

Report

Hokianga Accord

Whakamaharatanga 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.

16 – 17 August 2007



“The Hokianga Accord is beyond just fish, it’s about shaping our future,”

Hōne Sadler, Ngāpuhi Kaumātua

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Executive Summary

This document is the record of the Hokianga Accord hui held at Whakamaharatanga marae, Waimamaku, Hokianga on the 16th and 17th of August 2007. It covers the topics discussed during the Accord's ninth overnight hui and also includes appendices relevant to the Forum's activities. This report was commissioned by the Hokianga Accord and was written by Trish Rea. The source material for this report was the video taken during the course of the hui. Several of the hui presentations have been produced and distributed on DVD.

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 while having particular regard to kaitiakitanga. (Fisheries Act 1996, section 12 (1) (b))

"More fish in the water for tomorrow's mokopuna" was the theme of the hui with particular emphasis on Tikanga – contemporary, affordable and achievable changes that can be made to achieve "more fish in the water/kia maha atu nga ika i roto i te wai".

After witnessing presentations by Richard Burch, a commercial fisherman from Napier, and Paul Barnes, an inventor, the hui was collectively struck by the simplicity of technology currently available to achieve significant reductions in juvenile and by-catch mortality and also measures to improve the yield from fisheries.

There was no excuse for the failure of officials to provide support and resources for these innovations. Development was being constrained by this lack of assistance for measures that could improve fisheries abundance levels within a matter of years.

Te Ohu Kai Moana (TOKM) Chief Executive Peter Douglas and Geoff Rowling, Vice President of the New Zealand Recreational Fishing Council (NZRFC), provided an update on the Joint Stakeholder Shared Fisheries Working Group (JSWG) initiative. TOKM, industry representatives SeaFIC and the NZRFC had put a joint proposal to the Fisheries Minister in April to try and address issues raised in the MFish *Shared Fisheries* document released in October 2006.

Representatives from the Hokianga Accord, the New Zealand Big Game Fishing Council (NZBGFC) and option4 did not support the alternative proposal due to a number of concerns including the refusal to accept the participation of customary representatives in the process and the collective failure to acknowledge the High Court Kahawai Legal Challenge judgment. Not a lot of progress had been made by the JSWG in the past four months.

In addition to discussing the implications of the High Court ruling from the judicial review of the Minister of Fisheries' 2004 and 2005 kahawai decisions, the hui also heard about the High Court's ruling to grant a stay, this allows the Fisheries Minister to wait until the Appeal Court had considered the industry's appeal against the High Court decision before making any management changes for kahawai. Initial analysis of the High Court decision is in Appendix One.

Discussion of freshwater fisheries issues featured more during this hui than previously. Te Raa Nehua, spokesperson for Te Runanga A Iwi O Ngapuhi on freshwater fisheries, provided an update from Te Ika A Maui. Ngapuhi participate in this national tuna (eel) forum alongside representatives from Tuhoe, Tauranga Moana, Te Rarawa, Te Whanau a Apanui, Ngati Awa, Tuwharetoa, Waikato and Te Arawa.

Concerns about habitat degradation and the impact on tuna (eel) abundance were highlighted in the Hokianga Accord's submission to MFish on the sustainability measures proposed for North Island tuna (eel). The Forum supported the recommendations to reduce shortfin and longfin commercial catch by 30 percent and 50 percent respectively. A copy of the tuna (eel) submission is in Appendix Two.

Te Rarawa is working with other far north Maori to develop Te Hiku O Te Ika, the far north regional iwi fisheries forum. Unlike the Hokianga Accord, this Forum still has the support of MFish. The Accord offered its support to Te Hiku and welcomed them to attend the November hui scheduled to be held in Auckland.

Customary fisheries issues relevant to the Hokianga were discussed during Stephen Naera's presentation. Te Roroa had worked hard to disseminate the Accord's information to takiwa around the Hokianga. Undoubtedly the broader issue of fisheries mismanagement was impacting on the local's ability to gather kaimoana.

Kaitiakitanga and the inability of tangata whenua to exercise their rights through the implementation of customary management tools were major points of discussion during the Marine Protected Areas presentation by DoC representative Alan Fleming.

Although Maori customary fishers and non-commercial (amateur) fishers will be most affected by the MPA Strategy there is no discussion of the effect of confiscation not only from Maori but from all New Zealanders by the establishment of marine reserves, the loss of rights, compensation to those displaced, or the effect of displacing fishing effort from a closed area to other areas that will remain accessible.

Both DoC and MFish seem impervious to the 'race for space' arguments raised on a regular basis in Hokianga Accord hui. The first applicant in the queue gets to be the kaitiaki of the best part of the coastline or rohe moana, and the most resourcing. The outright winner in this race has tended to be DoC with marine reserve proposals, not mataitai or taiapure applications by iwi and hapu. By failing to acknowledge or promote the potential of kaitiakitanga to provide abundance for present and future generations the MPA Strategy falls short of the government's statutory obligations.

Progress was being made in the establishment of the Guardians of the Sea Charitable Trust *Nga Kaitiaki o Tangaroa*. The hui accepted there was potential for developing the Trust to support activities that promote and maintain the right of every New Zealander to go fishing, together with abundance to ensure success when they do so.

The most valuable message is that of kotahitanga, the unification of interests within the Hokianga Accord. That both Maori and non-Maori have rights to fish and provide for their current and future social, economic and cultural wellbeing protected under the law. This Accord, like nowhere else in the country, embraces the unified call for "more fish in the water/ kia maha atu nga ika i roto i te wai".

Report 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

Since the inaugural Whitiara marae hui in 2005 the Hokianga Accord has been hosted at Whakamaharatanga marae, Hokianga (four visits), returned to Whitiara, Bay of Islands and also held hui at Naumai marae on the Kaipara, Whakapaumahara marae, Whananaki, and Oturei marae in Dargaville. Two Working Group hui had also been held in Auckland.

It was a privilege once again to be manuhiri (guests) of Whakamaharatanga marae for the ninth Hokianga Accord hui. November 2005 was the last time the Accord was in the Waimamaku Valley and it was a timely return to the historic wananga, school of learning.

Commitments had been made at the April 2007 Oturei hui to report back on a number of ongoing issues including the *Shared Fisheries* debate, the Kahawai Legal Challenge, the Marine Protected Areas Strategy, the Guardians of the Sea Charitable Trust *Nga Kaitiaki o Tangaroa* and the Hokianga Accord communications strategy.

Progress had been slow in the *Shared Fisheries* debate as most non-commercial fishing representatives did not support the Joint Stakeholder Working Group that had formed to address some of the concerns about the management of fisheries of importance to commercial and non-commercial fishers, both customary and amateur (recreational).

In July the High Court heard and accepted the arguments for a stay, to hold the Minister of Fisheries' new management decisions for kahawai until the Appeal Court hearing and subsequent decision. The fishing industry has challenged the 2007 High Court ruling and two days have been set aside in February 2008 for the Wellington Appeal Court hearing.

The Marine Protected Areas draft Classification and Standards document was part of the wider Marine Protected Areas Policy and Implementation Plan released in January 2006. This was a joint initiative from the Ministers of Fisheries and Conservation to, in part, address the historic ad-hoc implementation of marine protection measures around Aotearoa.

Registration documents have been filed with the Charities Commission for the Guardians of the Sea Charitable Trust *Nga Kaitiaki o Tangaroa*. Governance, management and administration issues are still to be agreed upon. Pledges and donations will be sought to support the Trust. Grants will then be distributed to a number of entities promoting education, kaitiakitanga, fisheries and environmental management and representation.

The Hokianga Accord includes Ngapuhi, Ngati Whatua, commercial, customary and amateur fishing interests. The New Zealand Big Game Fishing Council and fisheries advocacy group option4 are staunch supporters of the Accord and its objective of "more fish in the water/ kia maha atu nga ika i roto i te wai". In saying that, each organisation retains their autonomy by supporting each other on the broad issues regarding fisheries matters, which affect us all.

Introduction

Stormy weather warnings weren't enough to keep 60 plus people away from the ninth overnight Hokianga Accord hui held in mid-August. It was an opportunity for the mid north iwi fisheries forum to hear about fishing technology innovations that undoubtedly offer a silver lining for future fisheries management.

Following the whakatau (welcome) to Whakamaharatanga marae, introductions and apologies Judah Heihei, Co-chairman of the Hokianga Accord, introduced the hui's theme of "more fish in the water for tomorrow's mokopuna". Particular focus would be on the subject of Tikanga – contemporary, affordable and achievable changes that can be made to achieve "more fish in the water/ kia maha atu nga ika i roto i te wai".

Richard Burch, a commercial fisherman from Napier, explained that by using a combination of improved net design and altering fishing methods, huge benefits could be gained. Achievements included dramatic reductions in fuel consumption and less juvenile mortality. In addition they had managed to reduce the number of non-target (by-catch) fish killed while catching more of the target species. Through the employment of these environmentally friendly innovations the Nancy Glen II had also minimised its impact on the seafloor.

Following these revelations was the presentation from Paul Barnes, inventor and fisheries advocate, on how both commercial and non-commercial fishers can reduce the amount of wastage merely by changing the type of hooks they use to catch fish. The Target Snapper Hook is the result of years of research which has been peer reviewed by independent scientists. As well as increasing the numbers of bigger fish caught, the Target Hook reduces the mortality (death rate) of gut hooked, undersize fish by over 90 percent.

A report was received on the progress of the Joint Stakeholder Working Group designed to address issues raised during the *Shared Fisheries* consultation process. The Ministry of Fisheries (MFish) released the *Shared Fisheries* discussion document in October 2006. Peter Douglas, CEO of Te Ohu Kai Moana (TOKM) and Geoff Rowling, Vice President of the New Zealand Recreational Fishing Council (NZRFC) updated the hui on the joint initiative to address their concerns directly with MFish and the Minister of Fisheries (the Minister).

Once again Bruce Galloway provided a valuable contribution to the hui as he explained what the Kahawai Legal Challenge High Court decision means to future fisheries management in Aotearoa.

Freshwater fisheries spokesperson for Te Runanga A Iwi O Ngapuhi, Te Raa Nehua, gave a comprehensive update on Te Ika A Maui, the National Freshwater Fisheries Forum, and also covered the recent Hokianga Accord submission to MFish regarding their management proposals for North Island tuna (eels).

Unfortunately Vic Holloway was unable to be at this hui due to illness so Abe Witana gave the hui an update on the activities of Te Hiku O Te Ika Forum. This far north regional iwi forum is under development, and unlike the Hokianga Accord, still has the support of MFish. George Riley, the MFish Pou Hononga (relationship manager), was present to support Abe.

It was a privilege to return to Stephen Naera's marae and be given an update on local fisheries management issues from both a customary and non-commercial amateur perspective. Stephen

is the customary fisheries delegate for the Nga Ngaru O Hokianga Takiwa and is also a Te Roroa Trust board member.

Once again the Department of Conservation (DoC) sent Alan Fleming along to discuss the Marine Protected Area (MPA) draft Standards and Classification document and consultation process with the hui. Alan is a marine protection ranger from the DoC Whangarei office.

Respected Ngapuhi Kaumatua Hōne Sadler concluded the first day's discussion with an all-embracing description of kaitiakitanga and how Maori's age-old guardianship obligations apply in the modern context.

Day two dawned brighter than the first and was a fitting reminder of the hui's theme of "more fish in the water for tomorrow's mokopuna". Raniera (Sonny) Tau acknowledged the taitamariki (youth) present at the hui and welcomed them to future Accord hui.

The positive discussions continued with an update from the Guardians of the Sea Charitable Trust *Nga Kaitiaki o Tangaroa*. Steve Sangster provided the hui with much to think about when he presented the work-in-progress for targeted fundraising of high-value individuals.

At the previous hui development of a communication strategy was discussed. This project had evolved into a programme of raising the profile of the Hokianga Accord in the media by issuing regular media releases and articles.

As always the highlight of the Hokianga Accord hui is the evaluation session held at the conclusion of the hui. Over two hours of comments from participants provides valuable feedback for the Hokianga Accord Working Group and is often a guide for determining the issues to be discussed at the next hui.

It was agreed the tenth Hokianga Accord hui would be held in Auckland on the 9th and 10th November 2007. Waipapa marae at the Auckland University campus was a possible venue (now confirmed).

Present at this hui were representatives from Te Runanga A Iwi O Ngapuhi, Te Runanga o Ngati Whatua including their Chairperson Naida Glavish, Te Roroa, Te Uri o Hau, 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, both Vice Presidents of the New Zealand Recreational Fishing Council and option4 representatives.

Participants were encouraged to take copies of the material supplied including:

- Ngapuhi affidavit in support of the KLC, August 2005.
- Hokianga Accord hui report, Whitiara marae, April 2006
- Kahawai Legal Challenge (KLC) judgment, March 2007
- Hokianga Accord hui report, Oturei marae, April 2007
- Hokianga Accord tuna (eel) submission to MFish, July 2007

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 Sam Graham.

Apologies

Mike Austin (Guardians of Mimiwhangata), John Chibnall (NZBGFC and Bay of Islands SFC representative), Richard Baker (NZBGFC), Larry and Barbara Baldock (Tauranga), Bruce Bell (Whitianga), Ross Belle, Richard Baker and Peter Campbell (NZBGFC), Juliane Chetham (Te Uri o Hau), Jackie Cooper (Ngati Wai), Robbie Cullen (Maungaturoto), Alan Dempsey, Jonathan Dick (MFish), Grant Dixon (NZFN), Mark Feldman (Kerikeri), Emma Gibbs, Judy Gilbert (Aotea), Johnny Hata (Whakatane), John Holdsworth and Pete Saul (Tutukaka), Victor Holloway (Ngati Kahu), Keith Ingram (NZRFC), Martin Irvine, Guy Jacobsen, Lisa Kanawa (Ngapuhi), Peter King (Kaipara DC), Bill Kirk, Peter Maddison (F&B), Harry Mahanga (Ngati Manu), Evan MacKay (NZBGFC), Brian Mearns, Tom Moana (Waikato), Clive Monds (ECO), Brett Oliver, Rick Pollock (Whakatane), Stef Railey, Trevor Rands, Kim Walshe, Brian Wrathall (Taupo), Stuart Ryan (Auckland).

Innovative Trawling Technology

Richard Burch, trawler skipper and developer of innovative fishing technologies

Richard Burch is a commercial fisherman from Hawke Bay and was at the hui to explain how he and his team had managed to improve fuel efficiency, reduce the mortality (death rate) of juvenile (young) fish while reducing the impact of trawling on the seafloor. All this had been achieved through the use of new trawling technology on his vessel the Nancy Glen II, working out of Napier.

Richard was at the hui as an individual and was not speaking on behalf of the commercial fishing industry.

Richard had been working on the east coast of the North Island for 25 years fishing for crayfish, hoki, and orange roughy and since 1991 he had focused on the inshore fisheries including flounder.

Avoiding by-catch

By 1995 it was obvious to Richard that he was catching a lot of by-catch when targeting flounder, fish that he didn't want or have quota for. So Richard approached his net maker, Herbie Williams, who suggested he use a square mesh cod-end to avoid this by-catch. Success was instant, when targeting flounder very few other fish were being caught in the square mesh.

By 1996 around 80 percent of local commercial fishers supported the innovations so Richard approached MFish to encourage the widespread use of this technology. MFish were not interested in the development or success of the square mesh cod-end.

Notwithstanding MFish' disinterest, development continued.

Next was the realisation that if they increased the size of the diamond mesh cod-end it was possible to let small fish escape while still capturing the larger flounder.

Fortunately one of the world leaders in net manufacture established an agency in Nelson. Hampidjan is an Icelandic company at the forefront of developing fishing technology. Fishing provides the basis of Iceland's economy so they have made major investments in research and development.

Since 1997 Richard has been working with Hampidjan using their ropes and twines to improve trawl efficiency and other aspects of trawling. Hampidjan was far more familiar with making huge nets for very large fishing vessels rather than fitting out smaller inshore boats, but were still keen to assist Richard's team to fit out the forty-foot Nancy Glen II.

The breakthrough was the use of Dynex for net making; while thin, it was very strong and provided little resistance when pulled through the water during trawling. Fuel consumption reduced immediately as the net was easier to tow and there was less strain on the gear.

The team continued to work with Hampidjan and eventually moved onto using Magnet twine in the new nets. There were gradual fuel savings as they continued to develop the technology.

Another breakthrough came in 2004 when Hampidjan developed a 11mm Dynex Dux rope with a breaking strain of around eighteen tonne, to replace the 13mm heavy wire warp used in the trawling gear. Around 1200 metres (m) of warp is required on the Nancy Glen II. Considerable energy is required to tow that length of wire warp and weight. The major difference is that 1200 m of Dynex rope weighs 200 grams (g) in water.

The Nancy Glenn II's fuel consumption plummeted due to towing less weight off the back of the boat. For a six-day trip fuel consumption went from around 3000 litres (l) to approximately 2000 l, a saving of one third.

Net developments

All commercial fishing trawlers continue to use diamond mesh trawl nets that were developed at the beginning of last century. The problem with diamond mesh net is that when the weight goes on the net the diamond shape compresses, this both restricts water flow through the net and catches small fish in the mesh. Consequently, the mortality of juvenile fish increases as does the drag so more fuel is required to tow the extra weight.

Developments in 2004 revealed that altering the mesh angle in combination with other modifications allowed the net to hold its square shape, thus letting small fish escape through the gaps in the squares. This both reduced by-catch and the mortality of juvenile fish. Fish of premium size now made up the majority of the catch – an optimum outcome for any commercial fisherman.

Fuel consumption declined again, although less dramatically than the savings from Dynex ropes, just through using this new innovation.

In conjunction with using the modified nets, the employment of the Dynex rope enabled the Nancy Glenn II's crew to use much lighter terminal tackle to replace the heavy bobbins, clips, weights and shackles required to fit to the wire ropes.

It is likely there will need to be some adjustment to the all-square net before a final design is agreed upon. Being the first in the world it is unknown what the outcome will be, it may be that it will be ineffective in capturing anything but the very large fish, if so, it will need adjustment to enable the capture of mid-size fish. However, initial trials are positive.

Benefits of innovation

Due to towing less weight and using new technology the Nancy Glen II has widened the spread area covered by its trawl nets by 30 percent, their fuel consumption has reduced by a third and they are catching very few small fish.

Another benefit is the ability to target specific species. Despite what some fishers may say, most unwanted fish can be excluded from the net by increasing or reducing trawl speed. In the Hawke Bay Fisheries Management Area (Area 2) there has been a 76 percent overcatch of trevally in the past fishing year. The simplest way to avoid this overcatch is to drop the trawling speed.

Richard's crew now realise that two nets are required, depending on the target species. A low-lift net is suitable for catching tarakihi, flounder, gurnard, john dory and groper, whereas the high-lift net is more suited to capturing species such as barracouta, hoki, warehou and snapper.

Aside from avoiding by-catch, having the ability to target species works well when the fish-processing shed specifies the tonnage and species they need.

Further innovations are in the pipeline and Richard will keep the Accord updated with progress. It is not out of the question to eventually be fishing with lightweight material on one strand of twine, however research money is required to continue developments.

Richard acknowledged Hampidjan for their ongoing support and technical assistance. Seafish from the United Kingdom had also been a valuable source of advice.

In an attempt to address fisheries management concerns in Area 2, Richard and others have formed a group called the Guardians of Hawke Bay and hope to make some progress with MFish. The Guardians would welcome any support the Hokianga Accord could give them as they have serious concerns about current management.

