

Meeting Report
Shared Fisheries Policy Process
21 February 2006

Prepared by Trish Rea
27 February 2006

- MFish:** Robin Connor, Senior Policy Analyst, Wellington
- Recreational:** Keith Snow (Orua & Wattle Bay Ratepayers Assoc), Brett Oliver (option4), Richard Baker (NZBGFC), Kim Walshe (Akroyd Walshe), Paul Barnes (option4), Trish Rea (option4), Scott Macindoe (option4).
- Duration:** 2.0 hours
- Venue:** Almorah Place, Newmarket, Auckland
- Objectives:** Define the problems associated with shared fisheries.
- Discuss what other problems need to be addressed.
- Develop options for a better management framework.

Introduction

Scott Macindoe opened the meeting with a welcome to Robin Connor and everyone present.

From the outset it was important we understood what the Ministry's objective of the Shared Fisheries Policy Development process was. If it was the same objective as the *Soundings* process, as articulated by Jenni McMurrin at a public meeting in the year 2000, then there was no point in continuing.

The objectives of *Soundings* were to:

- Cap the recreational catch
- Avoid compensation issues for the Crown

Robin stressed that he had not been informed that the objectives expressed during the public consultation phase of *Soundings* were Ministry policy, and that he had never seen those objectives published in any Ministry document.

At this stage of the process his team had been tasked with analysing the problems associated with the current framework and develop options to improve the management of shared fisheries. Fiscal considerations were not part of the analysis process.

However, it was notable that at no stage had Ministry refuted those objectives, considering we have published them for the past six years.

There are many outstanding issues about the unfairness of the current system, how it has evolved and the impact mismanagement has, and is, having on non-commercial fishing interests. If the Ministry of Fisheries was looking for a fiscally neutral solution then it would be a sign the Ministry have no goodwill and no willingness to undo those injustices.

Meeting Objective

Robin was not at this meeting to discuss integrating recreational fishers into the Quota Management System (QMS). He was clear the QMS is a commercial management program.

Case Studies

The absence of case studies in Ministry proposals was highlighted as being a demonstration of poor process. With the stated intention of achieving management changes through the implementation of Fisheries Plans it was important to have some meaningful reference point. The current crop of “proof of concept” Fisheries Plans were meaningless.

Southern Blue Whiting, Foveaux Strait oysters and the Coromandel scallop fishery had no relevance to problems associated with shared fisheries. Snapper 8 (SNA8), snapper 2 (SNA2), Hapuku (HPB), Flounder 1 (FLA1) and grey mullet 1 (GMU1) would be more relevant to this allocation discussion.

Some benefits of case studies:

- Study imbalance quota holdings
- Section 28N rights
- Adaptive Management Programmes

Reallocation

The Fisheries Act 1996 is explicit in management objectives, section 13 states fisheries are to be managed at or above the level that can produce Maximum Sustainable Yield (MSY), or moved towards that level, of Bmsy. After twenty years of the Quota Management System (QMS) the Ministry had not achieved this objective in many of our fisheries. i.e. SNA8 is at half this level.

It is in the fishing industry’s interests to have fisheries below MSY because they can still maintain their catches. In a rebuilding fishery the recreational catch would increase with the increasing biomass, an undesirable benefit from a commercial fishers perspective. The Ministry accepts that recreational catch would increase if fisheries were managed at a higher level.

Conversely, in a declining fishery recreational catch drops as the commercial sector fishes the biomass down. This constitutes a reallocation from the non-commercial sector to commercial fishers. This initial reallocation is not acknowledged in any

management decisions and is a fundamental problem that needs to be addressed. The recreational sector want the reallocation reversed and fisheries managed at or above Bmsy, as a first step.

Whether Fisheries Plans or some other mechanism is used to implement management objectives, one of the outcomes of this process will need to be the delivery of a firm allocation guide, or future planning will stall on this issue.

Additionally, opening the door to eventual legislative change leaves the recreational sector vulnerable to domination of this Shared Fisheries Policy Development process by commercial interests, as they have all the rights and resources.

