needed

Te Ohu Kai Moana

39 Te Ohu Kai Moana (TOKM) supports the objectives of *Soundings* but does not support any of the proposed options. TOKM submitted:

- customary harvest should be an unconstrained priority share, with second priority accorded to commercial rights. Any TAC reductions should occur first from the recreational allowance unless there was compensation for commercial reductions. TOKM argue this on the basis that there are both commercial and customary aspects to the fisheries Deed of Settlement and any reduction in commercial rights without compensation would be prejudicial to the settlement.
- there should be no new mechanisms to provide preferential coastal access to recreational fishers. Instead TOKM recommends using the existing taiapure, mātaitai and fisheries

plans processes and improving the dispute resolution procedure through opportunities for mediation and an independent review process.

- increased responsibility for management by recreational fishing groups is desirable but based on TOKM's experience, this will take time and require incremental steps. TOKM supports limited Government funding for establishment of such groups followed by access to self-funding options.

40 TOKM also recommended that charter boats be moved over time to a commercial regime in which they would have the same rights and obligations as other commercial users. At the outset charter vessel should be required to provide information on overall take.

E FISHING INDUSTRY VIEWS

41 The submissions from commercial fishing interests took a variety of forms. Detailed submissions were received from SeaFIC and the NZ Rock Lobster Industry Council. Some industry groups took a similar approach to the Option 4 group by developing a submission form that was submitted by individuals or as an attachment to company and trade association submissions. A number of company and trade associations also made form submissions.

42 In general industry submissions:

- Support a change to better defined recreational rights but not at the cost of established commercial property rights (ie reallocation of shares from commercial to recreational sector should be compensated)
- Support the establishment of a proportional share of the fishery for key fish stocks
- Support the formation of representative groups who are mandated and able to work with other sectors to resolve local issues
- Oppose the concept of inshore zones to provide for better access to the recreational sector
- Oppose the current dispute resolution procedure
- Support the use of fisheries plans to negotiate agreements on access
- Strongly oppose the concept of a priority share for recreational fisheries.

Proportional share

43 Generally all industry submissions support a proportional share in key recreational fisheries. The detail provided in support of this option varied. A number of individuals with commercial interests support a proportional share on the basis that it would more clearly define property rights and encourage co-operation between stakeholders, reduce management costs, and reduce inter-sector conflicts.

44 Some submissions suggested that, in addition to establishing a proportional share, there is an obligation to improve monitoring and management of that share to ensure the integrity of TACs. A variety of mechanisms were suggested.

45 Others proposed that having established a proportional share there should be tradability between sectors. This was proposed either as a mechanism to expand the recreational share in the future or on a short-term basis to address annual variations in catch between sectors.

Inshore zones

46 Inshore zones with preference for recreational fishers were strongly opposed in many industry submissions on the basis that they would affect existing property rights. Some qualified their opposition to situations where there would be no compensation for the impact on commercial rights. Some submissions suggested that situations in which commercial fishing was having a real—rather than perceived—impact on recreational fishing were rare. Under these circumstances continued exclusions of commercial fishing could erode commercial fishing rights with little or no benefit to the recreational sector. It was argued that local declines in fish abundance can often be attributed to a variety of factors including recreational fishing pressure.

47 A consistent theme in submissions was opposition to the current dispute resolution procedure and a preference for fisheries plans to be the vehicle for negotiated access agreements. Support for negotiated agreements was linked to industry support for the formation of mandated recreational groups who could enter into such negotiations. The SeaFIC submission in particular proposes an alternative process for negotiating spatial agreements and dealing with any dispute that may arise between sectors. Negotiated spatial agreements with the imposition of voluntary rules was argued, in some submissions, to be considerably more cost effective than options that impose regulatory measures.

Costs of management

48 Many industry submissions supported the formation of representative recreational groups that would be self-funded after establishment. The recreational sector should thereafter bear a share of the cost of management research and compliance in a similar way to the industry. Submissions on funding options varied with some support for a licensing regime which, it was argued could also serve to provide more information on the recreational fishery.