Hui Discussion

When asked to describe the proportion of by-catch to target species Richard explained that using the standard nets, for a tonne of flounder possibly half a tonne of by-catch was taken, this included non-fish capture i.e. bottom species.

To avoid having to return to port to swap from the high-lift net to the low-lift net (or vice versa), Richard is having another drum built to fit on the deck of the Nancy Glen II. This would make the changeover to target another species a fairly straightforward operation.

Richard confirmed the Nancy Glen II is taken out of the water once a year so any foul can be removed from the hull. This makes a difference to fuel consumption particularly when steaming as opposed to during trawling.

Richard has been fishing for Moana Pacific Fisheries for many years and has a balanced portfolio of quota. He is very familiar with the weekly requirements of the fish-processing shed and there is little incentive for him to bring in fish that is not requested or he does not have quota for. Although there are problems with deeming in Area 2, Richard does not expect to be deeming any fish this year due to his ability to target specific species.

Without any incentives for commercial fishers to change to more environmentally friendly gear the issue of compulsory landing of all catch was discussed. Removing the minimum legal size limit for commercially caught fish would mean that all fish would have to be landed. Only then would the true amount of by-catch and juvenile mortality be known.

Without regulatory change and increased enforcement, compulsory landing of all catch was not realistic at this time. Richard did point out that in addition to those constraints, most small owner-operators are not in a position to fund the type of research that Richard and his team were doing. It was unknown if the corporate sector had sufficient resources to fund similar research either.

The Guardians of Hawke Bay was a multi-stakeholder group including commercial and amateur fishers, iwi and environmentalists. The local Member of Parliament, Chris Tremaine, was very keen on the joint approach and had been assisting the group to get underway. The Guardians were seeking advice from both the Hokianga Accord and the Guardians of Fiordland, who had been successful in implementing local management measures in the southwest of the South Island.

These groups had all been motivated by the inability of MFish to manage local fisheries sustainably and while commercial fishers had a poor reputation, much of the mismanagement was attributable to MFish.

Other owner-operators who knew the fisheries were not as abundant as they were years ago and who were concerned for the long-term sustainability of the fisheries were supportive of the work Richard and his team were doing.

Sonny confirmed this type of innovation is consistent with the Hokianga Accord's goal of "more fish in the water/ kia maha atu nga ika i roto i te wai" and that the Forum supports Richard's ongoing effort to improve the sustainability of commercial fishing.

Maori have an interest in all three categories of fishing, customary, amateur and commercial and these innovations to improve sustainability need to be discussed in depth with Maori commercial interests such as TOKM. This was particularly important for Ngapuhi as they are the single biggest stakeholder in Aotearoa Fisheries Ltd.

Richard and his team were invited to report their progress to the next Hokianga Accord hui in November.

Smarter Fishing Hooks

Paul Barnes, inventor and fisheries advocate

Paul Barnes had addressed previous hui and was excited by the opportunity to discuss the research he had been involved in, or was aware of, to reduce unnecessary mortality and improve yield by using smarter hooks for fishing.

Paul has been studying hook designs for over ten years. His interest began when a previous Fisheries Minister, Doug Kidd, funded a research project to find out if there was a way to increase the minimum size limit for snapper for both commercial and amateur fishers without

increasing the mortality of the undersized fish that would be caught in the fishing process. Research was conducted on hooks used by both commercial and amateur fishers.

Fish mortality

In an unfished or lightly-fished fishery there are many large fish that grow to their natural maximum size. As a fish stock is depleted through more intensive fishing the proportion of older, larger fish declines as the population declines and the remaining fish are smaller.

On the North Island's west coast there seems to be greater numbers of large snapper further south, around the Mokau (Taranaki) area, where there is less commercial fishing pressure. For every tonne of these larger fish caught only 100 to 200 snapper are killed. On the other hand a just-legal amateur caught snapper at 27cm weighs around 330 grams. At this size around 3000 snapper need to be taken for every tonne of catch.

In a very depleted fishery where there are lots of smaller fish commercial fishers can legitimately kill up to 4000 fish per tonne as their minimum legal size is only 25cm, (around 240 grams per fish). In such a fishery there is also a greater proportion of the stock that is undersized and vulnerable to being incidentally caught and killed.

When fish stocks are low it is mainly small fish that are left. This means many more fish have to be killed to make up each tonne of actual catch.

What's more is the fishery can only produce a certain amount of new fish per year. If more fish are being killed than are being produced as replacements, the fishery will inevitably decline.

If even more fish are taken, this eventually has an adverse impact on the recruitment rate; the numbers of fish being produced are reduced as the spawning biomass reduces. If the number of fish taken from the fishery is consistently higher than the recruitment level, then eventually the stock will collapse through recruitment failure.

It should also be of concern to all that current management only measures and manages the catch by tonnes taken regardless of how many fish are killed in the process.

In simple terms, if the number of fish killed were constrained to less than the number of juvenile fish entering the fishery, rebuilding of the fish stock would occur. If bigger fish can be taken, then far fewer fish will be killed for the same catch tonnage.

Mortality research

Problems can arise if we consider the fisheries are well managed simply because commercial fishers are still able to catch their quota tonnage. What is not taken into account in this simplistic overview is that the mortality rate in a declining fishery may be two or three times higher than in a healthy fishery.

This realisation led to research that would measure the numbers of actual fish being killed during the fishing process and investigate gear modifications designed to reduce those numbers and thereby assist in rebuilding depleted fisheries. Many of the inshore fisheries of importance to non-commercial fishers, both customary and amateur, were in various states of depletion.

Around 90 percent of the fish stock has been removed from Snapper 8 (SNA8) on the North Island's west coast. Excessive commercial fishing has caused most of the damage. Only 10 percent of the virgin stock is left and this is mainly small fish. When this happens the fishery becomes what is known as 'recruitment dependent', which means that the fish that are being caught are recent recruits into the fishery and there are very few larger fish 'left in the bank'.

The North Island's east coast snapper stock, Snapper 1 (SNA1), is in slightly better health. Around 16 percent of the virgin stock remains in that fishery. However snapper stocks are supposed to be managed at between 20 and 25 percent in order to produce the maximum sustainable yield (MSY). This has been MFish' target since the introduction of the quota management system (QMS) in 1986.

Both of these important shared fisheries need to be rebuilt. One way to rebuild a fishery in this low state, without cutting catches, is to protect the undersized fish from being killed and reduce the catch of just-legal size fish.

Increasing the minimum legal size limit (MLS) is often touted as one way to protect these small fish and rebuild fisheries, however the mortality of the fish that are returned to the sea becomes an issue at the larger MLS.

The current snapper MLS is 25cm for commercial fishers and 27cm for amateur fishers.

Amateur Hook Types

Paul has reviewed the results of major mortality studies carried out by scientists in the late 1990's. By far the main cause of juvenile mortality was found to be gut hooking, this is where a small fish completely swallows the hook.

Gut hooked fish on commercial longlines usually die within an hour of capture.

No matter how careful amateur fishers are when removing hooks from inside a fish, if a gut hooked fish is returned to the water studies have shown it has a 98 percent chance of dying. In comparison, 95 percent of lip or mouth hooked fish survived when released.

The research was conclusive that gut hooking was the main cause of wastage in both amateur and commercial fisheries that use hooks. So Paul's research was designed to study different hook types used by both commercial and amateur fishers to determine the best and worst hooks to use.

Four types of hooks used by amateur fishers were studied and were also observed after a wire appendage was added to the back of the shank of the hook. Those studied were two 'J' shaped Octopus or O'Shaunessey hooks, a circle hook and a circle hook with a wire appendage. The wire was designed to stop fish from swallowing the hook, thus preventing gut hooking.

Thirteen thousand hooks of the amateur variety were run during the research. Around 2,500 snapper were caught, providing a credible sample size for scientific purposes. All the hooks were baited the same, with squid and hooked through once at one end of the bait. The trials used longlines to remove any bias from comparing the catch of good or poor individual fishermen.

The interesting outcome of the research was the comparison of fish killed per tonne at various size limits and hook types. For the circle hooks there was a saving of only 61 fish per tonne

between the numbers of fish killed at a 27 centimetres (cm) minimum size limit (MLS) (1622 snapper killed per tonne of catch) and those killed at 30cm MLS (1561 snapper killed per tonne of catch).

For the 'J' hook (Octopus or O'Shaunessey) mortality actually increases as the fish size increases, that is because there are so many more gut hooked, undersized fish being returned to the water that wouldn't survive. This means more damage would be done to the fishery if fishing with 'J' hooks at a 30cm MLS rather than at a 27cm limit.

When an appendage was added to both the circle and 'J' hook the difference at a 30cm MLS was dramatic. Mortality associated with an appendaged circle hook reduced from 1561 fish per tonne to 1256 fish killed. An appendage on the 'J' hook reduced mortality from 1702 to 1057 per tonne, a saving of almost 700 fish!

So, by simply adding a wire to the back of the hook it can improve the yield from the fishery by reducing the mortality caused by gut hooking.

Paul's Fishing Kites chose the most successful snapper catching hook, which was the circle hook, and added an appendage to that. PFK had been marketing the Target Snapper Hook for around eight years and had sold around one quarter of million appendaged hooks.

If more environmentally friendly appendaged hooks are used, size limits can be increased and the fishery will improve – yield per recruit would increase and wastage would be reduced.

If better hooks are not used the additional mortality caused through increasing the size limit will erode most, if not all, the benefits of an increased size limit.

So it is very important to institute input controls if the minimum legal size for fish is to be increased. Hooks types would have to be regulated to gain the maximum benefit from an increased MLS; otherwise mortality would increase in the fishery and deplete it further.

Appendaged hooks are not the only solution. Reducing the thickness of the wire the hook is made of can produce major reductions in the capture of gut hooked, undersized fish. Other factors such as the shape and angle of the hook tip compared to the shank can make a difference to catch rates as well.

There are many ways of regulating hook types to achieve the gains that are possible and improve fisheries.

No-one, not even MFish, know how many tonnes of snapper are caught by non-commercial fishers. Estimates vary between 300 to 900 tonnes on the west coast and 2500-5000 tonne on the east coast in SNA1.

If the mortality associated with amateur fishing reduced by only 300 snapper per tonne, then around 800,000 to 1.7 million fish could be conserved per annum, by using the improved hook designs. In only five years these fish would weigh around 800 to 1700 tonnes, at one kilo each. If this could be achieved every year then that is more fish being added to the population plus their offspring. Those offspring are fish that would be created from fish that are currently being wasted. This would be a spectacular outcome for depleted fisheries such as the snapper stocks.

Commercial Fish Hooks

Research was also carried out on the commonly used 16r Tainawa commercial longline hook, to measure catch and gut hooking rates. Without the appendage, the Tainawa hook is the worst hook for gut hooking fish and the worst hook for using on a longline. This was a surprising outcome as the Tainawa is the most commonly used hook in commercial longlining.

Appendages 40mm long were fitted to half the Tainawa hooks with unexpected results. Over 15,000 hooks were laid with around 8,000 snapper caught during the trials completed from a commercial vessel in the late 1990's.

The unappendaged hook caught a lot more undersized fish than the appendaged variety. At around 36cm the selectivity was about equal; that is the proportion of catch was the same with both the appendaged and plain Tainawa hook. However, the appendaged hook caught a lot more of the bigger fish than the plain hook.

The only logical explanation for the increased catch rate of bigger fish on appendaged hooks is that the wire deterred smaller fish from hanging around and taking the bait thereby leaving the bait for the bigger fish to take.

So the appendage is not only preventing fish from swallowing the bait it actually acts as a deterrent to smaller fish.

Results from the Willis and Millar commercial fishing study SNA9082 was that around 280,000 undersized snapper could be saved per annum if modified hooks were used by commercial longliners¹, assuming that they are conservatively fishing at the 27cm MLS as opposed to their 25cm MLS.

Having heard the different ways of reducing mortality in both commercial and non-commercial fisheries there is the real possibility inshore fisheries could be rebuilt to abundant levels without any loss of quota.

Why has so little progress been made in the last twenty years? The answers could be as simple as:

- Offering real incentives to encourage fishers to adopt better fishing practices
- More MFish focus on research regarding fishing related wastage and the development of technologies to reduce it
- MFish using input controls to implement new environmentally improved fishing technologies.

Due to time constraints there was no formal discussion following this presentation. Paul offered free samples of Target Snapper Hooks and was available for further discussion throughout the rest of the hui.

¹ Estimated annual reduction in incidental mortality of undersized snapper for the longline component of the stock (SNA1) using modified hooks, based on extrapolation of observed catch and gut-hooking rates. Based on a 2000 tonne commercial longline catch.

Shared Fisheries

Background

In late October 2006 the government distributed a document called *Shared Fisheries. Proposals for Managing New Zealand's Shared Fisheries: A public discussion paper*. Submissions were requested and over 600 responses were received by 28th February 2007.

Many of the people involved in the Hokianga Accord had input into a substantial submission by non-commercial fishing interests called "The People's Submission²".

The submission was a collective effort to explain the nature of customary, amateur and commercial fishing rights and how the Minister of Fisheries should give effect to existing legislation so people could provide for their social, economic and cultural wellbeing. It also contained in-depth discussion on area rights, kaitiakitanga and the effect *Shared Fisheries* would have on Maori.

Very little progress had been made since the submission deadline so earlier in the year Sonny approached TOKM, Aotearoa Fisheries Ltd (AFL), option4, the New Zealand Big Game Fishing Council and the New Zealand Recreational Fishing Council and arranged a joint meeting to discuss the *Shared Fisheries* process and how progress could be made. Sonny was representing customary interests, Ngapuhi and Ngati Whatua in these discussions.

An initial hui was held in Auckland in early March, with another arranged for the beginning of April to coincide with the Maori fisheries conference in Napier. It was agreed that all parties would work together and formulate a paper that would be offered to the Minister as an alternative to *Shared Fisheries*, as he had run into strident opposition to *Shared Fisheries* from both the amateur and commercial fishing sector, including Maori commercial stakeholders.

No agreement was reached on the content of the joint paper and despite opposition, SeaFIC, TOKM, AFL, and the NZRFC decided to present their version of the joint paper to the Minister before he left for overseas.

It was important from Ngapuhi's perspective that fisheries sustainability is addressed. There are many fisheries that both commercial and non-commercial fishers have access to which are not being managed at abundant levels and that is having an impact on the value of the commercial asset belonging to Ngapuhi. The lack of abundance is also affecting people's access to healthy numbers of fish.

Maori were locked into the commercial aspect of fishing through the Sealords deal. More importantly was the effect of overfishing on people's ability to put kai on the table for their mokopuna.

Also of concern for Ngapuhi is the \$12 million that MFish had as an allocation to be spent on assisting Maori to have input and participation into fisheries management. Ngapuhi and Ngati Whatua have seen little evidence of how that money had been spent and no material benefit had been derived from this fund.

² <http://www.option4.co.nz/sharedfisheries/peoplesubmission.htm>

There was also an issue with the NZRFC claiming the mandate to speak on behalf of Maori, Sonny put it to Geoff Rowling and Sheryl Hart that they had no mandate from any of the iwi present at the hui to include them in NZRFC submissions on fisheries management issues. Geoff Rowling would address that issue during his korero (talk).

Joint Stakeholder Working Group progress

Geoff Rowling, Vice President of the New Zealand Recreational Fishing Council (NZRFC) and Peter Douglas, CEO Te Ohu Kai Moana, had been invited to the hui to provide an update of the Joint Stakeholder Working Group designed to address the *Shared Fisheries* debate.

NZRFC's Position on Shared Fisheries

Geoff has a number of roles aside from having the Vice Presidency of the NZRFC. Being from Motueka, he is involved in a number of local groups around the Tasman region. One of the positions he holds is Chairman of the Challenger Scallop Recreational and Dredge Oyster Advisory Group. Geoff suggested this group could be part of a model of future fisheries management. He was hoping to have more time during the hui to explain the workings of the advisory group.

Geoff conceded the NZRFC's relationship with its constituent members, the general public and other representative groups had been under strain for some time but huge improvements had been made in the last twelve months, with better communication and consultation with various submissions. He felt there had been quite a bit of misinterpretation between the NZRFC, other groups and individuals involved in fisheries advocacy. There had been some personality clashes between people involved in the amateur fishing sector, as exists amongst other interest groups.

Kahawai Legal Challenge

There had been some debate about the value of seeking the judicial review of the Minister of Fisheries' 2004 and 2005 kahawai decisions. Geoff acknowledged that he was one of the people who did not believe much would be gained from pursuing the Kahawai Legal Challenge. However, he now realised there had been a lot gained from the High Court decision. Geoff apologised for being doubtful and wanted to acknowledge the tenacity of those who stuck to the challenge.

The NZRFC had copped some recent criticism for, what is seen by some people, to be 'jumping on the bandwagon' of the successful outcome. The reality for the NZRFC was that they now realised the value of what had been gained and that the decision needed to be defended. It is unfortunate that fisheries seem to be managed through the courts, as litigation is an expensive process.

This is probably an indicator of why amateur fishers are the 'underdog' in fisheries management as the sector does not have the means to sell its catch, build a pile of funds and use that to challenge any adverse decisions until the government, through MFish, is worn down. There was no doubt that some of the fisheries management decisions in effect now were influenced by the threat of lawsuits or the constant pressure from commercial interests.

The NZRFC wanted to acknowledge the tenacity and contribution of Scott Macindoe in supporting the Kahawai Legal Challenge. Geoff presented Scott a gift, on behalf of the Council, in recognition of his effort.

The NZRFC has also committed to doing what it could to defend the decision as it continues through to the Appeal Court hearing due in late February 2008. The Council recognises the possibility that the appeal maybe taken further, to the Supreme Court, if the commercial parties in the case lose their appeal.

Geoff also advised that the NZRFC had raised the matter of ongoing litigation with the Minister. In that it was ridiculous that the public had to pay both individually and through taxes, to defend a court decision that the Crown had already accepted. The Minister's response was that 'there was nothing they could do about it'.

It was Geoff's hope that the amateur sector could have a more inclusive approach to joint concerns. He didn't believe the NZRFC had necessarily wanted to work in isolation, however a lack of resources had influenced their involvement, particularly limiting any direct financial contribution to the legal challenge.

A shortage of people and resources within the sector had hindered participation in many fisheries management processes, to the detriment of the non-commercial sector as a whole.

Shared Fisheries

In regards to the initial Joint Stakeholder Working Group proposal to the Minister, Geoff acknowledged that the pressure was on the NZRFC. He also accepted that the timeframe for development, discussion and responding was not long enough, and that the joint proposal was incomplete. This had caused some tension amongst the non-commercial fishing representatives.

Geoff advised there was more work underway to develop another joint proposal. The NZRFC had decided it would not sign off on any new joint proposal unless it had the absolute support or express disapproval of the other existing amateur fishing representative organisations.

One of the reasons Geoff was at the hui was to talk with others and encourage their involvement in the Joint *Shared Fisheries* Working Group process. While the outcome of joint talks was unknown, he felt it was important to take the opportunity to get involved and present a united front.

The NZRFC was not interested in undermining section 21 of the Fisheries Act, and the protection that offers to non-commercial fishing interests. Section 21 was a very strong piece of legislation and there was no necessity to change it.

Section 21,

Matters to be taken into account in setting or varying any total allowable commercial catch—

(1) In setting or varying any total allowable commercial catch for any quota management stock, the Minister shall have regard to the total allowable catch for that stock and **shall allow for**—

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

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

(ii) Recreational interests; and

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

Hui Discussion

The 'allow for' provision had been raised during the Kahawai Legal Challenge. Essentially the High Court found that the Minister has an obligation to ensure sufficient abundance so people can catch fish and thereby enable them to provide for their wellbeing.