Problem Definition

Before discussion of the key issues and challenges as set out in the document provided, 'Notes for Meeting with Recreational Fishing Forums and Key Stakeholder Groups January-February 2006' (Appendix One) commenced it was noted that the an important issue of capacity and structure to represent recreational interests was raised at the previous week's meeting of the Recreational Fishing Ministerial Advisory Committee (RFMAC).

Another major concern is that the Ministry have accepted the fishing industry's argument that if reductions are to be made then both commercial and recreational catch needs to be reduced proportionally. The threat of having to pay compensation seems to have influenced the Ministry's advice and subsequent Minister's decisions; the most recent example of this is the snapper 8 decision¹. If Ministry maintain their rigid stance on having a fiscally neutral solution to the allocation issue then it would inhibit advancement of this process.

The outstanding issue to be addressed is that there was never a proper process to set the initial allocations and Mfish have already acknowledged this. Unless this is addressed then progress is unlikely.

There is also a problem of no incentives for either commercial or recreational fishers to conserve fish. The Ministry's proportional reduction of catches in SNA8 failed to take into account the conservation efforts made by the recreational sector. There has been a 26% voluntary reduction in catch by recreational fishers since 1995 through increased minimum size limits, reduction of hooks on longlines and daily bag limit reductions.

On the other hand, commercial fishers are using trawl gear designed to catch 25cm snapper. The same gear is catching red gurnard and leatherjackets which usually only grow 20-30 cm². No account is made of the significant number of undersized snapper caught in the same trawl and discarded.

It is apparent that management needs to be more responsive to maximise good recruitment years and have the ability to make selective changes to ensure those

¹ http://option4.co.nz/Fisheries_Mgmt/snapper8.htm

² Common New Zealand Marine Fishes, 1998, C.Paulin.

recruitment cycles are protected from overfishing, are allowed to grow and replenish depleted fisheries.

The management objective of MSY versus other strategies including, Maximum Economic Yield (MEY) from a higher biomass, or optimal yield, also needs to be discussed in more detail.

Robin was very keen to go through the key issues and challenges that had been identified, the fundamental concepts and not so much management tools that would be an outcome of more discussion after the actual problems had been identified.

From our perspective it was important that the history of the fishery is taken into account. There was some urgency to introduce the QMS in the 1980's to rebuild severely depleted inshore fisheries to MSY. Commercial fishers were compensated to fish to sustainable levels, a total over \$128 million of which over \$40 million applied to inshore fisheries. We have had twenty years of a quota system and the rebuild objective has not been met.

Added to this is the reality that recreational catch has been unprotected from the impacts of commercial fishing. Moyle's Promise, which we still maintain is valid, was a means of protecting what was, and is, an inexplicit portion of the fishery. It has only been the abandonment of Moyle's Promise that has enabled proportional reductions to be made.

Ministers of Fisheries are consistently denied information that would give them a complete scenario. Last year's decision for SNA8 is an excellent example. The Minister was not advised that recreational fishers had conserved between 800 and 1600 tonnes of snapper since 1995 to assist in the rebuild. Nor was he reminded that commercial fishers had taken over 6,000 tonnes in excess of their initial allocation. If deficient advice were being given to Ministers now we would need some sort of guarantee that all the important details are given to the Minister to enable him to make a balanced decision based on all the facts, in the future.

A positive outcome from this process is the possibility to include a more specific rebuild timeframe in a new management framework.

The recreational sector also wanted Ministry to manage fisheries according to the Fisheries Act, at or above a level that will produce MSY. Important shared fisheries should be managed at a level well above MSY to allow for the time lag between acknowledging a problem in a fishery and making any changes. This delay can be anything up to ten years.

Throughout the Ministerial Consultative Group (MCG) process and the Reference Group process, following *Soundings*, recreational representatives unsuccessfully asked for the participation of tangata whenua, MFish science and operations staff to be part of the discussions. It was important to have these groups involved in any future discussions, without their involvement progress was unlikely.

Ministry do not believe the current framework provides for the aspirations of all interests and are looking for criteria to assist MFish and the Minister in his decision-making role.

It seems the Ministry and Minister uses every opportunity they can to tout the QMS as the world's leading fisheries management regime. This is particularly galling to the recreational sector as we have many fisheries well below what the legislation requires and therefore these fisheries do not provide for our social, cultural and traditional needs.

