

## **option4 Update #148**

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### **Back to the future**

Pete Hodgson was one of the most insightful fisheries Ministers we have had over the past decade, yet even he did not envisage the debate that was to erupt after the *Soundings* reform proposals were released publicly in mid-2000.

That debate changed the landscape of recreational fisheries representation; it spawned the creation of option4 and, most importantly, highlighted how the Minister provides for recreational, Maori customary and commercial fishing interests.

More clarity of our rights and interests, and the Minister's discretionary powers has come out of the 2009 Supreme Court Kahawai decision, all to the benefit of the New Zealand public, irrespective if you fish or not. (Interestingly, a recent poll found over 40% of households had at least one fisher.)

### **What was so wrong with Soundings?**

The Rights Working Group, comprised of MFish officials and New Zealand Recreational Fishing Council representatives, developed options 1, 2 and 3 in *Soundings*. Submissions were requested, public meetings were held and the unprecedented public response surprised even the seasoned campaigners amongst the recreational sector.

The message was clear – no to licensing and a proportional share, as both were designed to constrain the ability of Kiwis to freely fish in the sea for food.

Licensing is often promoted as simply a fundraising tool, but even the latest Australian proposals recognise that it is an effective means of reducing public participation in fishing. This is not an outcome we want considering the exponential growth in obesity and diet-related health issues in New Zealand.

Proportional shares in a fishery means that the Minister would set the Total Allowable Catch (TAC) and, after making an allowance for Maori customary interests, he would split the remainder between recreational and commercial interests, depending on their share. Both sectors would be obliged to fish within their limits.

For example, in some fisheries commercial and recreational proportions could be equal so the split would be 50/50, in others commercial may have a majority interest so the ratio could be 70:30, conversely it could be 20:80 to recreational. These proportions would be retained irrespective of whether the TAC increases or decreases.

### **An administrative dream**

This proportional model is very attractive to quota holders because that would make their Total Allowable Commercial Catch (TACC) a guaranteed portion of the Total Allowable Catch - a far superior right compared to what they have now, which is an allocation that varies with changes in abundance and the TAC.

It would also put industry in a controlling willing-buyer/willing seller position where they could charge for any quota required to cover unexpected recreational harvest, if they were to sell at all.

For the Ministry, proportional allocation would be an administrative dream. However, this is not the reality.

### **Positive outcomes**

In 2009 the Supreme Court confirmed the Minister has discretion to manage fisheries to provide for specific interests, this could be either commercial or non-commercial. Subsequently, Crown Law sanctioned the Minister's decision to provide twice the legal minimum abundance of kahawai for the purpose of enhancing public fishing. And notably, commercial interests did not seek a judicial review.

Lately there has been increasing numbers of kahawai in many regions, but it is difficult to assess how much of this can be directly attributed to the kahawai litigation.

Fortunately there are three certainties:

1. The Kahawai Legal Challenge has been the most effective in providing clarity about how our non-commercial interests ought to be allowed for;
2. The Minister has the legal clout to provide for abundant fisheries and therefore our well-beings; and
3. Any aspirant that seeks to change the nature and extent of our right to fish and feed our kids without due consultation with the public and tangata whenua should expect to have their proposals thoroughly and publicly scrutinised.

[www.option4.co.nz](http://www.option4.co.nz)