Geoff was asked to clarify the statements made in various NZRFC submissions that they speak on behalf of some iwi in the north and also to identify the iwi that had given their mandate to the NZRFC.

Sheryl Hart, the other Vice President of the NZRFC advised that those submission statements had been 'inherited' from previous submissions. The Council had removed those statements from the most recent 2007 submissions.

The NZRFC did not have the mandate to claim itself as the 'umbrella' organisation representing amateur fishing interests, however it did claim to represent the general public's interest because the government had historically given them that responsibility.

Later in the hui Geoff clarified that the NZRFC would endeavour to seek more consensus with other groups representing amateur fishers although there would be times all groups needed to retain their independence and be able to express their own views.

In respect of the Hokianga Accord, the NZRFC representatives had attended three hui since the Forum's inception in 2005.

It was also clarified that the Accord is the mid-north iwi fisheries forum for which all other fishing interests were invited, commercial and non-commercial, including amateur fishers and the NZRFC.

It was encouraging to hear that the NZRFC had changed its stance regarding section 21. If the Fisheries Act were opened for amendments the fishing industry and politicians would make the most of the opportunity. Removing the protection s 21 currently offers to non-commercial fishing interests would be to their detriment.

The NZRFC were reminded that after years of watching Mfish mismanage fisheries and how they behaved, Mfish were definitely not the friends of non-commercial fishers, irrespective of what they said to the NZRFC.

TOKM's Position on Shared Fisheries

Peter Douglas, CEO Te Ohu Kai Moana (TOKM) was also at the hui to give an update on the Joint Stakeholder Working Group designed to address the *Shared Fisheries* issue.

TOKM had been established to administer and distribute the assets from the 1989 settlement and the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. TOKM is in the process of distributing those assets to the 57 tribes identified as recipients.

Ngapuhi was the first to receive their assets, another 43 have since settled with TOKM.

TOKM was pleased to be making such good progress in reaching agreements with the various tribes particularly considering the amount of controversy and debate that had occurred prior to

the Maori Fisheries Act 2004. Peter believed this was due in part to a new generation of thinkers with a different attitude.

Fisheries Management

TOKM's other responsibility on behalf of Maori is fisheries management. It was incumbent on TOKM to ensure the assets being distributed to Maori were worthwhile receiving.

Te Ohu Kai Moana had always promoted the need for a balance between customary, recreational (amateur) and commercial fishing. The commercial fishing assets were derived from Maori customary and amateur rights.

Shared Fisheries

TOKM's concerns surrounding the shared fisheries debate arose from the MFish *Shared Fisheries* discussion paper. It was a 'populist' document in that it was very vague and therefore the outcome was potentially damaging. There were suggestions in some media releases that *Shared Fisheries* could have an affect on up to \$100 million dollars worth of iwi assets.

By populist, Peter meant that a survey form that accompanied the MFish discussion paper asked very simple questions and had the option to tick for 'support' or 'don't support'. The aggregated answers to a survey of this nature could be used to support whatever MFish desired. The process was flawed if the survey proponents could determine the outcome.

In February TOKM called a hui of Mandated Iwi Organisations (MIO) and Recognised Iwi Organisations (RIO) to discuss *Shared Fisheries*. TOKM received the mandate from that meeting to represent and take their concerns to the Minister and the government.

A public announcement was made at the conclusion of the hui. The following day the Minister of Fisheries accused Maori commercial fishing representatives of being 'hysterical'. When TOKM finally met with the Minister they clarified their concerns were 'historical' not hysterical. Maori rights were hard fought and the settlement assets were only just being quantified.

It had been some time since Maori had been so unified on an issue. Maori representatives from around the country accompanied TOKM to meetings with various politicians. Sonny had been at some of those meetings.

Management Framework

The agreement was that Maori were in favour of a comprehensive fisheries management framework but that regime needed to be based on good information.

There was a rigorous reporting regime for commercial catches although it does not account for all mortality, as had been highlighted in earlier discussions. There was also increasing requirements for the reporting of customary take, which can be used to measure the impact on fisheries. However, there was insufficient information of the impact that amateur fishing has on the fisheries. Equally there is insufficient information on the level of illegal harvest. TOKM did not believe there would be a robust fisheries management regime until the impact of amateur harvest and illegal take on fisheries was known.

TOKM hold 20 percent of the quota in New Zealand's fisheries and are a 50 percent shareholder in Sealords, the largest fishing operator in the country. Despite this, TOKM were not invited to the initial *Shared Fisheries* discussions with the Minister.

Maori have been fishing for 1000 years and TOKM wanted that to continue for another millennium, so their interest was in having sustainable fisheries. The nature of the fisheries settlement meant that Maori would be enduring participants in fisheries.

Hui Discussion

When asked to clarify TOKM's position regarding their representation of Maori's commercial, amateur and customary fishing interests Peter explained that it was a complex issue that required a balance. Some tribes had asked TOKM to represent their non-commercial interests and others wanted to represent themselves.

Peter did note that the commercial success of their companies meant very little to Maori who were trying to catch fish to eat so TOKM was making an effort to engage with more Maori so they can determine the balance required to achieve sustainable fisheries.

TOKM did not believe that a re-allocation from commercial to non-commercial interests, as suggested in *Shared Fisheries* would resolve anything. This was particularly so because the amateur take is so poorly quantified. Nor would a re-allocation improve communication between sectors. A more comprehensive fisheries management framework would include better information and engagement of all sectors.

Peter was asked to explain how TOKM would manage the conflict of interest between customary interest including access to the fisheries and commercial fishing. From TOKM's perspective there were several customary measures that could have a major impact on commercial fishing if they were not managed properly.

Mataitai is one of the measures. There are some Maori considering mataitai that are up to 70 miles long going two miles out to sea, another proposal was 44 miles long and two miles seaward in the prime Crayfish 3 (CRA3) area – East Cape to Poverty Bay. A mataitai of that size in CRA3 had the potential to have a huge impact on the commercial viability of the crayfish quota that would be returned to that tribe. It was unlikely the mataitai proponents would want to ruin the commercial opportunity of their own tribe.

At present the communication between the iwi and people wanting the mataitai is not as good as it needs to be. TOKM is hoping to improve the customary process so that the people on both sides of the equation can engage and fulfil their needs.

Sonny explained that Ngapuhi did not have a conflict of interest as their people had already confirmed that if there was a threat to catching a fish to feed the tamariki (children), commercial fishing had to give way. The easiest way to avoid conflict was to manage fisheries at a high enough biomass (stock) level so there was sufficient fish in the water to satisfy non-commercial and commercial needs.

When asked if TOKM provided money for hapu to develop customary fisheries management plans Peter suggested MFish had a specific allocation to address hapu's needs. There was some discussion whether this was a realistic avenue for hapu to pursue considering the lack of meaningful outcomes from the \$12 million already allocated for Maori issues.

The Minister's suggested amendment to the section 10 of the Fisheries Act 1996 had been discussed at the previous hui and a statement in support of the intended outcomes had been released after the hui. (Appendix Four).

TOKM was not keen on the suggested amendment to enhance the precautionary approach to fisheries management, as they believed the wording in section 10 of the Act was sufficient. The reality is that there is never likely to be sufficient information for accurate fisheries management due to a range of factors.

Regarding the impact of amateur fishing on the biomass, it is unclear whether the collective take is large or small, the answer varies around the country and depends on who is asked. Some people believe the impact is large, others don't believe it is significant. Various means have been used to measure the catch of amateur fishers; none had been successful so far.

Acknowledgements

Te Runanga O Ngati Whatua Chairperson, Naida Glavish, advised the hui that Sonny Tau had been nominated to be the replacement Te Tai Tokerau TOKM commissioner when Shane Jones leaves the board. Sonny had been nominated by Ngapuhi and seconded by all the other tribes of Te Tai Tokerau. The nomination received unprecedented support from the tribes and Ngati Whatua. The position would be vacant by September 2007. (This appointment has now been confirmed.)

TOKM was asked to accept Sonny's nomination for the vacancy, from the Hokianga Accord. Peter accepted the nomination to rousing applause for him, Sonny and Naida.

Jeff Romeril was at his last hui for some time as he is leaving to work in India for the next few years. Jeff is the President of the New Zealand Big Game Fishing Council and would be stepping aside at the end of September to be replaced by Richard Baker. Both Jeff and Richard had been an integral part of the initial set up of the Hokianga Accord and contributed their time and skills to the Forum's Working Group.

Sonny thanked Jeff for his valuable input into the Hokianga Accord and acknowledged his effort to educate the NZBGFC's 32,000 members on the benefits of supporting the Accord's objective.

It was encouraging to hear the NZRFC had changed their position regarding the *Shared Fisheries* discussions. Sonny acknowledged both Geoff Rowling and Sheryl Hart for explaining the NZRFC's stance - that they would not proceed into any further discussions without the NZBGFC, the Hokianga Accord and option4. This signified a major shift in the NZRFC's position on the *Shared Fisheries* issue.

Ngapuhi, Ngati Whatua and all Maori in the north also wanted to acknowledge Scott Macindoe's contribution to supporting the Kahawai Legal Challenge. Sonny thanked Scott for his unwavering support, on behalf of the Accord.

Kahawai Legal Challenge

Bruce Galloway, lawyer, Kensington Swan

Background

Bruce Galloway is a lawyer and consultant with Kensington Swan. He has also been a member of the Guardians of Mimiwhangata Fisheries and Marine Environment / *Nga Kaitiaki o Nga Ika Nga Kaimoana Me Nga Ahuatanga Takiwa o Te Moana o Mimiwhangata* since its formation in December 2004, to improve and enhance the fisheries and marine environment of Mimiwhangata Marine Park set apart in the 1970's for the enjoyment of all New Zealanders.

In getting to grips with the fisheries management and marine protection jigsaw, Bruce has worked with and learned much from tangata whenua and the place of the tikanga (principle) of kaitiakitanga (guardianship) in ensuring abundance of ika (fish) and kaimoana (shellfish) for future generations.

In addition, Bruce assisted the New Zealand Big Game Fishing Council (NZBGFC) and New Zealand Recreational Fishing Council (NZRFC), the plaintiffs in the Kahawai Legal Challenge.

The outcome of that case, a judicial review of the Minister of Fisheries' 2004 and 2005 decisions on the introduction of kahawai into the quota management system (QMS) and the way in which the Minister 'allowed for' non-commercial fishing interests in setting the total allowable commercial catch (TACC) was a 'win', not just for the NZBGFC and NZRFC but for the fisheries, marine environment and all New Zealanders.

The High Court hearing was held on the 6th, 7th and 9th of November and concluded on the 11th December 2006. Justice Rhys Harrison released his findings on the 21st March 2007.

At the previous hui held at Oturei marae, Bruce reviewed the High Court decision and explained what it meant for New Zealand's fisheries. A copy of that review is included in this report as Appendix One.

During this hui Bruce provided a brief summary of the High Court decision followed by review of the subsequent ruling of the High Court granting the Minister of Fisheries' application for a stay of the decision pending the outcome of the appeal by the commercial fishing interests involved.

What the High Court decision means to fisheries management

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:

Sustainability

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

Total Allowable Catch (TAC)

- 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.

Total Allowable Commercial Catch (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. Sustainability is the *bottom line* in fisheries management;

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.

Purpose of the Fisheries Act

The purpose of the Fisheries Act 1996 is in section 8, that is, the *utilisation* of fisheries resources while *ensuring sustainability*.

Ensuring sustainability has two parts:

- 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.

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

Total Allowable Catch (TAC)

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

Section 12 requires that before carrying a sustainability measure 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*.

Total Allowable Commercial Catch (TACC)

The TACC is a means of providing for the commercial use of New Zealand's fisheries being part of the TAC.

In setting or varying the TACC the Minister must have regard to the TAC for that fishery and ***allow for*** both non-commercial fishing (customary and recreational/amateur) interests in that fishery and all other mortality to the fishery caused by fishing: section 21 of the Act.

Overview

In broad 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”.

Appeal/Cross Appeal

The commercial parties to the kahawai proceedings, Sanford Limited, Sealord Group Limited and Pelagic & Tuna New Zealand Limited, have appealed the High Court’s decision.

Since the appeal was filed on 19 April 2007 there have been hearings at the High Court relating to the grounds of the appeal, and an application by the Minister and MFish, supported by Sanford Limited and others, for a stay of the High Court judgment pending the outcome of the appeal.

The NZBGFC and NZRFC have also lodged a cross-appeal on one point relating to the requirements of the Hauraki Gulf Maritime Park Act 2000 when setting recreational allowance and TACC for kahawai fisheries management area 1 (KAH1).

Two days have been set aside to hear the appeal in the Appeal Court at Wellington on 26th and 27th February 2008.

Application for a stay

As noted above, MFish, supported by the fishing industry, applied to the High Court for a stay – to delay the implementation of the Court’s ruling - of the High Court’s decision pending the outcome of the appeal.

Under the High Court rules the judge has the discretion whether to grant a stay.

Court’s stay decision

The hearing to consider the stay application was held on July 3rd.

On July 11th the High Court ordered that further decision making on kahawai catch limits for recreational and commercial fishers will remain “frozen” until the outcome of the appeal. This means the kahawai TAC’s, non-commercial allowances and the TACC’s are not likely to change until late 2008 at the earliest.

The three factors taken into account by the High Court were as follows:

- Was the appeal bona fide?

In other words, was the effect of the appeal a rehearing?

The judge was satisfied that both the appeal and cross-appeal were bona fide.

- A refusal to grant a stay may reflect adversely on the integrity of public administration.

MFish argued that if the stay was not granted it would have to implement the High Court decision and allocate resources to do that this year. If the Appeal Court overturned the High Court decision MFish would have to repeat the process

next year or in 2009, and that this may diminish public confidence in the statutory process.

Justice Harrison agreed.

- There was no real likelihood of prejudice to either party if the status quo remains until the appeal is determined.

On this point Justice Harrison said:

“It is common ground between counsel that the terms of my directions to the Minister are likely to result in a revised allocation of the kahawai resource which is favourable to the recreational fishers at the expense of the commercial interests. It was also common ground at the substantive hearing that the recreational fishers have not been catching their statutory allowances in recent years. On that basis, it is unlikely....that a further increase in their allowances would be caught during the fishing year commencing on 1 October 2007”.

The High Court was satisfied that a stay until the Appeal Court hearing decision would not adversely affect recreational fishers.

The judge described this process as a balancing exercise. He was satisfied that, in the interests of justice, the original High Court decision should be held over until the Appeal Court decision is made. He did point out that he expected all the parties involved in the appeal to “*use their best endeavours to ensure that the appeal proceeds to hearing on its allocated dates*”.

Counsel for all parties needed to refine their arguments. However, with the matters still before the Court there is limited comment that can be made.

Hui Discussion

The ruling of the Court of Appeal can reasonably be expected within a few months of the appeal hearing given the narrower consideration of legal principles on the points of appeal.

Hōne Sadler, Ngāpuhi Kaumatua, advised the hui that he had recently presented a paper “*The Kahawai Legal Challenge: Ngāpuhi Iwi, Big Game Fishing & Recreational Fishing Unite*” to a social science conference in Grenada, Spain. He was also scheduled to present the paper to a graduate class and the Maori studies section at Auckland University soon after the hui.

Hone acknowledged and appreciated the assistance he had received from a number of people while developing his paper including Bruce, Scott Macindoe and Trish Rea.

Customary interests

Many Maori at the hui had been involved in customary fishing issues and were well aware of the lack of information on the amount of fish being taken for customary purposes. There did not seem to be an adequate measure of customary harvest within the fisheries management framework. Questions were raised on just how customary interests were considered during the Kahawai Legal Challenge.

Prior to the High Court hearing there was some consideration given to representation of customary interests, on balance the legal team representing the plaintiffs considered that customary interests did not need to be represented in those proceedings. The judgment does refer to customary interests on a number of occasions in relation to non-commercial fishing interests, both customary and amateur (recreational).

Commercial interests strongly argued in the High Court that where a non-commercial allowance was not being caught it should be allocated to those who can catch it, which is the fishing industry.

Alan Galbraith QC representing the amateur parties argued that if that were to occur it could lead to less fish in the water and as a consequence there would be less allowance for non-commercial fishers because their catch rates would be lower and so on... in an ever-decreasing spiral.

The plaintiffs were very grateful for Mr Galbraith's incisiveness and clarity in presenting the plaintiff's case.

Definition of customary fishing

In 1996 discussions between MFish and Maori broke down on the matter of the definition of customary fishing. Maori argued that customary fishing encompassed both commercial and non-commercial. Fish taken for customary use was for the use of everyone. Under current laws if fish is given for something in return then this is considered barter or commercial sale.

There is some debate surrounding the nature of customary rights. If Maori discuss rights in relation to Te Tiriti o Waitangi they mean rights that belonged to Maori prior to and post 1840. However, since the 1992 Deed of Settlement customary fishing rights have been narrowed and confined to accessing fisheries by the use of permits to gather kaimoana for the marae. Many Maori are still coming to terms with this reality.

Part of the answer to the customary 'dilemma' lies in TOKM's response to the initial *Shared Fisheries* joint proposal to the Minister. The NZBGFC, option4, Sonny and Naida on behalf of customary interests had insisted that customary representatives needed to be involved in the joint *Shared Fisheries* discussions. TOKM, SeaFIC and the NZRFC were advised that customary input and participation was one of four 'bottom lines' that needed to be addressed before further progress could be made.

TOKM and SeaFIC's response was that "***Maori customary rights were complete. It was anticipated that with allocation of assets to Mandated Iwi Organisations (MIOs) that steps could be taken to integrate the use of the commercial and non-commercial aspects of the 1992 Settlement in a mutually supportive manner. To date the actions of a number of forums has worked against this goal.***"

The approach of TOKM and SeaFIC appears to be that the customary allowance is an allocation, a fixed tonnage, as opposed to the status quo, which requires the Minister to 'allow for' an amount (whatever it is) that is required to satisfy customary needs.

Hence the conflict of interest that TOKM have if it is to represent and grow its commercial interests and also manage customary non-commercial fishing. Whether TOKM establish another entity to focus on customary issues, or whether they empower iwi/hapu to deal with these matters is perhaps a topic for further discussion.

Another conversation regarding customary fishing *practice* as opposed to customary fishing with a permit was also required. The tikanga (principle) was and is that fish caught was distributed amongst the community, not kept for oneself.

Once again the issue of non-commercial fishers being labelled 'recreational' fishers was raised. The term recreational could imply people 'played' with their food. Attendees at the hui prefer the term non-commercial or 'amateur' fishers.

Te Ika A Maui

Clarification was sought on the role of TOKM in Te Ika A Maui. The concern was that TOKM was established to manage commercial fishing not non-commercial fishing interests.

To date TOKM had indicated to Te Ika A Maui that they were there to tautoko (support) the group's work. Freshwater fisheries issues are dealt with through Te Wai Maori Trust, which has limited funding for freshwater initiatives. Te Wai Maori Trust has recently issued a draft *Freshwater Fisheries Habitat Sustainability Strategy* which they had given to Te Ika A Maui.

Restoring Freshwater Habitat

Te Raa Nehua, Mangakahia takiwa and Ngapuhi Trustee

Te Raa Nehua is the Mangakahia takiwa representative on Te Runanga A Iwi O Ngapuhi. (TRAION) and is also the freshwater fisheries spokesperson for TRAION. Te Raa had been involved in Te Ika A Maui, the National Freshwater Fisheries Forum, for the past six months. Essentially Te Ika A Maui only dealt with North Island freshwater fisheries issues as Ngai Tahu had included the South Island freshwater fisheries within their Treaty settlement with the Crown.