It is not clear what the fiscal constraints of this process are. We need to know what they are before we can commit to involving ourselves in this Shared Fisheries Policy Development process. Compensation has already been paid out to commercial fishers during the introduction of the QMS, the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 resulted in compensation to Maori, it is unrealistic to expect a fiscally neutral solution to recreational fishers' concerns.

Fisheries resources are precious. If we have had some of our fish taken off us unjustly then there may have to be a fiscal response to reverse that injustice, if it can be clearly demonstrated.

Compensation

The decision for proportional reductions in snapper 8 could have been used as a case study had the Ministry wanted to clarify the legal boundaries of when compensation is due during a reallocation process.

MFish could have chosen to reduce commercial catch only and leave the recreational allowance at 360 tonnes. Under threat from industry that any reallocation will be challenged in court, Ministry succumbed and reduced the recreational allowance by 50 tonne. This was a missed opportunity to clarify the law and would not have been hugely expensive exercise, if proven wrong, considering the tonnage involved.

There is only one conclusion we can draw from this scenario and that is that Ministry have no intention of reallocating fish back to the recreational sector or paying compensation to address past injustices.

Had the Ministry advised the Minister of the true cause of the decline in SNA8 and the failure to gain a rebuild then his decision could have been quite different. Their failure to also advise on the conservation efforts of recreational fishers, that over 26% of their catch had been conserved, was also a mistake. The Ministry could easily have given the Minister one option to rebuild that fishery, to cut commercial catch only. The Ministry have not been fair in this process.

The public are clearly demonstrating their concern for our fisheries by conserving fish voluntarily. The SNA8 decision crushes any incentive to conserve fish, as those efforts are not recognised during allocation processes. Ministry personnel have acknowledged this lack of incentive at a recent hui of the Hokianga Accord. This is a serious flaw in the current system.

Ongoing Process

While Robin's objective for this process is evident, we also need to be clear about what the Ministry's objective is. Robin and the recreational sector need to ask for, and receive, an unambiguous answer. The answer will determine whether recreational representatives will continue to participate in the policy development.

Both Robin and Lindie Nelson are working through the analytical process to determine if progress can be made, they do not have any pre-conceived ideas and are open to suggestions from all sectors.

Recreational fishing representatives would welcome the opportunity to meet again to discuss the Shared Fisheries Policy Development process. An invitation was extended to Robin to be at the next Hokianga Accord hui on the 6th and 7th April to discuss the issue.

Collectively we have the capacity to work through this issue with Ministry. We do not have a lot of resources but are willing to get involved if the process is meaningful.

Conflict between sectors is continually being promoted by the Ministry as being the reason for the need to instigate a new allocation policy. Our conflict is not with industry; it is with the Ministry and their flawed interpretation of the law and implementation of the QMS. MFish perceive the conflict as a conflict of interests.

It was surprising the Ministry were prepared to conduct this process knowing full well that the Kahawai Legal Challenge is due to be heard in the High Court from June 6th. Additionally, the December 2005 report³ given to the Minister did not mention the outcome of the case could have implications for future fisheries management decisions. The Ministry's willingness to continue without the benefit of a decision from the judiciary was surprising.

Ministry were asked if a policy definition of section 21 of the Fisheries Act 1996 existed. We are well aware there are definitions for sections eight to thirteen of the Fisheries Act. Along with a definition of section 21 representatives also asked for the final report from project X, both documents were required urgently.

Recreational representatives made it very clear we were not interested in having our recreational fishing rights integrated into a property rights regime such as the QMS. Ministry do not have that ambition either.

Conclusion

Those at the meeting agreed that another discussion with Robin would be beneficial. If we do not continue to be involved in the development stage we run the risk of not having our concerns included in the process as it moves on.

The Ministry's objectives for this process needs to be clearly articulated, but haven't been as yet. Recreational fishers need to be assured that the Ministry's objectives are not the same as they had previously, to cap the recreational catch and avoid

³ Shared Fisheries Policy Development report, Ministry of Fisheries 16 December 2005.

compensation issues for the Crown. If they remain the same then there is no point continuing to be a party to this process.