Priority share

49 Industry submitters were strongly opposed to the concept of a priority share for recreational fishers, primarily on the basis of the effects on existing commercial fishing rights and the broader interest of domestic seafood consumers. Some submissions suggested that, in the longer term, changes in the relative shares between the commercial and recreational sectors should be left to market mechanisms.

F ENVIRONMENTAL VIEWS

50 The response from the environmental sector to *Soundings* was in general low, with a total of 8 submissions from environmental groups and Conservation Boards. Submissions stressed the need to gain further information about the recreational catch and more information about the marine environment itself. The need for more funding in the research area was also highlighted. There was some support for Option 3 (Recreational management). Most chose to cite the need for local management structures to take advantage of local information.

51 The Department of Conservation (DoC) supports greater involvement of recreational fishers in management, however it questions whether recreational rights are currently weaker in law than those of commercial rights holders. DoC suggests that inadequate specification of the nature of quota rights has led to a situation where commercial fishers have a predominant influence in marine management to the detriment of other users and rational economic development. DoC comments further that the priority accorded to customary fishing appears to be a matter of practise rather than legislation and will need to be addressed as part of legislative reform.

52 The Auckland Regional Council (ARC) emphasises the popularity of recreational fishing and its significance to the New Zealand lifestyle. The ARC suggests that recreational fishers have their rights recognised through allocation of a fair proportion of the fishery to recreational fishers with at least the same allocation priority that is given to customary fishing. In particular there should be priority for recreational fishers in near shore areas.

53 The ARC supports Crown funding of groups to represent recreational interests and suggest options for Government funding. It opposes licensing. The ARC proposes that MFish and recreational bodies jointly develop management plans that may enhance fish populations and pursue initiatives to improve education on fishing rules.

G CONCLUSIONS:

What have we learned?

54 Key lessons and conclusions learned in the course of the public consultation process on *Soundings* are outlined below.

- **There is widespread support for change.** The public wants to improve the quality of recreational fishing and recognise a need for better specification of rights, in particular rights to participate in management of recreational fishing. Views about the way forward were diverse, and in some cases contradictory. While the nature and extent of the necessary change is still unclear, it is evident that the status quo is unsustainable.
- Recreational fishers do not support licensing.
- A lot more work is needed to engage iwi in the debate about better specification of recreational fishing rights. This has not proved an easy task and, as a consequence, the JWG still does not have a full appreciation of iwi views.
- The commercial sector acknowledges the public right to go recreational fishing. Some of the customary sector acknowledges this right but others consider it a privilege. Both sectors do not want the process of better specification of rights to be done in a manner that adversely affects their current rights.
- People are passionate about recreational fishing. The majority just wants to go fishing, and do not wish to participate in the complexities of fisheries management.
- There is, in general, a poor understanding about how we manage fisheries in New Zealand. There is also a poor understanding, and acceptance, of the nature of customary fishing rights.

H RECOMMENDATIONS

55 Based on this report and the submissions received the JWG recommends that you:

- **support** the further development of policy to:
- **Better** define the public share of and access to fisheries;
- **Improve** the management of recreational fishing (**note**; there is widespread support for statutorily mandated national and regional representative bodies, which are government funded).
- **Agree** that further policy development does not include any form of licensing of marine recreational fishers.
- **Note** that any future public policy debate on the recreational share, access and management would benefit from a broad scale education and information programme on NZ fisheries management.
- **Support** exploring ways to improve the measurement of the recreational harvest.
- **Support** the need to improve the input and participation of Iwi in the further development of the recreational rights policy

THANKS

Minister, we thank you for supporting our ongoing participation in this challenging project and the NZRFC will be available to assist with future developments.

Signed:

Steve Penn
Co Chair

G T Crothers
Co Chair

Appendix 1. JWG membership

Steve Penn, Co-chair	NZRFC
Stan Crothers, Co-chair	MFish
Keith Ingram	NZRFC
Max Hetherington	NZRFC
Warren Lewis	NZRFC
Jennie McMurrin	MFish
Arthur Hore	MFish
Allan Kilner	MFish
Tom Chatterton	MFish

Trevor Howse	NZRFC advisor
Jim Elkington	NZRFC advisor