Te Raa was pleased to have another member of the Forum, Abe Witana of Te Rarawa, at the hui to help with this presentation. Te Ika A Maui was considered a model of cross-iwi cooperation working towards sustainable, effective management and controls for fisheries.

Purpose

The purpose of Te Ika A Maui was,

To provide a collective Maori Freshwater Fisheries Forum:

- To express members' concerns and interests regarding regional, national and international issues relating to freshwater fisheries; and
- For collective co-operation between its members for the effective management of freshwater fisheries.

Mission statement

"To sustain the Mauri of freshwater biodiversity and enhancement of the ecosystems."

Abe Witana provided a very simple explanation of what "Mauri" means. Mauri was the life-essence or life-force of a living thing. Another term is "wairua" which is to do with spiritual wellbeing. Mauri is sacred and is deeper than the wairua, as it gives out or produces the light, or first start of the creation of something. Essentially it was the first spark that gives creation

to your first thoughts. Abe acknowledged there were more in-depth explanations of Mauri but for the purposes of understanding, this was a simplistic description.

Governance

Recently Te Ika A Maui had been discussing the establishment of a legal entity, developing a constitution and deciding on membership. Work was continuing in order to formalise the Forum's support structure. The constitution had been ratified and policy and strategic development was underway.

There was also a need to review government policy on freshwater fisheries. The executive was planning to meet with MFish senior management team and engage with them to get their tautoko (support) to carry on with the kaupapa (project), without which there was not a lot of point continuing.

Participation

Iwi that had been involved in the Forum to date included Ngapuhi, Tuhoe, Tauranga Moana, Te Rarawa, Te Whanau a Apanui, Ngati Awa, Tuwharetoa, Waikato and Te Arawa. Both Te Raa and Abe were part of the interim executive alongside Tom Moana (Waikato), Roku Mihinui (Te Arawa) and Mike Noho (Taranaki).

A lot of the mahi (work) that had occurred in freshwater fisheries was because of Te Arawa's involvement with their lakes. Until now hui have been held in Te Arawa with another planned within the next three months.

To further enhance the freshwater fisheries Te Ika A Maui wanted to build relationships with MFish, DoC, local government agencies, SeaFIC, amateur fishers, commercial fishers and environmental groups.

Te Ika A Maui was not aiming to disenfranchise iwi; it was to provide a collective approach to deal with issues of mutual interest to all iwi. MFish had declined to meet with Te Ika A Maui, a request was made to have a meeting with John Glaister but he had since left the MFish CEO's position and returned to Australia.

It was Te Raa's understanding that MFish were drafting proposals to include the freshwater fisheries and waterways in the Fisheries (Kaimoana Customary Fishing) Regulations 1998. This had not been officially confirmed and Te Raa would advise when a proposal document was released. (MFish proposals were released following the hui).

Habitat Sustainability is Crucial

Te Raa Nehua, Mangakahia takiwa and Ngapuhi Trustee

In July the Hokianga Accord submitted a document to MFish in response to their proposals for the future management of tuna (eel) in the North Island. It was pointed out in the submission that freshwater habitat management was crucial to the sustainability of tuna (eel).

The most appropriate definition of sustainable habitat that Te Raa had found was from an Aotearoa Fisheries Ltd's document,

“The ability of a freshwater feature and its component parts to support healthy, viable populations of freshwater fish now and in the future.”

A sustainable habitat will,

- Comprise vegetation and a physical structure that remains in a natural or semi-natural state and not be subject to physical modification to an extent, or with a frequency, that reduces the ability of the habitat to provide the ecosystem services necessary to sustain fish population at all life stages.
- Comprise water with a chemical, temperature and turbidity profile that is within the tolerance of the full range of native fish naturally found in that water body.
- Have no, or very low populations of introduced pest fish.
- Be accessible to upstream and downstream migration.

Mangakahia/Wairua catchments

The impact of the power station on the Wairua falls was concerning as the construction was proving to be a problem for the migration of freshwater fish both up and downstream. This issue has been highlighted for some time now within Mangakahia and Hori Tuhiwai is following up on this matter.

Some of the identified risks to habitat sustainability are:

Physical disturbance to beds and river margins

The Hikurangi Swamp Scheme was designed to address the problem of flooding during heavy rain in the area. An outcome of this project was that the habitat had been ruined by the realignment of the waterways to assist with the drainage.

Elevated water temperature

Trees alongside waterways have been removed allowing more sun to shine on the water and increase the water temperature, this was particularly threatening for tuna (eel).

Pumping stations along waterways had also impacted on water levels, as had the removal of water for irrigation schemes.

Chemical state of water

One of the major issues identified has been the widespread use of fertilisers on farms and when it rains those chemicals were washed into the waterways.

Discharges, lawful or otherwise, also threatened the viability of many waterways.

Excessive sediment load

There have been problems with the removal of rocks and stones from waterways. Added to that has been the run-off from the land and lots of sediment is now washing into the waterways during heavy rainfall.

Predation and competition for food

Some people were surprised and most concerned to hear that catfish are a major problem in the Wairua and Mangakahia catchment areas.

Accessibility

There was a suggestion that in some areas up to 90 percent of the elvers (baby eel) were not able to complete the journey upstream via the Wairua falls to the upper Wairua catchments due to unnatural obstructions or disturbances.

Other catchments

While Te Raa had discussed matters relating to the Mangakahia and Wairua catchments many of these same issues were common around the North Island. Overfishing was certainly a problem around the island. Conversation with people from different marae confirmed that they were not catching tuna (eel) like they used to years ago. Commercial fishing for tuna (eel) had not reduced even though the habitat had degraded and tuna (eel) numbers had decreased over time.

There were at least seven pumping stations in the Hikurangi Swamp scheme. Locals had observed and advised that these pumps were mincing vast amounts of tuna (eel) during heavy rainfall.

Te Runanga A Iwi O Ngapuhi (TRAION) had engaged NIWA to conduct research so a stock assessment could be completed for tuna (eel). MFish had also been asked to provide resources and staff so Ngapuhi could establish an eel management plan for the north.

Te Arawa Lakes Trust had been working on freshwater regulations for a number of years. Te Arawa were willing to share that work with Te Ika A Maui.

Hui Discussion

Around sixteen years ago the Whaingaroa Harbour Care group formed to improve the sustainability of the Raglan Harbour because there were major concerns regarding poor water quality and the impact on ika (fish) within the Harbour.

Over three quarters of the Harbour and tributaries have now been fenced and planted in native trees. Compared to when the initiative started, local farmers were now queuing up to be involved and have their areas fenced and replanted. The local nursery cannot keep up with the demand for native plants to enhance the water margins.

The project had been a very successful community initiative which could easily be applied to other areas. However, Raglan was fortunate to have a very clear definition of its catchment, the town is surrounded by hills which all feed into the waterways and eventually into the harbour and out to the Tasman Sea on the west coast.

Northland was very flood prone so fences and plantings along riparian strips were vulnerable to being washed away during the next flood.

Power generators

Power generating turbines was an issue that Te Uri o Hau was currently wrestling with. Genesis Energy had proposed to install a number of turbines near the mouth of the Kaipara Harbour. For inland waterways the immediate risk is a rise in water temperature, however, the affect on freshwater fisheries was not easily quantify without further research.

Farming

Some local hapu in Te Tai Tokerau had been working with Fonterra to address common concerns. A Memorandum of Understanding was being developed and hapu were hopeful of achieving a positive outcome considering Fonterra has been discussing a clean water accord in their recent media releases.

There was obviously a need to have all parties working towards cleaner waterways, including Federated Farmers, DoC, MFish and local authorities. DoC was particularly significant because they were responsible for the management of all other freshwater fisheries except tuna (eel).

Forum management

Te Ika A Maui was encouraged to include both DoC and MFish in their strategic planning early on otherwise it would always be an impediment when working with other interest groups and agencies such as local authorities.

Conflict of interests between DoC and MFish would prove to be an obstacle if not addressed. DoC was more a preservationist entity as opposed to MFish who was focussed on maximum utilisation of fisheries.

Ultimately Te Ika A Maui did not need a constitution or MFish to run its affairs. It was up to Maori to determine their own future in respect of the freshwater fisheries. Hapu were already doing a lot of work in their local areas and Te Raa would be guided by their recommendations and it was his responsibility to represent those views in Te Ika A Maui.

It was encouraging for Te Ika A Maui to be able to update the Hokianga Accord on their progress. Te Ika A Maui received an assurance that the Accord was standing beside them in their mahi.

The Hokianga Accord was invited to consider holding a hui inland so they could get a 'smell' of the issues surrounding freshwater fisheries.

Te Hiku O Te Ika Forum

Abe Witana, Te Rarawa Trustee

Abe Witana was the Waipuna marae delegate to Te Runanga o Te Rarawa and this was his first Hokianga Accord hui. Abe was a member of Te Hiku O Te Ika, the far north regional iwi fisheries forum, and unlike the Hokianga Accord, Te Hiku still had the support of MFish. Their Pou Hononga (relationship manager), George Riley, was also at the hui to support Abe.

Vic Holloway, of Te Runanga a Iwi O Ngati Kahu, was also an active participant in Te Hiku O Te Ika. Unfortunately he had suffered an accident and could not be at Whakamaharatanga. Vic has been a regular attendee at previous Hokianga Accord hui.

After a slow start, Te Hiku O Te Ika was now underway. They appreciated Jerry Garret's participation at their hui late last year, on behalf of the Hokianga Accord. Jerry was an integral part of the New Zealand Big Game Fishing Council and the Bay of Islands Swordfish Club. It was encouraging for their Forum to know they had access to the Hokianga Accord and its resources.

Tribal dynamics were being worked through amongst the five iwi involved in Te Hiku O Te Ika. A Memorandum of Understanding (MOU) is underway to define their working relationship.

Te Hiku O Te Ika's first aim was to build the foundation for Maori in the far north to have adequate representation of their customary fisheries issues. Other issues will be addressed by working with different groups such as the Hokianga Accord and the amateur fishing organisations.

The Forum was not looking to be a 'puppet' of the Crown but wanted to assert their rangatiratanga (sovereignty) amongst themselves in the far north. They knew from the MFish Statement of Intent document that MFish has an obligation to provide for the needs.

They recognised they lacked some of the capacity and skills that are available to the Hokianga Accord so they were looking to MFish to provide the resources so they could increase their skill base, for their own purposes primarily, not the Crown's.

Abe expects Te Hiku O Te Ika will complete their organisational structure by the end of 2007. By that time they will be more organised to deal with outside issues. Undoubtedly their aim was aligned with the Hokianga Accord and they too wanted more fish in the water for tomorrow's mokopuna.

Sustainability round

Te Hiku O Te Ika submitted a document to MFish in response to the proposed 2007 sustainability measures. Consultation was achieved through conversations, advertising the issue on local radio and within the Forum itself. The Forum incorporated the feedback into its submission on various fisheries.

The most common feedback was to abolish commercial fishing in Te Hiku O Te Ika with regards to longfin and shortfin tuna (eels) and that had been included in the submission sent to MFish. Amateur fishers could still catch their daily bag limits however the Forum was encouraging the recording of daily catch so a measure could be taken of overall catch.

Included in their submission was a request for MFish to facilitate and participate in a tuna (eel) enhancement programme for Te Hiku O Te Ika. Schools sharks and scallops were not major fisheries in the far north. They also advised MFish they would support Te Uri o Hau and Ngati Whatua and what they wanted for the Kaipara Harbour. The Forum objected to any TACC increase for tarakihi, as there was insufficient information on the size of the fishery.

The Forum was seeking funding so research could be carried out on the tuna (eel) population.

Hui Discussion

It was confirmed there had been a section 186A temporary closure to the taking of scallops in the Kaipara Harbour, however the two-year closure had expired. Te Uri o Hau, Ngati Whatua and others had applied to have the temporary closure extended for another year at least.

MFish had not initiated any research at the beginning or during the closure therefore there was very little evidence to support a re-opening of the scallop beds. Research was underway

now and the results would help inform the Minister of Fisheries' decision on whether to re-close the beds³.

The Hokianga Accord was congratulated for making the progress it had made since its formation in 2005. It was a common tactic by government departments to dangle money in front of various interest groups. That money was often the constraint that kept groups from asking questions, saying what needed to be said and doing what needed to be done. The Accord had not fallen into that trap.

Encouragement

Te Hiku O Te Ika was encouraged to ask for assistance whenever required and not feel in anyway intimidated by what the Hokianga Accord was producing. The Forum's work was for everyone to share. More would be achieved by working together and striving for the common goal of "more fish in the water/ kia maha atu nga ika i roto i te wai".

A draft MOU developed by the Hokianga Accord but not accepted by MFish was offered to Te Hiku O Te Ika. The Accord's draft included amendments, which obviously MFish couldn't tolerate but Te Hiku were welcome to read and consider the draft document. The draft would be emailed to Abe following the hui.

'Recreational' categorisation

As objectionable as it was to most Maori, fishing to feed the whanau was *categorised* as 'recreational' fishing under the law. Customary fishing was defined as fishing with a permit for the marae. As discussed earlier, there was a need to revisit the definition of customary fishing with MFish. However, until that issue had been resolved Maori had to remember the amateur fishing regulations applied to them equally as it did to any other non-commercial fisher.

Many non-Maori rejected the term 'recreational' fishers too. Alternative words to use in place of 'recreational' were amateur or sustenance fishing. These terms differentiate fishing for food to feed the family as opposed to other fishing activities such as sport fishing.

Hokianga Accord Tuna (eel) Submission

Te Raa Nehua and Trish Rea, option4 researcher

In June 2007 MFish released an Initial Position Paper (IPP) outlining their proposals for the future management of tuna (eel) in the North Island⁴. The Hokianga Accord completed and submitted a document to MFish in response to their IPP by the end of July. The submission is included in this report as Appendix Two.

Many of the people involved in the Hokianga Accord had provided their input into the document, which made the following recommendations:

- No reduction of the recreational allowance on a proportional or non-proportional basis at this time. If any reductions are to be made they must be applied to the TACC first.
- Reduce the TACC for shortfin tuna (eels) by 30 percent.

³ On 14th September the Minister of Fisheries extended the s186A closure until 13th September 2008.

⁴ http://www.option4.co.nz/Fisheries_Mgmt/eel.htm

- Reduce the TACC for longfin tuna (eels) by 50 percent, due to particular sustainability concerns.
- MFish to make adequate provision for tangata whenua to have input and participation into sustainability processes, and these tuna (eels) proposals in particular.

Copies of the submission were available at the hui for people to read and take home.

Conservation of taonga (treasure)

The Hokianga Accord's whakatauki (proverb) of "more fish in the water/ kia maha atu nga ika i roto i te wai" certainly applied to taonga such as tuna (eel). The Accord advocated for more conservative management of the tuna (eel) fisheries to enable them to rebuild to abundant levels.

Commercial use of the tuna (eel) fishery is secondary to the primary requirements to preserve the taonga, manaaki manuhiri (feed visitors) and feed the whanau and hapu.

The Accord agreed with MFish, that the tuna (eel) fisheries needed to be restored in order to enhance non-commercial access to these important fisheries, as per the management objectives specified by the Minister of Fisheries in 2004.

The Minister's intention was to ensure that:

- The fishery is sustainably managed; and
- The fishery's availability to non-commercial fishers is improved; and
- The relationship with interdependent stocks is improved.

Also in the submission was a very clear explanation of the Crown's statutory obligations to tangata whenua based on the Treaty of Waitangi, the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and the Fisheries Act 1996.

The submission was another opportunity to highlight the outcome of the Kahawai Legal Challenge. The High Court had ruled that on plain reading of section 8 of the Fisheries Act, "***the bottom line is sustainability. That must be the Minister's ultimate objective. Without it, there will eventually be no utilisation***". What the judge was saying was that if there are no fish then you cannot catch them.

Recommended reductions

The management area for northern tuna (eel) is defined as Northland/Auckland. The shortfin fishery management area is known as SFE20 and the longfin fishery area is LFE20. Due to concerns about the sustainability of both fisheries the Forum's recommended reductions were as follows,

Reduce shortfin total allowable commercial catch (TACC) by 30 percent:

- SFE20 TAC is currently 211 tonnes (t)
- SFE20 TACC is currently 149 t
- 30% reduction would mean a new TACC of 104 t

Reduce longfin total allowable commercial catch (TACC) by 50 percent:

- LFE20 TAC is currently 67 t
- LFE20 TACC is currently 47 t
- 50% reduction would mean a new TACC of 23 t

Once again the Hokianga Accord reiterated its expectation of MFish to honour its statutory obligations to tangata whenua, particularly in respect of the Minister's mandatory requirement to provide for the input and participation of tangata whenua into fisheries management processes. The Forum expected that input and participation to be meaningful. MFish sending out the IPP containing the management proposals was not sufficient to meet their statutory requirements under the Fisheries Act.

The Fisheries Act section 12 obligations also specifies the Minister has to *have particular regard to kaitiakitanga* when making sustainability decisions.

The reason the Hokianga Accord was adamant that there should be no reduction, proportional or non-proportional, to the recreational allowance was that the customary regulations do not apply to the North Island's freshwater fisheries and that most amateur (recreational) tuna (eel) fishers are Maori with a traditional interest in the fishery and harvest tuna for sustenance and their wellbeing.

Hui Discussion

A suggestion was put to Te Raa to take the Hokianga Accord's submission to the national freshwater fisheries forum, Te Ika A Maui, and ask them to endorse the document⁵.

It was disturbing to hear the discussion of the 90 percent mortality rate of elvers (baby eel) heading to the upper Wairua catchments. This was particularly so because MFish has advised that the number of glass eels (very small baby eels) reaching coastal waters to head inland had *significantly* reduced in comparison to previous decades. This was an ominous development for the sustainability of Northland's tuna (eel) fisheries.

The debate concerning customary management tools will continue however the Forum needed to keep its approach to fisheries management simple, in that the need for more fish in the water was obvious.

Increasing the numbers of fish in the water would decrease the conflict between commercial and non-commercial fishers and also reduce the need to have special management areas set aside, as people would be able to provide for their social, economic and cultural wellbeing through having abundant fisheries.

Tangata whenua

When discussing tangata whenua it was important to differentiate between hunga kainga (people who live in the particular area) and tangata whenua in general, from around the country. Tangata whenua from further afield did not have a right to tell Ngapuhi or Ngati

⁵ Confirmation was received after the hui that the Auckland Conservation Board had endorsed the submission at their 16th August meeting and also went one step further in recommending the reductions be *at least* 30% and 50% for shortfin and longfin respectively.

Whatua how to run their fisheries, and vice versa. Hunga kainga is the correct term to be used in future submissions when referring to local people.

Habitat degradation

There was very little information on the degradation of tuna (eel) habitat, the waterways and reasons why glass eels are not returning from the South Pacific in the numbers they used to. This was concerning for a fish that had a life span of around 60 years. Some suggestions had been submitted to MFish to close the tuna (eel) fishery to all fishing for 120 years, to enable their rebuild in conjunction with effective research into habitat destruction.

It was ironic MFish were talking sustainable management of the tuna (eel) fisheries when there was no evidence of their effort to improve their habitat. It was little wonder the fisheries were suffering considering the devastation to the environment they lived in.

It was debatable there were only two types of eel, the shortfin and longfin. Many Maori believe over 100 different species exist in Te Tai Tokerau.

Nga Ngaru O Hokianga Takiwa

Stephen Naera, Customary fisheries delegate

Stephen Naera was from Waimamaku and had been an active participant of the Hokianga Accord Working Group since its inception. Stephen is the Nga Ngaru O Hokianga takiwa customary fisheries delegate and part of his role is to disseminate information on the tools and mechanisms available to address customary issues.