The option4 team have been focussing their efforts on the allocation issue for the last six years and cannot afford to have the message misinterpreted by others. There is little faith that the Ministerial appointees to the RFMAC or the regional recreational forums could deliver the level of expertise required to have all recreational fishers concerns addressed.

Historic grievances had been settled for commercial fishers at the introduction of the QMS, for Maori through the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, so this process needs to address grievances held by the recreational sector.

Representatives could continue to argue over shares in a diminishing resource but, from a recreational fishers perspective, it was advantageous to institute changes that would contribute to the increased biomass of our shared fisheries. There are many effective ways to reduce fishing related mortality by all sectors, the framework to provide for these tools need to be an outcome of this process.

Finally, the proposal to use Fisheries Plans as a mechanism to implement management changes is unrealistic if the allocation issue is not resolved fairly.

Overall, this was a positive meeting and was an opportunity to present the perspective of recreational fishers to the leader of the Shared Fisheries Policy Development process. Another meeting will be convened within the next month to continue discussions.

In the meantime the snapper 8 decision needs to be reviewed as it contains most of the concerns option4 have about current management and the allocation process. The documents requested also need to be analysed to inform the debate as we go into the development phase of the public discussion document, due for release at the end of June this year.

Appendix One

Notes for Meetings with Recreational Fishing Forums and Key Stakeholder Groups January-February 2006

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Shared Fisheries Policy Initiative

- MFish has begun a new process to improve policies for management of shared fisheries.
- Shared fisheries are those in which both commercial and non-commercial fishers have significant interests and share in the total catch.
- An emphasis on shared resources reminds us of the need to acknowledge the range of interests involved, and the need to accommodate differing objectives and values in the management framework.
- Currently there are ongoing conflicts over shared fisheries, dissatisfaction with management among stakeholders, and difficulties for MFish and the Minister in administration of the system.
- The new initiative will build on previous work (Soundings and Ministerial reference groups).
- The resulting policy will provide a framework – a set of criteria, processes, and management tools that can be applied to particular fisheries, generally through the use of fisheries plans.

We are currently seeking stakeholder views on the approach being taken as indicated by the key challenges outlined on the following page (have we identified the problems correctly), and suggestions for workable options to address these issues.

By the end of June this year we hope to have a public consultation document on options released, followed by a four month submission period. However, the earlier we have stakeholder input for the development of those options, the greater an influence it is likely to have on final outcomes. So we encourage you to contribute actively at this meeting and in the coming weeks and months to the development of policy options to address the current issues of concern in the policy framework for shared fisheries.

Key Issues and Challenges

1. Criteria and processes for setting the TAC
 - Need to strike balance between commercial and non-commercial values – that is, yield on one hand, and catch-rates/fish-size on the other
2. Increased certainty in allocation of TAC (setting and adjusting customary, recreational and commercial shares) while maintaining flexibility for responding to changing demands (e.g. population)
 - Important to secure benefits of the QMS through predictable and fair processes of adjustment
 - System still needs flexibility to be able to adjust shares in an orderly and fair way
 - Increased certainty and reduced conflict will encourage cooperative approaches to managing shared fisheries
3. More accessible management tools to allow for the enhancement of non-commercial values, for example
 - to provide for separation of commercial and recreational fishing effort in key areas or fisheries
 - to provide for increased local participation in management where interest and values are high
4. Effective management measures to ensure there are appropriate incentives for commercial and recreational take to be maintained within their share
 - Especially important in fully developed shared fisheries
5. More cost-effective and reliable information on non-commercial catch and participation rates
 - Knowing the extent of non-commercial fishing is important for all of the above issues, especially 1 & 2
 - Important to monitor (and respond to) changes in demand
 - Participation rates are a critical unknown factor

Are there other key challenges that we have missed?

Do you have any suggestions on how we can address any of these issues?

Where to from here?

- Preliminary discussions with key stakeholder groups – NOW
- Release of public discussion document ~June 2006
- Period for public feedback - 4 months
- Government decisions on final policy ~June 2007
- Legislative change, Select Committee process ~mid-2008.

We welcome your input into the policy development process at this important stage, and encourage stakeholder groups and members of the forum to contact the project team at any time to discuss the issues. If you wish, a further discussion could be held at the next meeting of the forum.