There has been some discussion amongst hapu and takiwa in support of developing a management plan to address customary issues. No clear agreement had been reached on how that would be achieved and more discussion was required.

Essentially the Hokianga takiwa are not convinced the current customary management tools available through MFish, such as mahinga mataitai and taiapure, are acceptable or appropriate for achieving what they want. Each marae has been advised to work out what was appropriate for them and then more discussions would be held to develop a collective approach to address concerns.

Fisheries Management

Stephen continued to encourage others to attend the Hokianga Accord hui to upskill and learn how the wider fisheries management was having an impact on their access to fisheries, whether that was for customary or other purposes. The narrow focus on customary issues alone was evidence of MFish not informing tangata whenua of their rights and the Crown's ongoing obligations to Maori.

Considering customary issues had not been resolved there was the opportunity to address those with the Crown, however Maori needed to work out what they wanted first.

Freshwater fisheries issues needed to be addressed in the wider context of fisheries management, as both freshwater and saltwater fisheries are inter-connected.

The move by Ngapuhi to gazette the whole of Te Tai Tokerau as their rohe moana had stirred a lot of people to make comment, good and bad. The concern was that while Maori continued to argue amongst themselves 'Rome was burning', fisheries were not improving and Maori needed to be having their input.

Resolution of Customary Issues

Similar to the Kahawai Legal Challenge, Maori want to be involved in discussing the framework and being part of the solution to addressing customary issues. The Crown were fooling themselves if they thought those issues had been resolved.

It was also a reality that Maori represented around 14 percent of the population so whatever solution was found would need to be acknowledged and accepted by non-Maori, otherwise it would be another Maori versus non-Maori struggle, when in reality the issue was with the Crown.

Many locals are very concerned that the fisheries are being seriously depleted. It was difficult to find enough kaimoana to manaaki whanau or manuhiri and when they do, MFish are treating them the same as if they were dealing with poachers.

Hui Discussion

Resourcing was a major issue for many groups trying to have meaningful input into fisheries management. While MFish might assist with the establishment of a mataitai there is very little support available to the management committee post-establishment. Often the objectives aren't achieved because there is a lack of resources and follow-up commitment from the Crown.

Maori continued to have rights that other New Zealanders don't have. The Crown's lack of recognition and effort to give effect to the ongoing obligations gave Maori cause for concern, this was particularly so given the immigration levels, meaning Maori would become less of a proportion of the population if that continued.

The reality for Maori is that as of the signing of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, customary rights have been changed. In the North Island customary fishing is either under the Fisheries (Kaimoana Customary Fishing) Regulations 1998 or Fisheries Regulation 27A.

Mistrust of the Crown

One of the biggest issues is the mistrust of the Crown. Some Maori have decided they will not be supplying MFish with their customary catch figures fearing those amounts would eventually be used against them to 'cap' or limit customary take.

The other view is that customary tools do work but it was up to Maori to demand what suited them not necessarily comply with MFish' initial claims. Maori could determine their own management future if they desired, constrained always by resources.

Customary tools

A concern is that the customary tools are available but not being used. The wider community can benefit from the implementation and application of those tools because the tools carry

with them the practice of kaitiakitanga, active management to enhance the fisheries, environment and people's lives.

Some Maori were grappling with the fundamental issue of whether to accept the government's definition of customary rights and the tools on offer or whether they should be developing their own regulations and regime that fits in more with Te Tiriti o Waitangi rights rather than the rights confirmed by the Crown's recognition of the Treaty of Waitangi. The conflict is between current legislation only recognising the Treaty as opposed to the Maori version of the agreement - Te Tiriti.

Another avenue worth considering is a judicial review of the mataitai establishment process and also the purchase agreement between the Crown and Maori and what that has, or has not, delivered in terms of meaningful input and participation into management.

The Kahawai Legal Challenge decision had provided clarity on every New Zealander's right to fish, whether that was customary or amateur. Not just to fish but to have enough fish in the water to enable people to catch a kai.

The Hokianga Accord was privileged to have such clarity and the challenge was to be able to disseminate that information to others all around the motu (country).

Marine Protected Areas Policy

Draft Classification and Protection Standards

Alan Fleming, DoC Marine Protection Ranger

Alan Fleming is a marine protection ranger working from the Department of Conservation's (DoC) Whangarei area office. His primary responsibilities are the management of the marine reserves at the Poor Knight Islands and Whangarei Harbour and also advocating for marine protection.

Alan was at the hui to give a presentation on the Marine Protected Areas (MPA) Strategy and Implementation Plan, otherwise known as the MPA Policy, developed jointly by MFish and DoC. This policy was released in January 2006 by the Ministers of Fisheries and Conservation and was essentially a response to the ad-hoc approach to creating marine reserves.

At the previous hui Alan had given a presentation on the MPA policy, this time he was focussing on the Draft Classification and Protection Standards document that was released on June 19th with submissions due by 31st August. (Submission deadline was subsequently extended to 30th September.)

Classification of the marine habitats around the country and defining what makes an MPA was the start of the process.

The MPA Policy had four stages with a number of tasks to be completed within those stages, as follows:

Stage One

- Task One – classification approach

- Task Two – refine protection standard
- Task Three – map existing tools

Stage Two

- Task Four – MPA inventory
- Task Five – network gaps analysis
- Task Six – prioritise habitats for new MPAs

Stage Three

- Task Seven – nearshore implementation
- Task Eight – offshore implementation
- Task Nine – designate new MPAs

Stage Four

- Task Ten – monitoring and evaluation

After the consultation period on the draft document has been completed DoC envisage moving onto task three and beyond. Between analysing the gaps in the protection network and prioritising habitats for new protected areas, regional forums representing a variety of interest groups will be established.

Classification

To assist in the identification of habitat the marine area has been classified as either nearshore or offshore, with the demarcation at the Territorial Sea limit – 12 nautical miles (nm), or the 200 metre (m) depth. Offshore is classified as 12nm out to 200 nm, the Exclusive Economic Zone (EEZ).

Commercial fishing stakeholders had proposed a benthic (seabed) protection programme which the government wanted to discuss further before implementing any changes in the offshore region. Implementation of any measures will not be applied in the offshore area until 2013.

Thirteen coastal biogeographic regions have been identified around the country. Of most interest to the hui are the northern west coast region and the east coast region, which extends from Ahipara on the west coast to East Cape. The Three Kings Islands are classified as a separate region.

The thirteen biogeographic regions have been divided into estuarine or coastal regions. Estuarine regions are defined as the inter-tidal zone up into river mouths. Coastal is the sub-tidal zone out to 12nm. These regions have further divisions depending on depth of water and bottom types.

Classification of the north east coast was well advanced in comparison to other areas. The CD distributed at the Oturei hui, *Northland Marine Library. Resources for Marine Planning and Conservation* contained a lot of useful information.

Regional forums

After the area identification process has been completed regional marine protection planning forums will be established to:

- Consider classification and inventory information
- Compile information on existing uses/interest
- Identify sites and potential tools
- Seek consensus on areas to be set aside as MPAs.

Representatives of the following groups will participate in the regional forums:

- Tangata whenua
- Commercial fishers
- Amateur fishers
- Conservation groups
- Tourism (including charter fishers)
- Regional councils
- Aquaculture industry
- Marine science
- Minerals industry.

One of the challenges will be determining who tangata whenua is considering the regional forums will be covering such large biogeographic regions. There are many hapu and iwi with an interest in the north/west/east regional marine environment between Ahipara and East Cape.

Protection Standard

This project is about biodiversity protection not setting aside areas for scientific study as per the Marine Reserves Act 1971.

The second part of the draft document discusses the criteria an area must meet to be classified as an MPA.

The tools that may be used to achieve an MPA may include:

- Marine reserves
- Fisheries Act tools
- Resource Management Act tools
- Special legislation
- Wildlife refuges, sanctuaries and management reserves
- Other conservation areas
- Customary fisheries management tools

- Marine mammal sanctuaries
- Cable protection zones
- Crown Minerals Act tools
- Maritime Transport Act tools
- Biosecurity Act tools

The management tools used at a site must be sufficient to meet the Planning Principle 2 in order to be classified as an MPA:

2 (a) maintenance and recovery at the site of physical features and biogenic structures that support biodiversity.

2 (b) maintenance and recover at the site of ecological systems, natural species composition (including all life history stages) and trophic linkages.

2 (c) potential for the biodiversity to adapt and recover in response to perturbation⁶.

For 2 (a) not all of the seafloor or organisms need to be protected for an area to qualify as an MPA. Trophic linkages are the natural relationship between different species which are often mutually beneficial to each species. Some areas have been damaged so much that they would never return to their natural state therefore those areas would fail to qualify as an MPA.

Guidance on applying the Protection Standard to different human activities have been identified as:

- Human-generated pollution
- Human-generated sedimentation
- Mining and prospecting
- Harbour dredging and spoil disposal sites
- Marine construction projects
- Tidal and wave energy generation projects
- Biosecurity
- Aquaculture
- Tourism and visitor based disturbance
- Scientific/research activities
- Fishing.

Impacts of different fishing methods are discussed in the draft document. Some such as bottom trawling; dredging, Danish seining and pair Danish seining have been identified as not being appropriate activities within an MPA and would most likely disqualify that area as an MPA.

⁶ A cause of disturbance or agitation; slight alteration of a physical system. Concise Oxford Dictionary.

Any assessment to prohibit fishing methods from any MPA using Fisheries Act tools will have to be implemented on a case-by-case basis, consistent with the legislative provisions and required statutory process.

The document refers to having fewer, larger MPAs in the coastal region rather than a network of smaller MPAs.

It is envisaged it will take around two years for the necessary information to be available and for regional forums to be ready to make recommendations for implementation of MPAs in the nearshore region. The four advanced planning projects are the Hauraki Gulf, West Coast South Island, Sub-Antarctic Islands and Otago forums.

Hui Discussion

While the document mentions customary management tools the glaring omission is the explanation of the ongoing statutory obligations of the Crown to tangata whenua. In terms of fisheries, section 12 specifically mentions the Minister, when making sustainability decisions, *have particular regard to kaitiakitanga*.

An outcome of providing incomplete information to the public is that the obligations to kaitiakitanga become 'invisible' because they have not been highlighted.

Public awareness

There was some debate regarding the comprehensive list of tools that may be used to achieve an MPA presented to the hui as opposed to the limited list found in the *MPA Draft Classification consultation* document. It was unreasonable to expect the public to comment on a list of protection tools that was obviously incomplete.

DoC did accept that many people would be unaware of the existence of the draft MPA document and the opportunity to submit on the joint DoC/MFish proposals.

Currently the Marine Reserves Act 1971 only provides for the establishment of marine reserves for scientific study, in the national interest. The Marine Reserves Bill being considered by government has, as one of its goals, biodiversity protection; however this Bill has not been passed so there was no statutory support for establishing a marine reserve for the purpose of protecting biodiversity.

Fisheries

Ultimate responsibility of an MPA approval would lie with the Minister responsible for that legislation. In the case of Fisheries Act tools it would be the Minister of Fisheries, for marine reserves it would be the Conservation Minister although the requirement for concurrence would still apply.

There were provisions in the MPA proposals that allow surface fishing while protecting the bottom dwelling organisms.

While this process goes some way towards a more information-driven MPA identification process it also retains some of the foibles of the present system. The suggestion there will be at least one marine reserve protecting each habitat type (even if there is more than one habitat within each of these reserves) signals the large-scale implementation of marine reserves around the coastline. This is obviously a concern for fishing interests.

Participation in the process

Non-commercial fishing interests and most likely other groups will not have the resources to submit, to the detail required and considering the implication for all New Zealanders, by the submission deadline of 31st August. (Since extended to 30th September.)

The project also seemed ambitious when considered in the light of the experience of the South Island West Coast Forum. Representatives of all interest groups are not necessarily having meaningful input into that Forum.

The lack of trust for MFish, and DoC in particular, is a major impediment to the success of this project. This is a result of a number of marine reserve processes executed by DoC over a number of years. Many people now viewed marine reserves and any DoC initiatives to be a confiscation of areas, rights and traditions that have belonged to tangata whenua and all New Zealanders for a very long time.

Another difficulty for the non-commercial sector is the amount of information emanating from various government departments that require a response. At the beginning of August the Ministry for the Environment (MfE) released a document *Improving Regulation of Environmental Effects in New Zealand's Exclusive Economic Zone*. Submissions on this document are due by 30th September.

There is no consideration given to the resources required for compiling meaningful submissions to the various documents nor does there seem to be any coordination between departments. Without trawling through both the MfE and DoC's MPA draft it was hard to know if the documents were synchronised or contradicted each other.

In addition to the MfE and MPA proposals, submissions are also expected by 24th October on the draft Threat Management Plan for Maui and Hector's dolphins. The non-commercial sector is 'drowning' in these various processes and is struggling to provide meaningful responses.

The MPA draft seems to be using a different language put together by scientific and conservation 'experts'. It's almost a continuation of the 'we know what's best for you' approach. The plea was to have public consultation documents in much simpler language so more people could read and provide meaningful input.

Access

The hui was unanimous in its ambition to achieve more fish in the water. It seemed ironic that it was MFish who was permitting the overfishing which is depleting coastal waters and now DoC and MFish were working towards denying all New Zealanders their common law right to fish, catch a feed and access the marine environment.

Successive governments have been elected with policies for marine protection that seems to appeal to the general public; it was up to fishing interests to work through the process to achieve what they want from MPAs. The outcome maybe marine reserves in selected areas with fishing continuing in others.

Of the tools suggested to achieve MPAs there is only one that has a Maori kaupapa, that is a rahui.

Wider input

It was unfortunate DoC saw fit to keep sending Alan along to the Hokianga Accord hui to 'face the music' from everybody present, with no support. This policy was being driven from Wellington yet local staff were bearing the brunt of people's reactions. In saying that, Simon Banks from DOC's Head Office could have been at the hui to present the MPA information but was only available during the day. This session was scheduled for the evening after a busy day's discussion of other matters.

In the Philippines special areas have been set aside around marine reserves that can only be fished by sustenance fishers. This has proved a popular strategy for both enhancement of the protected areas and those fishing for food.

The suggestion that over 400 marine reserves would be created from the MPA implementation is incorrect as one marine reserve can include a number of habitats within a protected area. Goat Island marine reserve at Leigh was an example of a reserve covering a range of habitats from intertidal to sandflats.

Vince Kerr, who has been to previous hui, has just been appointed as a technical marine support officer for the Northland DoC conservancy. He is available to anyone who wants to discuss MPA planning processes including identifying Northland areas that are appropriate or not appropriate for an MPA.

MPA Policy Analysis

Trish Rea, option4 Researcher

An initial analysis of the *MPA draft Classification and Standards* document had been completed prior to the hui. This preliminary view had been written and distributed to inform non-commercial fishing interests about the MPA process and is attached as Appendix Three.

Fishing Impacts

The MPA document recognises that some areas will not qualify for MPA status due to the impact of various fishing methods on habitats and likelihood of any recovery to its natural state. The unintended consequence of this suggestion is that commercial fishers could be encouraged to increase fishing effort in areas not previously fished for the purpose of disqualifying that area as an MPA.

DoC and MFish need to give more consideration to the implications of this possibility, to ensure they are not creating incentives to increase fishing in areas that it wouldn't normally occur and thereby cause more damage to the marine environment.

Submission Deadline

It was unrealistic for both departments to expect quality feedback by August 31st. Much more time was required for people to read, consider, discuss and offer their feedback, particularly given the incomplete nature of the MPA draft classification document.

Statutory Obligations

Having been through the *Shared Fisheries* process and the Kahawai Legal Challenge it was clear that legislation and the principles of law are relevant to any changes in status of both

access and fishing rights. The lack of definition and explanation of various legislation and rights associated with fishing and obligations to tangata whenua is a serious omission.

The problem arises because the general public are supportive of marine reserves because they believe it will address overfishing issues. However, Justice Harrison has confirmed that sustainability is the bottom line and therefore the Fisheries Minister should be doing everything he could to comply with that ruling. If fisheries were more abundant there may not need to be marine reserves to satisfy the sustainability concerns of the public.

Effects of MPA Proposals

It will be Maori and fishers who will be most affected by this policy and yet there is no discussion regarding the loss of rights, compensation or the effect of displacing fishing effort. It is grossly unfair to expect the public to make informed submissions when the obligations to tangata whenua under the Treaty and the rights of commercial and non-commercial fishers are not clearly described.

Commercial fishers in Australia had been paid compensation in recognition of their loss of access to fish a number of areas⁷. The MPA document does not mention compensation at all.

Displacement of fishing effort from a closed area to an open area and the effect that would have on the fishery or environment is not commented on in the MPA document. This aspect of marine area closures needs to be discussed because some communities, and tangata whenua who are still to determine their rohe moana, would be unaware that fishing could increase in their local areas as closures happen further afield.

Customary Tools

While not totally dismissive of customary management tools the MPA policy gives scant regard to tangata whenua's right and obligation to be kaitiaki of their rohe moana. Kaitiakitanga and rohe moana do not even feature in the MPA draft document. MFish describe customary tools as follows:

“A range of fisheries management tools may contribute to the MPA network, including customary fisheries management tools like mataitai reserves and taiapure. However, these tools provide for customary Maori use and management practices rather than protection of biodiversity at the habitat and ecosystem level.”⁸

The assumption is that this MPA process is the ‘right way’ and other mechanisms ‘may contribute’ to the overall process. There is no recognition or explanation given of the Crown's obligation to *have particular regard to kaitiakitanga*.

Fisheries management tools were not designed with a sole focus on habitat and ecosystems whereas the Marine Reserves Act does have preservation as its purpose.

As opposed to the strong legislated rights of tangata whenua and for kaitiakitanga, the biodiversity strategy and MPA Strategy were policy initiatives. The MPA document fails to make that distinction.

⁷ A\$50 million compensation to those impacted by the Great Barrier Reef re-zoning. MPA News Vol 7, No.6 Dec 2005/Jan 2006.

⁸ <http://www.fish.govt.nz/en-nz/Environmental/Seabed+Protection+and+Research/MPA/QandA.htm#16>

The outcome of the MPA Strategy will be a reflection of the process that DoC and MFish conduct, if they want meaningful input, participation and a robust result then increasing the consultation timeframe would be the first step.

Hui Discussion

DoC confirmed they would be relaying the feedback from the hui to the policy developers in Wellington.

The Hokianga Accord needs to consider calling a summit and inviting the Ministers of Conservation, Fisheries, Environment and their associates to attend. It would be an opportunity to utilise the collective information of the Accord's participants to demonstrate what the Hokianga Accord expects from sustainability decisions and why the Forum and others are stridently calling for "more fish in the water/kia maha atu nga ika i roto i te wai".

Race for Space

Scott Macindoe, option4

There is no reference in the MPA documentation to the tolerance levels that commercial fishers have for loss of access to areas normally fished.

In a marine reserve or mataitai application process the Minister of Fisheries has to satisfy himself that the proposed closure will not prevent commercial fishers from harvesting their quota. It was only a matter of time before commercial fishers would successfully argue they would not be able catch their quota if a particular proposal proceeds. At that time the Minister would have to refuse the closure application.

The 'prevent test' argument is likely to arise in either a crayfish or paua fishery because the rocky habitats and headlands are of most interest to commercial fishers and non-commercial fishers and are also sought after by marine reserve proponents and DoC.

Resourcing

There is a massive mismatch of resources available to different marine interest groups. For years DoC has had access to very significant sums of taxpayer funds to support their initiatives, their academics and scientists working tirelessly to promote the benefits of marine reserves, as they perceive them.

While marine reserves are a worldwide phenomena the quota management system and the Treaty of Waitangi differentiates New Zealand from other countries. The ongoing statutory obligations of the Crown, expressed in various legislation, state that tangata whenua have every right to practice their obligation of kaitiakitanga and give effect to that obligation.

The fear is that by the time tangata whenua are conversant with the fundamentals such as defining and gazetting rohe moana the government, with all of its resources, would have snatched the available area for their own marine protection initiatives such as marine reserves. Thus creating a scenario where commercial fishers will successfully object to any further closures within the management area.

Kaitiakitanga

By the time tangata whenua and the community understand, and are ready to give effect to kaitiakitanga, many prime opportunities and areas will be unavailable having been turned into marine reserves. The tolerance level of commercial interests will be reached leaving the Fisheries Minister no option, under current legislation, to decline tangata whenua-led initiatives designed to deliver on kaitiakitanga obligations.

The race for space is driven by a need for resources, most of which has been grabbed to fund the biodiversity programme rather than providing for the tangata whenua-led customary management that current legislation supports.

DoC has spent millions of dollars on no-take forever marine reserves and there is very little evidence of the \$12 million appropriated for Maori over the past few years, in the fisheries budget. MFish funds were to provide for the input and participation of tangata whenua into fisheries management, as per section 12 (1) (b) obligations of the Fisheries Act 1996.

Hui Discussion

This race for space issue is a major ‘rip-off’ that needs to be exposed.

Undoubtedly there is a tension between commercial overfishing and conservation interests but there are other factors contributing to the current scenario.

DoC’s past behaviour and MFish’s inaction had already been highlighted earlier in the hui.

Mimiwhangata Marine Park was set aside many years ago for the benefit of all New Zealanders. The park has special fishing method restrictions and no commercial fishing is permitted within the boundaries. DoC has been targeting this park as a marine reserve for a number of years despite tangata whenua and community objections.

DoC has the resources to keep the momentum going on various initiatives whereas tangata whenua and communities have little or no resources and limited capacity to respond to the constant flow of government programmes.

It was important for everyone to remain alert to what is happening and educate themselves and others on the benefits of alternative marine protection tools such as the customary management tools.

The Mimiwhangata community were supporting tangata whenua in their bid to enhance the fisheries and protect the local environment with the practice of kaitiakitanga.

Cultural Exchange

Hōne Sadler, Ngāpuhi kaumātua

After an intense day of discussions Hōne Sadler shared his wisdom on kaitiakitanga (guardianship/trusteeship) with those settling in for the night.

In order to understand kaitiakitanga it was important to consider what guardianship means and how it is arrived at within the context of a Māori worldview and for the Accord, a Ngāpuhi worldview.

The fear is that kaitiaki maybe re-engineered in the context of legislation and the meanings of traditional terms will be derived from limited consultation with the official ‘advisers’ and not necessarily those who are skilled in Māoritanga.

Kaitiakitanga is considered in terms of guardianship and usage rather than outright ownership. For Ngāpuhi, their responsibility as kaitiaki is to ensure continued usage of the resource through following the correct protocols.

Traditional kaitiakitanga was expressed through tapu or rāhui. A ritual is required to lift a tapu whereas rāhui is a restriction over a passage of time and does not have a particular ritual at the end of that period. A rāhui was usually placed on food sources such as kaimoana, birds and food from the bush to limit the harvesting season and allow their regeneration.

The effort to ensure ongoing availability was based on conservation and practices evolved over hundreds of years and it was inevitable that some mistakes were made along the way.

Hōne encouraged the Hokianga Accord to continue its effort to make the government more accountable and honour its obligations to tangata whenua so that both Māori and non-Māori would enjoy the benefits that kaitiakitanga can bring to Aotearoa.

Friday 17th August

As a bright day dawned around thirty people gathered to enjoy a sumptuous breakfast and continue the discussions through to lunchtime. Others joined the hui to hear about scallop management in the Tasman region, a Guardians of the Sea Trust update, also the Accord's communication strategy first mooted at the Oturei hui and to participate in the evaluation session.

Acknowledgement

Before the first presentation of the day Sonny acknowledged the taitamariki still present at the hui. The hui's theme was "more fish in the water for tomorrow's mokopuna" so it was appropriate to acknowledge the three Northland college students who had remained overnight. The Accord thanked Steve Radich for his effort and encouragement to enable these young people to attend and learn.

Tasman Scallop Fishery (SCA7)

Geoff Rowling, Challenger Scallop Advisory Group

Geoff Rowling is the Chairman of the Challenger Scallop Recreational and Dredge Oyster Advisory Group (CSDORAG) established to advise the Scallop 7 (SCA7) management company, Challenger Scallop Enhancement Company (CSEC), of issues related to recreational fishers in the top of the South Island area.

The SCA7 fishery is enhanced by the gathering and strategic placement of scallop spat and this contributes to the productivity of the fishery. Annual abundance surveys are completed to determine harvest levels and also advise of the prime fishing areas. MFish has more of an overview role, as CSEC is responsible for these annual abundance surveys and management of the SCA7 quota.

Geoff is now a board member of the management company and is keen to have the SCA7 fishery developed for the benefit of both amateur and commercial fishers. The voting rights he now holds on the CSEC board occasionally cause difficulties but ultimately his role is to represent amateur fishers' interests.

Annual Consultation

The management company follows an annual consultation process following the stock assessment. At the conclusion of the consultation, the management company develops a harvest plan which applies to all SCA7 commercial fishers. All vessels fishing for scallops in SCA7 are fitted with locators capable of reporting in real-time so the management company knows where they are fishing and their activity, based on their travel speed.

Another benefit of real-time monitoring is the ability to manage fishers on a much finer scale. For example, this year certain areas within the Queen Charlotte Sound are open to commercial dredging for a maximum of 12 days or 14 tonne of scallops.

The 2007 abundance survey proved there were very few scallops in Tasman Bay so there will be no commercial harvesting there this season. On the other hand scallops grow faster in Golden Bay than any other region in New Zealand and commercial fishers have been given a certain area within Golden Bay to harvest their scallops during the 2007 season.

Management

A positive outcome of the relationship between the management company and amateur fishers is the successful implementation of recreational-only fishing areas within Golden Bay. There is also an amateur daily bag limit of 50 scallops per person during the harvesting season. Although significant area restrictions apply to commercial fishers the entire area is open for non-commercial fishers, excluding marine reserves.

The NZRFC believes MFish should be capable of using new technology for management purposes, including implementing real-time reporting for the inshore fishing fleet to encourage the avoidance of certain sensitive regions such as juvenile fish areas or places of particular ecological or environmental significance.

Another positive management initiative is the maximum daily catch limit per boat, this limits how much each vessel can harvest in a day. When used in conjunction with ongoing monitoring of catch to ensure only premium size scallops are taken, it is very effective in managing the fishery.

By working with other stakeholders and having MFish providing only an overview function amateur fishers have achieved good outcomes. This regime is easily applied to scallops as opposed to finfish and obviously wouldn't work in every fishery; however, there are some aspects that are applicable elsewhere. The working relationships that have developed over the past 15 years have contributed to the success of the SCA7 fishery.

Hui Discussion

There are some very productive areas within the Sounds due to the current flow and nutrient supply. It was coincidental that the two areas open to commercial fishing within the Queen Charlotte Sound were next to statutorily closed areas. One closure was a marine reserve and the other had been closed to improve non-commercial fin fishing access.

The impacts of the commercial dredges and lack of research and development is an ongoing concern. There is no reason why amateur fishers cannot encourage the Ministries of Fisheries and Environment to pool resources to develop more modern equipment that does less damage to the biodiversity.

Rotational fishing allows for an area to be opened to commercial fishing and others to be closed, to assist with their regeneration. Rotational fishing was an integral part of the previous MFish SCA7 management regime.

The commercial dredges used in SCA7 differ from those used in areas such as the Coromandel fishery. The main difference is there are no teeth on the SCA7 dredges but they are still effective as it is mainly soft-sediment seafloor.

The mortality rate for the standard commercial Victorian dredges has been estimated at around 34 percent. Research has also been conducted on the dredges used by amateur fishers; that mortality rate is classified as 'negligible'.

Without doubt the enhancement programme had contributed to the success of scallop abundance in SCA7. The need for enhancement has been reducing and some of that improvement can be attributed to the Challenger Scallop Enhancement Company's good

management. They are committed to sustainable management of scallops as evidenced by their willingness to manage at a small-scale level to enable fish to be taken while protecting other areas.

Guardians of the Sea Trust

Steve Sangster, Consultant

Steve had been assisting the Guardians of the Sea Charitable Trust *Nga Kaitiaki o Tangaroa* to develop a fundraising campaign to raise capital to support the Trust's aims and objectives. Much of the material he had to present to the hui was preliminary work and had yet to be approved by the Trustees. Steve was planning to present the same material to the Trustees at a meeting due three days after the hui.

MFish National Policy Manager Mark Edwards advised amateur fishing advocates many years ago that "*advocacy without resources is an illusion*," he was right and this initiative was designed to both build an enduring capital fund and use the interest from that fund to provide grants to projects that meet the Trust's criteria.

Trust's Mission:

- Our waters are enjoyed by all people who can go down to the sea and fish for food. For future abundance, a revolution in management and local guardianship must accompany technological advances in killing power.
- Education and sound science are needed to foster understanding of the marine environment and local management initiatives.
- On behalf of all people, The Guardians of the Sea Charitable Trust *Nga Kaitiaki o Tangaroa* promotes this understanding and revolution.

Purpose of the Trust:

- The Guardians of the Sea Charitable Trust *Nga Kaitiaki o Tangaroa* funds activities that promote and maintain the right of every New Zealander to go fishing, together with abundance to ensure success when they do so.
- Providing grants for work to this end, the Trust promotes excellence in fisheries management and educational initiatives.
- Without knowledge the public countenances losses in our fisheries - because beneath the surface is a world largely unseen.
- Positive benefits for the environment, public wellbeing, health and understanding are achieved by these actions.

Objectives:

- Achieve more fish in the water by promoting excellence in sustainable management
- Promote co-operation between all stakeholders in shared fisheries
- Foster community understanding - and the benefits - of kaitiakitanga to society.

Money Distribution

Pledges and donations will be sought to support the Trust. Grants will then be distributed to a number of entities working in areas such as education, kaitiakitanga, fisheries and environmental management and representation.

Progress

The Trust is still in the establishment phase although it has been officially formed. Registration is being sought from the Charities Commission as new legislation has been enacted since initial registration. Governance, management and administration issues are still to be finalised by the Trustees.

Fundraising

A booklet will be printed to be used as collateral for the fundraising effort as well as stationery and a Guardians website. A number of potential donors have already been identified, those will be the first people to be asked to donate to the Trust. From April 2008 the limit on tax relief for donations will be removed and a rebate will be possible on amounts over \$1800.00. This is great news for any charitable organisation.

Grants

Once the money is received grant applications will be accepted. Trustees will consider the grant requests every three months.

Organisation

The Trustees will use the services of an accountant, auditor, a lawyer and contractors as required. To meet the stringent official requirements some engagement with these officials has already occurred during the Trust's establishment phase.

Trustees

Sonny Tau had resigned from the board of trustees due to other commitments. Two new trustees have recently been appointed to the Trust. Jason Foord and Wane Wharerau have joined Scott Macindoe, Tom Fox and Martin Irvine on the board.

Collateral

Cliff Whiting from Russell, Bay of Islands, had provided a draft image for the Trust to consider using for their material.

Being a new organisation the Trust does not have its own history so will be drawing on the list of achievements attained by interest groups such as the New Zealand Big Game Fishing Council, the Hokianga Accord and option4.

Hui Discussion

Clarity was sought on the protection offered to Trust donors if their contribution was used for a political purpose as opposed to a charitable purpose. Inland Revenue had already approved the Trust's purpose and objects and assuming grants are made in accordance with those objects there shouldn't be a major issue. The Trustees would have to consider each grant application on its merits.

The same issue is relevant to donors who want to make a contribution to a particular project such as an abundance survey. If in five or ten years time the results of that survey was used in legal proceedings then that could pose a problem for tax purposes and be used as a weapon against the Trust. This would be an issue that would not arise if the contribution was made to support the purpose and/or a particular object(s) of the Trust.

As long as the Minister of Fisheries is the ultimate decision-maker fisheries management will always be, by its very nature, a political process.

A suggestion was made to have both the Trust and researcher jointly own intellectual property rights to any research work conducted using grant money. That would address some issues regarding any political debate. The Trustees would need to consider this issue thoroughly.

Achievements listed in the collateral booklet would be chosen from a range of issues identified as being in accordance with the Trust's objects and for the greater good and will not necessarily be attributed to particular interest groups.

The hui appreciated the effort going into establishing the Trust and could see the potential increasing as donations grew. Exciting times for everyone involved.

Communications Strategy

Steve Sangster and Trish Rea

At the Oturei hui it was agreed that a communications strategy would be developed to provide some clear direction for disseminating Hokianga Accord information and increasing the Forum's profile. A document had been drafted and distributed to the Working Group identified at Oturei. The group's feedback had been incorporated into the document.

The challenge was to distil the message down to a format where it would be easily understood and acceptable for media publication. The task is becoming easier as the team develops its skills at refining the message. More people volunteering to become part of the Working Group to develop such initiatives would add value to the work already produced.

Message

The most valuable message is that of kotahitanga, the unification of interests within the Hokianga Accord. That both Maori and non-Maori have their rights to fish and provide for their current and future needs, protected under the law. This Accord, like nowhere else in the country, embraces the unified call for "more fish in the water/ kia maha atu nga ika i roto i te wai".

Media

Several media statements had been made which received coverage in the national papers. One media release discussed the Minister of Fisheries' proposed changes to section 10 of the Fisheries Act to enable a more precautionary approach to be taken. The Hokianga Accord supported the Minister's intention to make conservative decisions when information was incomplete. The media release is attached as Appendix Four.

The Minister responded by sending a letter to the Accord in early June. (Appendix Five).

Mana magazine was another outlet the Accord would approach. The objective would be to write a short, good news story regarding Ngapuhi's contribution to the Kahawai Legal Challenge. The issue would again be highlighted at the Auckland University Maori Studies unit where Hōne Sadler was due to give a lecture.

After the hui

Following the hui an article was published in *Mana* magazine and is attached as Appendix Six.

In addition, an article about the Whakamaharatanga hui had been published in the October issue of the *New Zealand Fishing News* magazine. This was the first in a series of regular updates from the Hokianga Accord to keep the fishing public informed of the Forum's activities. (Appendix Seven).

Submissions

In addition to the media statements and the tuna (eel) submission, the Hokianga Accord had also been a joint submitter to the MFish proposals for the in-season review of the TACC in the Coromandel scallop fishery. This is an important fishery for both customary and amateur fishers and extends from Cape Rodney, near Kawau Island in the north to the Bay of Plenty.

The submission was made on behalf of non-commercial fishers and was jointly signed by the Accord, the NZBGFC members, option4, the Tauranga Game Fishing Club and the Mount Maunganui Sport Fishing Club. The submission is online at http://www.option4.co.nz/Fisheries_Mgmt/coroscallops.htm#sub

Summit

It was agreed to hold the next hui in Auckland on a Friday/Saturday as opposed to the Forum's standard Thursday/Friday format. Hōne Sadler would endeavour to secure Waipapa marae at the Auckland University. Provisional dates for the hui were 9th and 10th November. (Later confirmed).

Considering the lack of respect from MFish towards the Hokianga Accord, being the mid north iwi fisheries forum, it was an opportune time to invite Ministers of the Crown along to witness and participate in the joint discussions with Tai Tokerau Maori and their manuhiri.

After nine hui together it would be a positive, constructive move to have the fisheries and environmental Ministers, associate Ministers and other spokespeople attend and talk to the issues first-hand, with mid north Maori.

It was important to get the invitations to the various Ministers and spokespeople out as soon as possible as November is a busy month for everyone.

Evaluation Session

At the conclusion of each Hokianga Accord hui all participants are given the opportunity to make a closing statement or provide their feedback on their experience of the hui. The evaluation session provides a valuable opportunity to hear from people who were not presenters or the main contributors.

Co-Chairman of the Accord, Judah Heihei opened the evaluation session with a message for everyone, from his perspective it had been a fruitful hui with some very positive outcomes. Judah encouraged everyone to make an effort to be at the next hui scheduled for Auckland.

Once again acknowledgment went to Sonny for chairing the hui in a firm but fair manner. This efficient management allows the Forum to complete its business in the timeframe available.

There was unanimous appreciation of the hospitality, food and particular mention of the hot soups prepared for dinner and lunch. Ngapori Donovan (Chuck) had done a marvellous job organising the ringa wera and a gift was given to the marae in recognition of their effort.

It was disappointing MFish still seemed to be in the mode of 'changing the goalposts' just when tangata whenua were getting up to speed with the customary and fisheries issues. However, it was encouraging to be part of the Accord as more can be achieved collectively than any single hapu or iwi could do on their own.

Slaughtering the food source to make a few dollars just didn't make sense, particularly now that there is obviously new technology available to reduce the by-catch and mortality rates when fishing. It was encouraging to hear of the developments. After listening to the presentations on fisheries submissions and habitat conservation it was clear, the day we 'shag' our environment is the day we 'shag' ourselves.

With Maori and Pakeha talking together at these hui it had taken away MFish' ability to play one side off against each other. Kia kaha to the Hokianga Accord.

The Accord had matured to the point of being able to make quality submissions such as the tuna (eel) document. It had to be recognised that all the different groups involved in the Forum may not always agree but the Accord had the potential to 'rattle some trees' by having such powerful representation.

It was encouraging to have the NZRFC along to the hui and they were invited to participate in future hui.

Amateur, non-commercial or sustenance fisher was preferable to the official term of 'recreational' fisher. While the legislation may refer to recreational it is not a true reflection of the people or activity engaged in, by those at the hui.

As a non-Maori it had been a privilege participating in the Accord's hui and learning more about what it means to be a New Zealander and how everyone can work together and learn from each other.

It seemed the government was trying to wear everyone down by attrition. Evidence of this was the numerous proposals emanating from various departments with very slim response times. It was comforting to know that both Maori and non-Maori were committed to working together and not leaving any 'cracks' for MFish or DoC to exploit.

Holding the next hui in Auckland was an opportunity to get more people, including younger people, along to understand fisheries and environmental issues and how they can be addressed.

The manner in which people are able to challenge the positions put forward and generate healthy debate was a feature of the hui. The Hokianga Accord shines as a unique group working together and getting on and doing what must be done. It was important to share that understanding with a wider audience.

There are lots of people who just don't care about fisheries and environmental issues so it was heartening the Accord was taking those issues seriously and actually doing something about it, congratulations to everyone involved.

The cultural exchange sessions by Hōne Sadler at this hui and Tepania Kingi at Oturei were both enjoyable and informative. It would be good to make these sessions a regular feature of future hui.

It was important for other interest groups to have access to Hokianga Accord as both MFish and DoC seem intent on regionalising management thus isolating local communities with fewer skills and resources to draw upon.

Commonsense answers are available to address the problems of not enough fish in the sea. It was unfortunate the bureaucrats didn't want to hear such logic and kept on their tracks, DoC with their lock-all-the-people-out attitude and MFish with their sell-all-the-fish attitude.

The Accord was encouraged to go into negotiation with the MFish officials who were not giving the Forum what it wanted, otherwise nothing would be achieved.

The NZRFC is happy to be part of the Hokianga Accord, however, they have a wider constituency so there maybe times where the Recreational Fishing Council will be working on matters that create some tensions. The NZRFC does support the goal of "more fish in the water".

Non-commercial fishing representation is very fragile and MFish should be supporting the Hokianga Accord to build on the skills already available to the Forum.

I wouldn't have missed this for anything in the world; it has been an absolute inspiration.

Fisheries are part of our Maori culture. Fisheries are a gift from God. Each one of us needs to look after that gift for the other person.

Maori need to put aside the arguments about boundaries when it comes to the fisheries; it is obvious the resource needs to be looked after on a much bigger scale than purely at a rohe moana level.

We are all part of the environment. In the Hokianga people say they belong to the land, the land doesn't belong to them and the same applies to the sea, people belong to the sea, the sea doesn't belong to anyone.

It is the birthright of every New Zealander to go down to the sea to catch a kai. We need more fish in the sea so our kids enjoy what is rightfully theirs.

A lot of Maori are working hard to put food on the table for their tamariki and mokopuna and there is not enough people working together on the kaupapa, issues of deep interest to both Maori and non-Maori. Hopefully when more people hear about what can be learnt at the Hokianga Accord hui they will come along and join in the discussions.

The Hokianga Accord has managed to weave together two cultures, that's the key to its success.

Kaitiaki have a role and the challenge is to get out and educate more Maori about the wider environmental and fisheries issues. The government makes structures for different sectors in an attempt to divide us even further. If we can pull down those barriers and join together ultimately they will have no option but to listen to the collective voice of concern.

One of the local commercial fishermen, Nick Williams, had invited the rangatahi (young people) to go fishing with him. This was one of the many positive outcomes from the hui.

It was painful to hear of such waste in the fisheries but it was equally heartening to hear and feel the enthusiasm to have change so we do achieve more fish in the water for the next generations.

It was pleasing for iwi and hapu to be able to draw on the collective expertise available within the Hokianga Accord.

Particular thanks go to Sonny, Scott and Trish for creating the environment where everybody can learn from each other and be more informed. The establishment of the Guardians of the Sea Charitable Trust was an exciting development for future initiatives.

The passion is not for customary rights as much as it is for customary practices to ensure that people who want to eat fish have the opportunity. Historical, customary practice was to go fishing to feed the whanau.

It was frightening to hear what is happening to the fisheries and it was hard to understand why MFish, with all their smart minds, cannot understand that fisheries are in serious trouble. They were obviously not taking heed of information that challenges their stance.

What is happening within the Forum is exciting and it's our future, a multi-cultural environment, working together to achieve good fisheries management outcomes.

The relationships built between father and son or amongst whanau from fishing together cannot be valued in dollar terms. MFish seem to be ignoring that factor while trying to maximise the economic return from fisheries. Everyone and the fisheries lose using this approach.

The information shared with the Accord may at times seem overwhelming but it all boils down to the simple goal of more fish in the water.

The Forum was grateful to be able to draw on the experience of people who weren't at this hui but had contributed to others, people such as John Holdsworth, Stuart Ryan, Kim Walshe, Richard Baker, Jason Foord, Barry Torkington, Angela Griffen, Pete Saul and Tom Moana.

George Riley (MFish) and Alan Fleming (DoC) were acknowledged for their commitment to the Hokianga Accord. Their willingness to attend hui on behalf of their respective departments while the decision-making officials chose not to attend was commendable.

MFish leaders deserved condemnation for their refusal to acknowledge and address the issues raised in numerous forums, even though they know what those issues are. Over-allocation of fishing rights, compensation and the Kahawai Legal Challenge judgment are three obvious issues. As Martin Luther King Jr. once said, *"In the end, we will remember not the words of our enemies, but the silence of our friends"*. Now is that time in terms of MFish silence, obstruction and inaction.

Daniel Ambler was acknowledged for his effort to restore the land and in particular the urupa (burial ground) back to the people of Whakamaharatanga marae. He had 'stood against tide' while many had stood on the sidelines doing very little.

Momentum needs to be maintained, Maori cannot afford to let MFish lead them on a narrow path when there were wider fisheries issues that need to be addressed so everyone can enjoy the benefit of a healthy environment and abundant fisheries.

The relationships in the Hokianga Accord are beyond just fish; it is a good model to fix our country, while maintaining our own identities. While the Treaty of Waitangi confirmed Maori's vested interest in the land, forests and fisheries, those resources were there for all to share.

We cannot let any officials stand in our way and convince Maori and non-Maori that our aspirations are so far apart. The hui is proof we can, and should always, work together for everyone's benefit.

Those who attended the ninth hui were unanimous in their appreciation of the information that was shared and understanding they had gained.

Despite our differences we are all one race, the human race, and it is us who have unbalanced the environment and fisheries. It was our obligation to make that right.

Stephen Naera and Stephen Pikaahu closed another successful hui with a rousing waiata followed by a karakia (prayer) from Daniel Ambler.

The lunch kai to close the hui was superb. Thank you again to the unstinting efforts of our hosts to provide such a memorable manaaki for the manuhiri.

It was certainly a joy and a privilege to be back at Whakamaharatanga marae.

Tena koutou hunga kainga. Tena koutou Waimamaku. Tena koutou Hokianga.

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 challenge⁹ 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:
 - a. Maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations; and

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

- 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]

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

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.

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
 - 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".

Appendix Two – Accord’s Tuna (eel) Submission

27 July, 2007

Introduction

1. The Ministry of Fisheries (MFish) has issued new proposals for the future management of North Island Tuna (Eels). The Initial Position Paper (IPP) has options for the four shortfin stocks and four longfin stocks. Options are to reduce the total catch in each fishery and then determine the reductions required in commercial catch and recreational allowances, if any. Any management changes will take effect as of October 1st 2007.
2. North Island tuna (eel) were introduced into the quota management system (QMS) in 2004 with total allowable catches (TACs) and total allowable commercial catches (TACCs) set at a ‘starting point’ level, in acknowledgement that further adjustments to catch levels may be required.
3. In recognition of the poor information, vulnerability of the fishery and tuna’s (eel) cultural importance the TACs were set under section 14 of the Fisheries Act 1996 (the Act). This allowed the previous Minister of Fisheries (the Minister) to determine management objectives for the fishery. These were to improve the stock structure (i.e., size composition) and abundance of tuna (eels) over the medium term (10 years), while bringing to a halt any decline in the fishery over the short term. The Minister’s intention was to ensure that:
 - The fishery is sustainably managed;
 - The fishery’s availability to non-commercial fishers is improved;
 - The relationship with interdependent stocks is improved.
4. MFish believe the present management strategy and its intended outcomes are not presently being met, and further refinement of total catch levels is required.
5. A letter dated 15th June 2007 was sent to stakeholders asking for input, providing background information and outlining the current situation.
6. The deadline for submissions is 27th July 2007.
7. This document comprises the submission and recommendations from the Hokianga Accord, the mid north regional iwi fisheries forum, which represents around 200,000 non-commercial fishers. The Forum is supported by both option4 and the New Zealand Big Game Fishing Council. The Accord advocates for “*more fish in the water/ kia maha atu nga ika i roto i te wai*” to enable New Zealanders to provide for their social, economic and cultural wellbeing.

Recommendations:

- No reduction of the recreational allowance on a proportional or non-proportional basis at this time. If any reductions are to be made they must be applied to the TACC first.
- Reduce the TACC for shortfin tuna (eels) by 30 percent.
- Reduce the TACC for longfin tuna (eels) by 50 percent, due to particular sustainability concerns.
- MFish to make adequate provision for tangata whenua to have input and participation into sustainability processes, and these tuna (eels) proposals in particular.

Submission

8. The Hokianga Accord supports reducing the TACC for both shortfin and longfin tuna (eel) stocks.
9. The Accord does not support any proportional or other reduction to the recreational allowance at this time, in recognition that tuna (eels) are used for both customary and subsistence purposes and provide for people's wellbeing.
10. Tuna (eels) are not a productive species as they only breed once. Tuna (eel) are also vulnerable to overfishing and are taonga (treasure) and should be managed conservatively.
11. Non-commercial fishers have expressed concerns about the state of the tuna (eel) fisheries for some time and are pleased MFish are now reviewing management measures.
12. Maori continue to emphasise that commercial use of the tuna (eel) fishery is secondary to their primary requirements to preserve the taonga, manaaki manuhiri (feed their visitors) and feed their people.
13. The Hokianga Accord agree with MFish that the eel fisheries need to be restored, in order to enhance non-commercial access to these important fisheries as per the Minister's management objectives for these fisheries in 2004.

Statutory Requirements

14. The Crown has obligations to tangata whenua based on Te Tiriti o Waitangi, the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and the Fisheries Act 1996.
15. The purpose of the 1996 Fisheries Act is the foundation on which all fisheries management decisions made. That purpose is to provide for the utilisation of fisheries resources while ensuring sustainability.
16. 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.
17. **Utilisation** means conserving, using, enhancing and developing fisheries resources to enable people to provide for their social, economic and cultural wellbeing.
18. 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.
19. All parts of the Act are connected and cannot be considered in isolation. They are interlinked 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*.
20. Justice Rhys Harrison's ruling from the High Court judicial review of the Minister's 2004 and 2005 kahawai decisions (the Kahawai Legal Challenge) 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***". Essentially the judge was saying if there are no fish then you cannot catch them.
21. The setting of a TAC under section 14 of the Act is a sustainability measure. Before setting the TAC, the Minister must also consider section 12 requirements.
22. Section 12:
- (1) Before doing anything under any of sections 11(1).....(sustainability measures), the Minister shall:
- (a) **consult** with such **persons or organisations** as the Minister considers are **representative** of those classes of persons having an **interest in the stock** or the effects of fishing on the aquatic environment in the area concerned, including **Maori**, environmental, commercial, and **recreational** interests; and
- (b) provide for the input and participation of tangata whenua having—
- (i) a **non-commercial interest** in the stock concerned;
- or
- (ii) an interest in the **effects of fishing** on the aquatic environment in the area concerned—
- and have particular regard to kaitiakitanga.
23. The obligations to both consult and provide for the input and participation put in place a two-layered requirement on the Minister on the proposed sustainability measure, namely, the Minister must:

- a. consult and engage with a wide group of interests; and
- b. make the necessary arrangements, including adequate resourcing, to provide for the input and participation of tangata whenua,
and have particular regard to kaitiakitanga.

24. The courts have considered the term ‘consultation’¹⁰ and although not defined in the Fisheries Act it is defined in at least one other statute (the Local Government Act). Consultation has to be a meaningful engagement with an open mind, not merely an offer of a proposal and disregarding people’s responses.

25. Provide for suggests:

- a. Positive steps or actions that need to be taken;
- b. Adequate resourcing

26. Input and participation must include:

- a. The contribution of tangata whenua in formulating the sustainability proposal;
- b. The act of taking part or being involved in the process to which the proposal relates.

27. Compared with consultation, input and participation means being involved in the formulation of a proposal.

28. Kaitiakitanga is described in the Act as:

means the exercise of guardianship; and, in relation to any fisheries resources, includes the ethic of stewardship based on the nature of the resources, as exercised by the appropriate tangata whenua in accordance with tikanga Maori¹¹.

29. Despite the statutory requirements described above, the Accord has not been consulted in relation to the formulation of the tuna (eel) proposals. We expect more meaningful engagement with MFish before new catch levels are decided on.

30. The Hokianga Accord reiterate our objection to MFish not providing adequate provision for tangata whenua to have input and participation into sustainability processes, and these tuna (eel) proposals in particular. Circulating the IPP is not sufficient.

Total Allowable Catch

31. 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 (TAC).

¹⁰ Wellington International Airport Limited and others v Air New Zealand (CA 23/92, 73/92[1993] 1 NZLR 671)

¹¹ Fisheries Act 1996, Part 1, s2 Interpretation.

32. Within the TAC limit the Minister has a statutory obligation to ‘allow for’ non-commercial, both customary and recreational catch 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 the case of tuna (eel) other mortality has been set at either two or four tonne in recognition that there is a relatively low mortality rate due to the fishing methods used.
33. Once the non-commercial and mortality allowances have been set the total allowable commercial catch (TACC) can be established. The TACC is supposed to represent the upper limit of sustainable catch from each fishery. In the case of tuna (eel) however the TACC has only proven to be an effective constraint in one fishery (SFE22), during the 2005-06 season.
34. An important factor in the Kahawai Legal Challenge 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.
35. Setting the TAC is about sustainability whereas setting the TACC is about utilisation - the use of the fish available *after* non-commercial fishing interests and mortality have been taken into account and ‘allowed for’.
36. The Hokianga Accord believes the approach the Minister and MFish must take, as laid down by the Court, has particular relevance to the management of a taonga such as tuna (eels).
37. As is evidenced in the other fisheries, an inevitable consequence of overfishing is that fish numbers and size decrease over time. Many people are bemoaning the lack of tuna (eel) in local rivers. Some waterways no longer have any tuna (eel) available of an acceptable size. Neither of these scenarios provide for the wellbeing of the people with an interest in tuna (eel) and the environment they live in.
38. It is difficult to determine the cause of depletion in local waterways, whether that is attributable to a high TACC, because of environmental damage or a combination of both these and other factors. We acknowledge that the commercial fisheries are predominantly in the larger catchments where there are tuna (eel).
39. Habitat degradation within the Wairua and Mangakahia catchment, including the Hikurangi swamp scheme, is of the utmost concern to Maori and others with an interest in these catchments. Significant modifications to the waterways over the years have impacted detrimentally on the freshwater fishery.
40. Habitat degradation is a major concern and hapu/Iwi, in reasserting their mana and exercising effective kaitiakitanga, recognise that restoring habitats is the foundation upon which the fishery can develop. Threats to native species particularly tuna, kawai, kokopu and inanga are a natural effect of habitat degradation.
41. Both Maori and non-Maori promote the protection and enhancement of freshwater fisheries habitat in lakes, rivers, and other water bodies.

Non-commercial Interests

42. Enabling people to provide for their wellbeing is a mandatory consideration for the Minister. During the High Court kahawai judicial review wellbeing was clarified as meaning the *state of people's health or physical welfare*. Almost all commercially caught tuna (eel) are exported and therefore do not provide for the wide-ranging social or cultural wellbeing of both Maori and non-Maori people in New Zealand.
43. In addition to the Minister's obligations Maori have tikanga which obliges them to protect taonga and the environment. This tikanga is centuries old and is not a 'take it or leave it' option - it is an expectation.
44. Customary regulations do not apply to North Island freshwater fisheries therefore tuna (eel) taken for customary purposes can be caught within recreational allowances. Most recreational tuna (eel) fishers are Maori with a traditional interest in tuna fisheries. This factor enhances the significance of the recreational harvest and therefore any reduction in the recreational allowance would impact on the social and cultural wellbeing of tangata whenua.
45. MFish has suggested that a rahui or some other initiative would be required to ensure that the recreational allowance is not exceeded. This outcome does not meet the statutory requirements of the Act, to 'allow for' non-commercial fishing interests in the tuna (eel) fisheries. Nor is it a realistic expectation for tangata whenua to implement a customary management measure to address the failure of MFish to manage fisheries in a sustainable manner.
46. In 2004 recreational allowances were set at levels below MFish harvest estimates. It is unrealistic to expect non-commercial fishers to now accept reduced allowances when the objective of managing eel under section 14 of the Act is *to ensure that the fishery's availability to non-commercial is improved*¹².
47. Reducing recreational access is therefore contrary to the management objectives for these tuna (eel) fisheries. MFish cannot have it both ways, either we manage tuna (eel) according to the principles and purpose of the Act and the specific management objectives or we don't.
48. If the management objectives for tuna (eel) are going to change then that is a matter for further consultation.
49. The Hokianga Accord strongly objects to any proposals to reduce the recreational allowance on a proportional or non-proportional basis at this time. If any reductions are to be made they must be applied to the TACC first.

Total Allowable Commercial Catch

50. In order to achieve the management objectives for the eel fisheries we are firmly of the view that meaningful changes to the TACC are required as follows:
 - Reduce the TACC for shortfin tuna (eel) by 30 percent.

¹² Management proposals for North Island Eels (IPP), Ministry of Fisheries, June 2007.

- Reduce the TACC for longfin tuna (eel) by 50 percent, due to particular sustainability concerns.
51. After reviewing the MFish information and feedback provided by tuna (eel) fishers the Forum reinforces the view that the management objectives for these fisheries are not likely to be achieved unless cuts are made to *actual* catch levels.
 52. When adjusting TACCs the purpose is to achieve a measurable and noticeable change in abundance that gives comfort to the notion of sustainability. MFish has already expressed concerns for both shortfin and more so for the longfin stocks.
 53. The problem with reducing the TACC by less than 30 percent is that it tends to get lost in the noise of natural variations. Subsequently it is assumed the lower TACC has led to a rebuild, even though supporting data must be massaged to fit the view. It is far better to make a large change in TACC and then any effects should be clear and obvious.
 54. The commercial value of tuna (eel) has collapsed due to enormous aquaculture production in Asia so now would be a great time to take the pressure off the stocks and see a return to abundance levels of 25 years ago.
 55. If tuna (eel) stocks recover to levels that are sufficiently abundant to support increased TACCs then measures can be reviewed at that time. There is no tangible reason why a precautionary approach cannot be taken in the interim, particularly given that tuna (eel) are being managed under section 14 of the Fisheries Act, have specific management objectives and MFish' commitment to ongoing active management of this taonga.

Conclusion

The Hokianga Accord appreciates the opportunity to make comment on management proposals for tuna (eel) and await MFish confirmation on how they are going to provide for the *input and participation* of tangata whenua into further management of our taonga.

Raniera (Sonny) TeiTinga Tau
 On behalf of the Hokianga Accord
 PO Box 263
 Kaikohe, Northland

Appendix Three – Preliminary View of MPA Draft Marine Protected Areas (MPA) Classification and Protection Standards

August 2007

1. In November 2004 the Ministry of Fisheries (MFish) and the Department of Conservation (DoC) released a draft *MPA Policy Statement and Implementation Plan* (MPAPSIP). The MPA policy is based on the NZ Biodiversity Strategy (NZBS).
2. Sixty-eight submissions on the draft policy were received by the deadline of 28th February 2005. Enfocus Consulting Ltd was commissioned to provide an independent summary of submissions. This was released on 31st March 2005.
3. The final *Marine Protected Areas Policy and Implementation Plan* was released in January 2006. Stage One of the Implementation Plan was due for completion by June 2006; this was then deferred to February 2007. The *MPA Draft Classification and Protection Standard* document was eventually released in June 2007.
4. Submissions are due by 31st August 2007.
5. More information is available on the option4 website at http://www.option4.co.nz/Marine_Protection/mpas.htm

Classification and Protection Standards

6. The *MPA Draft Classification and Protection Standard* document explains the process to give effect to the Marine Protected Areas Policy. There are two parts to the document, one explains the process to identify and classify different marine regions, and the second sets out the implementation process to achieve the MPA Policy objective of:

“Protect marine diversity by establishing a network of MPAs that is comprehensive and representative of New Zealand’s marine habitats and ecosystems.”
7. Classification is science-based with no mention of kaitiakitanga throughout the 33-page document.
8. The marine environment is classified as either coastal or deepwater. There are 13 coastal regions around the country including the Kermadec and Three Kings Islands. The boundary between the nearshore and offshore boundary is defined as at the 12 nautical mile (nm) line – the Territorial Sea limit. Maps and sub-strate types¹³ of these coastal regions are described in the draft document.
9. The Government’s aim is to have a consistent approach to classifying areas, devise an inventory of marine protected areas and to determine ‘gaps’ in the network. Representative as well as ‘outstanding and rare’ areas will be identified. There will be

¹³ The type of bottom sediment, such as sand, gravel or rock.

at least one marine reserve covering each habitat or ecosystem in each region, with discussion of the benefits of having fewer, larger MPAs.

10. A range of tools will be used including marine reserves, Fisheries Act 1996 and Resource Management Act tools. Regional forums will decide which tools are appropriate for each area identified for protection. An MPA Forum has been established for the South Island's west coast while the Otago/Southland, Sub-Antarctica Islands and Hauraki Gulf forums are still in the planning phase.
11. The aim is to have 10% of the marine environment protected by 2010. However, implementation of the MPA Policy from the 200m-depth limit to 200nm from the coast – the Exclusive Economic Zone (EEZ) – will not begin until 2013.

Commentary

Statutory obligations

12. Once again we seem to have Government departments developing policy without fully explaining current statutory obligations. It will be Maori and fishers who will be most affected by this policy and yet there is no discussion regarding the loss of rights, compensation or the effect of displacing fishing effort. It is grossly unfair to expect the public to make informed submissions when the obligations to tangata whenua under the Treaty and the rights of commercial and non-commercial fishers are not clearly described.

Customary tools

13. While not totally dismissive of customary management tools the MPA policy gives scant regard to tangata whenua's right and obligation to be kaitiaki of their rohe moana. Kaitiakitanga and rohe moana do not even feature in the *MPA Draft Classification* document. MFish describe customary tools as follows:

“A range of fisheries management tools may contribute to the MPA network, including customary fisheries management tools like mataitai reserves and taiapure. However, these tools provide for customary Maori use and management practices rather than protection of biodiversity at the habitat and ecosystem level.”¹⁴

14. The assumption is that this MPA process is the ‘right way’ and other mechanisms ‘may contribute’ to the overall process. There is no recognition or explanation given to the Crown's obligation to *have particular regard to kaitiakitanga*.

Existing tools

15. The MPA proposals will be implemented using current legislation and existing tools and mechanisms however the fisheries management tools were not designed with a sole focus on habitat and ecosystems.
16. The proposal document explains how MFish manage fishing but predictably there is no discussion on the failure of MFish to implement the Fisheries Act 1996 to fulfil its

¹⁴ <http://www.fish.govt.nz/en-nz/Environmental/Seabed+Protection+and+Research/MPA/QandA.htm#16>

purpose of sustainable utilisation to enable people to provide for their social, economic and cultural wellbeing.

17. The purpose of the Marine Reserves Act 1971 is to provide for the setting up and management of areas of the sea and foreshore as marine reserves for the purpose of preserving them in their natural state as the habitat of marine life for scientific study. This purpose is more aligned with the MPA proposals and is possibly an indicator of the major tool to be used to achieve the project's goals.

Resourcing

18. The MPA proposals do not offer a balanced argument on the benefits (or otherwise) of kaitiakitanga. Kaitiakitanga is not even mentioned let alone explained in the *MPA Draft Classification* document. Both DoC and MFish seem to be judging the value of kaitiakitanga without the public being given the opportunity to discuss the concept or understand tangata whenua's obligation to Tikanga Maori.
19. There is no acknowledgement in the MPA proposals 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 tools.
20. 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 applications¹⁵.
21. It was irrational MFish were talking with tangata whenua about gazetting rohe moana when DoC and MFish were also pushing the MPA classification and protection standards.

Existing management

22. The government's MPA process seems to be an attempt to streamline the protection of fisheries and aquatic environment when the same government is unable to put more fish in the water.
23. This ultimately comes down to a question of people's rights.
24. 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 and the recent High Court ruling regarding the Kahawai Legal Challenge¹⁶.
25. 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.

¹⁵ http://www.option4.co.nz/Fish_Forums/har11057.htm

¹⁶ <http://kahawai.co.nz/>

Selection process

26. Once the classification process is completed for the nearshore area and the 'gaps' in the protection network are identified, regional forums will decide which areas need to be protected, the appropriate protection tool and the priority of implementation. MFish and DoC will jointly resource and provide information to the forums so they can achieve their goals. Offshore areas will be planned at a national level with tangata whenua and other interest groups.
27. Composition of the regional forums will be tangata whenua, other marine users and representatives of diving, fishing and environmental groups. It has been suggested that the chairmen of the regional forums will be appointed by the Ministers of Fisheries and Conservation, however this detail is not provided in the *MPA Draft Classification* document. Fishers will need to be aware that these forums maybe used to rubber-stamp marine reserves.

Conclusions

28. The *MPA Draft Classification and Protection Standard* document is difficult to understand and it is unrealistic to expect tangata whenua and the public to read, digest and make comment on the proposals within 60 days.
29. The MPA proposals make a variety of assumptions without explaining the fundamental issues of the Crown's statutory obligations to both tangata whenua and the public, the pre-existing rights of people to fish to provide for their needs and the property rights regime of commercial fishing.
30. This process is based on the assumptions that our marine environment needs further protection from the effects of fishing, that the existing tools are adequate and will be implemented successfully and that the protection mechanisms will be chosen from a multiple-choice list provided by MFish and DoC.
31. Given the government's failure to implement the Fisheries Act 1996 as intended over the past twenty-one years this multi-agency project seems ambitious.
32. The failure to recognise the value and contribution that customary management can make to the marine environment is a serious flaw in the MPA strategy.
33. Meaningful outcomes will not be achieved unless tangata whenua and the public are provided adequate resources and complete information on which to base decisions.

Recommendations

34. Non-commercial fishing interests work with tangata whenua to develop a submission in response to the *MPA Draft Classification and Protection Standard* document.
35. Discuss the document and analysis at the next Hokianga Accord hui with a view to gaining a resolution from the hui to submit in response to the MPA proposals.

Appendix Four – Hokianga Accord Media Release

21st May 2007

Mid North Iwi Fisheries Forum Opposes Maori Fisheries Trust On Fisheries Amendment Bill

The Hokianga Accord, the mid north iwi regional fisheries forum, ratified calls for a more precautionary approach in fisheries management and opposes the argument to withdraw the Fisheries Amendment Bill from Te Ohu Kai Moana, the Maori Fisheries Trustee.

The intention of the amendment is to enable the Minister of Fisheries to take precautionary measures to ensure sustainability, if the available information is uncertain.

“Our position is clear. Food on the table for the whanau and our mokopuna must take priority over commercial interests. Ministerial caution when making decisions is in the interests of all sector groups to ensure ongoing sustainability of the resource,” said Te Runanga A Iwi O Ngapuhi representative, Paul Haddon.

Ngapuhi, New Zealand’s largest iwi, has been an integral part of the Hokianga Accord. The forum is dedicated to working on behalf of all New Zealanders to achieve the objective of more fish in the water / kia maha atu nga ika i roto i te wai.

He went on to say that “Making allocation decisions without adequate caution would be counter-productive and in nobody’s long term interests. Our objective is supported by iwi and many recreational fishing groups, both Maori and Pakeha, who make up the Hokianga Accord. Ngapuhi believe that this approach is critical to its substantial commercial interests’ long-term sustainability. We will support measures that aim to improve abundance and achieve environmental sustainability for the wellbeing of all people.”

Mr. Haddon also pointed out that Te Ohu Kai Moana’s argument for the Bill to be dropped is flawed because past allocation decisions have resulted in fisheries not recovering quickly enough, meaning less fish are available when the public fish to feed their families.

“When Maori go fishing for a kai, 99.99% of the time we are categorised as recreational fishers. Iwi working closely with other recreational fishing groups is resulting in a valuable, ongoing working relationship.

“The Hokianga Accord is proof that when it comes to the sea both Maori and Pakeha want the same thing, improved fisheries, a healthy marine environment and increased understanding of the benefits of communities working together.”

A draft submission supporting the intention of the Bill was presented and debated during a recent Hokianga Accord hui held at Oturei marae, Dargaville. The forum expects any changes to the Act to be consistent with the recent High Court kahawai case that confirmed the Minister’s obligation to allow for both customary and recreational fishing interests, to enable people to provide for their wellbeing.

The precautionary approach (an internationally accepted standard) ought to help ensure sustainability and address the impacts of fishing on the aquatic environment.

Appendix Five – Minister’s Response to Accord

6 June 2007

(Received 7 June)

Paul Haddon
Hokianga Accord
c/o Te Runanga a Iwi o Ngapuhi
PO Box 263
Kaikohe

Tena koe Paul

Thank you for your support for the Fisheries Act 1996 Amendment Bill which proposes changes to the Fisheries Act 1996 to better reflect the internationally accepted precautionary approach.

The precautionary approach recognises that in order to achieve sustainable utilisation, decision makers need to take particular care to ensure sustainability where information is uncertain, and not use that uncertainty as a reason for postponing measures to ensure sustainability. The precautionary approach was developed to recognise the additional care that needs to be taken to ensure sustainability under uncertainty, because information about sustainability risks is generally less clear than information about the costs of constraining utilisation and because sustainability damage is particularly difficult to remedy.

The proposed amendments will enhance the capacity of decision makers to take the measures they judge necessary to maintain the long-term potential of fisheries resources. I agree with you that this will be of benefit to all fishers – customary, commercial and amateur – who have a long term perspective and recognise the need to ensure a strong resource base for future generations. I believe that the proposed amendments are consistent with the responsibilities of kaitiakitanga to provide for use today while ensuring the health and productivity of the resource into the future.

I do not believe that the Bill will result in immediate, widespread reductions in TACs. It may lead to some reductions in short-term utilisation in circumstances where information, although uncertain, indicates a sustainability concern. It will help, however, to ensure a more stable and sustainable resource base for fisheries utilisation in the future.

Yours sincerely

Jim Anderton
Minister of Fisheries

Appendix Six – Mana Magazine Article

By Naida Glavish JP
Chair Te Runanga o Ngati Whatua

Kahawai - our taonga

Who ever thought that Pakeha fishermen would ever stand up for Maori fishing rights?

Yet this has been the case for those individuals and organisations that took the Minister and Ministry of Fisheries to court over the allocation of one of our taonga, kahawai.

The judicial review of the Fisheries Minister's 2004 and 2005 allocation decisions for kahawai, commonly known as the Kahawai Legal Challenge, was concluded in the High Court at the end of 2006.

The good news is that in March this year Justice Rhys Harrison ruled that sustainability was the bottom line for fisheries management and that the Minister must take into account the social, economic and cultural wellbeing of the people of Aotearoa.

Ngapuhi, in their wisdom, supported the challenge taken by the New Zealand Big Game Fishing Council and the New Zealand Recreational Fishing Council. The option4 fisheries advocacy group has been instrumental in resourcing and supporting the successful legal action. We can only speculate what the outcome of this process would have been without the input and support of Ngapuhi and option4.

It has been a privilege for Ngati Whatua to support Ngapuhi and we tautoko the very powerful affidavit signed by Te Runanga A Iwi O Ngapuhi (TRAION) Chairman, Raniera T (Sonny) Tau, which said in part,

“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.

“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.

“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.

“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.

“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.”

The affidavit in support of the Kahawai Legal Challenge from TRAION only came about after extensive process and consultation with hapu. The process timeline is now online at <http://kahawai.co.nz/ngapuhi.htm>.

While some of you may question why Pakeha would support Maori fishing we need to consider the reality of our situation.

Ever since the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 was signed, fishing for sustenance (without a customary permit) has been classified as amateur or in legal terms ‘recreational’.

As Maori we own significant commercial fishing rights, all of the customary rights and the majority of adult fishers are Maori. The recreational fishing right was the most ‘useful’ of all the fishing rights because that is the right that we exercise when fishing to put food on the table and to feed the mokopuna.

Even though our mothers taught us never to play with our food, it is up to Maori to acknowledge and protect the ‘recreational’ fishing right so our tamariki and mokopuna can fish in the future.

It is not only about the sustainability of the fish and its environment but also the intellectual property of being able to teach the mokopuna how to fish using traditional methods.

Kia ora Ngapuhi!

Ko tou rourou me toku rourou ka ora ai te iwi.

Appendix Seven – Hokianga Accord Update #1

New Zealand Fishing News
October 2007 edition

More fish in the water for tomorrow's mokopuna

Storm weather warnings weren't enough to keep 60 plus people away from the ninth overnight Hokianga Accord hui held in mid-August. It was an opportunity for the mid north iwi fisheries forum to hear about fishing technology innovations that undoubtedly offer a silver lining for future fisheries management.

Richard Burch, commercial fisherman from Napier, explained that by using a combination of improved net design and altering fishing methods, huge benefits can be gained. Dramatically reducing fuel consumption, juvenile mortality (death rate) and the amount of non-target (by-catch) fish killed while catching more of the target species are the noteworthy outcomes achieved on his vessel the Nancy Glen II.

Following these revelations was the presentation from Paul Barnes, inventor and fisheries advocate, explaining how both commercial and non-commercial fishers can reduce the amount of wastage merely by changing the type of hooks they use to catch fish. The Target Snapper Hook is the result of years of research which has been peer reviewed by independent scientists. As well as increasing the numbers of bigger fish caught, the Target Hook reduces the mortality of gut hooked, undersize fish by over 90%.

These technological advances had the assembled crowd of both Maori and non-Maori shaking their collective head and asking questions as to why these innovations were not being used now.

Answers ranged from reluctance on behalf of the fishing industry to change methods and reduce their by-catch, the value of that by-catch and the lack of incentives for any change. A serious flaw within the current quota management system (QMS) framework is that there are no incentives for fishers to conserve. Meaningful rewards, such as an increase in quota, have to be available before we are likely to see any widespread change.

Both speakers have been invited to present an update at the next Accord hui, on the 9th and 10th November at Waipapa marae, Auckland University.

Ngapuhi Trustee, Te Raa Nehua, discussed the Hokianga Accord's recent submission on the future management of North Island tuna (eels). The submission was sent to the Ministry of Fisheries (MFish) at the end of July after widespread consultation amongst non-commercial fishing groups and is online at http://www.option4.co.nz/Fisheries_Mgmt/eel.htm

Abe Witana, Te Rarawa, updated the Accord on the activities of Te Hiku O Te Ika Forum. This far north forum is under development, and unlike the Hokianga Accord, still has the support of MFish.

Implications of the outcome of the Kahawai Legal Challenge and MFish' *Shared Fisheries* process were discussed as was the upcoming Marine Protected Areas project, a joint venture by MFish and the Department of Conservation.

A full report of the hui will soon be available online alongside previous reports at www.HokiangaAccord.co.nz.

The Hokianga Accord includes Ngapuhi, Ngati Whatua, commercial, customary and amateur fishing interests. The New Zealand Big Game Fishing Council and fisheries advocacy group option4 are staunch supporters of the Accord and their objective of "more fish in the water/ kia maha atu nga ika i roto i te wai".

Appendix Eight – 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 Whitiara Marae hui.
http://option4.co.nz/Fish_Forums/halha5406.htm
- 12/4/06 MFish clarification of their interpretation of input and participation as per section 12 of the Fisheries Act 1996.
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

- 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

Appendix Nine – Hui Agenda

Hokianga Accord Hui 16th and 17th August 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
- Tikanga – Contemporary, affordable and achievable changes we can make to achieve “more fish in the water”**
- 11.15am Breakthrough new trawling technologies achieving significant reductions in juvenile and by-catch mortality and improved energy consumption – Richard Burch, commercial fisherman, trawler skipper and developer of the new approach.
- 11.45am Questions and answers
- 12.00pm Innovative ways non-commercial fishers can reduce unnecessary mortality and improve yield by using smarter hooks and superior net design – Paul Barnes, inventor and fisheries advocate.
- 12.15pm Questions and answer session to above
- 12.30pm **Lunch**
- 1.15pm Habitat is crucial – changes underway to help restore the tuna (eel) fisheries – Te Raa Nehua.
- 1.30pm Questions and answer session to above.
- Shared Fisheries**
- 1.45pm Update from TOKM/NZRFC representatives on the Joint Stakeholder Working Group designed to address Shared Fisheries – Peter Douglas and Keith Ingram.
- 2.00pm Questions and answer session to above.
- 2.15pm What does the Kahawai Legal Challenge judgment mean to fisheries management processes in Aotearoa including the stay granted in response to Ministry and commercial applications - Bruce Galloway
- 2.30pm Questions and answer session to above.
- 3.00pm **Kupa Ti – Team photo**
- 3.30pm Te Ika A Maui, national eel Forum update – Te Raa Nehua.
- 3.45pm Questions and answer session to above
- 4.00pm Update on Te Hiku O Te Ika Forum – Vic Holloway and Abe Witana.

- 4.15pm Questions and answer session to above
- 4.30pm Update on Hokianga Takiwa – Stephen Naera, customary fisheries delegate.
- 4.45pm Questions and answer session to above
- 5.00pm Hokianga Accord submission on sustainability measures for North Island tuna (eel) stocks – Te Raa Nehua.
- 5.15pm Questions and answer session to above
- 5.30pm Break for pre-dinner korero
- 6.00pm **Dinner**
- 7.00pm Update on Marine Protected Area (MPA) standards and classification public consultation process – Alan Fleming, DoC Northland.
- 7.30pm Questions and answer session to above
- 8.00pm “The race for space” – kaitiakitanga versus MPAs - TBC
- 8.15pm Questions and answer session to above
- 8.45pm Kapu Ti**
- 9.15pm Cultural exchange – Kaitiakitanga – Hōne Sadler
- 9.45pm **Karakia-moe (sleep time)**

DAY TWO

- 6.00am **Karakia**
- 7.00am **Parakuihi (Breakfast)**
- 8.00am Non-commercial submissions on MFish sustainability and regulatory proposals for northern fisheries – John Holdsworth.
- 8.15am Questions and answers
- 8.30am Update on “Guardians of the Sea” Charitable Trust – Steve Sangster.
- 8.45am Questions and answers
- 9.00am Hokianga Accord communications strategy – report back – Graeme Morrell and Max Purnell.
- 9.15am Questions and answers
- 9.30am Confirmation of resolutions from Hokianga Accord – group discussion.
- 9.45am **Kapu Ti**
- 10.00am Evaluation of Hui
- 12.00pm **LUNCH – Whakawatea (farewell)**

Appendix Ten – Glossary

September 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.
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D

DoC	Department of Conservation
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F

FLA1	Flatfish/flounder management area 1 Tirua Point (north Taranaki, Mokau) to Cape Runaway (East Cape).
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H

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

I

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

J

JSI	Joint Stakeholder Initiative – <i>Shared Fisheries</i> process
JSWG	Joint Stakeholder Working Group – Shared Fisheries

K

Kai	Food
Kaimoana	Seafood
Kaitiaki	Guardian, custodian
Kaitiakitanga	Guardianship/trusteeship
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 <i>Hakari</i> (banquet) and hospitality provided. This was a reciprocal relationship, which could be extended by the exchange of gifts. (Kaitiakitanga paper, Maori Marsden, 1992, p20.)
Manaakitanga	Behaviour that acknowledges the mana of others as having equal or greater importance than ones own, through the expression of aroha, hospitality, generosity and mutual respect. (Prof. Whatarangi Winiata)
Manuhiri	Visitors, guests
Maoritanga	Maori culture

Marae	Ancestral meeting ground
Mātaitai	Reserve
Mauri	Life force
Mihi	Greeting
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
Reo	Voice, language
Ringa wera	Kitchen hand(s)
RIO	Registered Iwi Organisation
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, taitamariki	Children, youth
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 Cape Reinga

“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
Tikanga	Principles, way of doing things
Tikanga Maori	Maori principles, way of doing things
Tipuna/tupuna	Ancestor
Tino rangatiratanga	Authority
Toheroa	Shellfish
TOKM	Te Ohu Kai Moana, the Treaty of Waitangi Fisheries Commission
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