

## Appendix Seven – Hokianga Accord Rahui Support Submission



**“More fish in the water/Kia maha atu nga ika ki roto i te wai”**

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Dear Randall

### **Submission in support of the proposed temporary prohibition on all fishing methods in Maunganui Bay (Deep Water Cove), Bay of Islands**

The Hokianga Accord, as the mid north iwi fisheries forum, supports the proposed temporary prohibition on all fishing methods, for a period of two years, in Maunganui Bay (Deep Water Cove), in the Bay of Islands. We tautoko [support] and congratulate Ngati Kuta and Patukeha ki Te Rawhiti in their effort to achieve "more fish in the water/kia maha atu nga ika ki roto i te wai".

This temporary closure request is made under section 186A of the Fisheries Act 1996 and, if approved, will provide statutory support for a customary rahui placed over Maunganui Bay in March this year.

Previous consultation carried out by Ngati Kuta and Patukeha ki Te Rawhiti indicates local, community support for the temporary closure initiative and the scuttling of the ex-frigate Canterbury within the Bay in 2007. They consider the prohibition will allow fisheries resources to establish on the Canterbury. There is already increased abundance in the area and a number of research programmes are underway to monitor the changes.

The Hokianga Accord urges the Minister of Fisheries, Phil Heatley, to:

- ⇒ Approve the s186A temporary closure application by Ngati Kuta and Patukeha ki Te Rawhiti;
- ⇒ Provide resources for the ongoing effort to increase abundance of inshore fish stocks; and
- ⇒ Support customary management tools as a means of achieving active, local management of important areas within the Bay of Islands and the expression of kaitiakitanga.

In doing so the Minister will be giving recognition to the infinite relationship both Ngati Kuta and Patukeha ki Te Rawhiti have with Maunganui Bay and the wider area.

## Temporary closures

Section 186 of the Fisheries Act 1996 allows for temporary closures and method restrictions to better recognise and provide for the use and management practices of tangata whenua in the exercise of their non-commercial fishing rights, by improving the availability and/or size of fish, aquatic life or seaweed, or recognising a customary fishing practice in the area concerned.

These closures can apply for a maximum of two years and can be renewed after further consultation. Temporary measures apply to all fishermen - commercial, customary and amateurs. Currently there are three temporary closures in place, with two of those around the North Island.

Members of the Hokianga Accord endorse the use of a Section 186 rahui for Maunganui Bay to rebuild fish stocks in this area at this time. Future management measures for the area will be considered during this rahui.

## Statutory obligations

Te Tiriti O Waitangi 1840, the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (Settlement Deed) and Fisheries Act 1996 all recognise special rights and privileges tangata whenua have in relation to non-commercial fishing interests and marine area management.

In addition to the Crown's obligations to tangata whenua as set out in section 10 of the Settlement Deed, there are others related to sections 33 and 36 of the Fisheries (Kaimoana Customary Fishing) Regulations 1998 and sections five, 12 and 21 of the Fisheries Act 1996.

The Fisheries Act's purpose (s8) and principles in sections 9 (environmental) and 10 (information) underpin fisheries management in Aotearoa.

Section five of the 1996 Act directs any person making decisions under the Fisheries Act to act in a manner consistent with the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, and New Zealand's international obligations relating to fishing.

Section 12 of the Fisheries Act requires the Minister to consult and provide for the *"input and participation"* of tangata whenua having a non-commercial interest in the fish stock or the effects of fishing on the aquatic environment in a specific area. Section 12 also specifies that the Minister shall *"have particular regard to kaitiakitanga"* when making sustainability decisions.

Section 21 of the Fisheries Act directs the Minister to 'allow for' Maori customary non-commercial and recreational fishing interests when setting or varying the total allowable commercial catch (TACC) for a fish stock.

Section 174 of the Fisheries Act sets out the objects of sections 175 to 185, which are to better provide "for the recognition of rangatiratanga and of the right secured in relation to fisheries by Article II of the Treaty of Waitangi".

The Fisheries (Kaimoana Customary Fishing) Regulations 1998 (Kaimoana Regulations) deal specifically with gazettal of rohe moana, kaitiaki, the issuing of customary permits and reporting, enabling kaitiaki to participate in sustainability measures and ability to institute mahinga mataitai.

## Kaitiakitanga

Kaitiakitanga is the ethic of guardianship in accordance with tikanga Maori. It is guardianship in the widest sense and comes from Maori's knowledge and connectedness to the land, sea, and life within it.

All fisheries sustainability decisions, marine protection tools and mechanisms are underpinned by kaitiakitanga in law. Through this tangata whenua have access to rahui, taiapure and mataitai.

Kaitiakitanga is a tried and true way of nurturing resources in Aotearoa to ensure there is abundance and a healthy marine environment for future generations to enjoy. Kaitiakitanga is conservation without the confiscation usually associated with marine reserves.

Application of kaitiakitanga principles and practical management measures in Maunganui Bay and other areas have the following advantages, it:

- ⇒ Enables the Crown to fulfil its ongoing obligations to tangata whenua;
- ⇒ Does not create new grievances, which could prove costly in the future;
- ⇒ Enables management flexibility – if a fish stock in a particular area needs to recover and multiply then a rahui (temporary ban) and/or a tapu (spiritual ban) can be imposed until abundance is restored;
- ⇒ Is inclusive, by encouraging communities, both Maori and non-Maori, to work together positively;
- ⇒ Addresses the real issue of people's impact on the environment;
- ⇒ Enables local solutions to local problems, without permanent area closures;
- ⇒ Recognises the social and cultural values of local communities; and
- ⇒ Is beneficial for the majority of New Zealanders with an interest in the area.

### **Public education and awareness**

Widespread public support for kaitiakitanga will only come through people's understanding of the spiritual, cultural and legal basis of guardianship/stewardship. There is clearly a need for a public awareness campaign to explain customary area and fisheries management tools. The minimal, and quite rushed, approach to due process and consultation by the Ministry of Fisheries on this proposal is disappointing and should not be used as a model for the future.

In the early 1990s the public lost their statutory right to manage local areas. At the time many people did not realise the lost potential brought about by changes to the Fisheries Act. Nowadays, the only way local communities can actively participate in meaningful local marine management is through the use of customary tools.

When implemented with community support customary management tools can be successful in bridging gaps in cultural and social issues. It can also lead to greater understanding in the community because implementation of these mechanisms encourages the development and sustenance of an ongoing relationship between kaitiaki [guardians] and local, often non-Maori, people. These are the sort of outcomes that should be supported by the Ministry.

If an equal amount of effort was put into promoting customary management tools as there is in promoting marine reserves local communities would be empowered to actively work together in a constructive manner, without having to suffer the division commonly associated with marine reserve proposals.

If this temporary closure application fails due to adverse public reaction the Hokianga Accord will expect the Minister and Ministry of Fisheries to engage in widespread educational initiatives that will increase awareness and understanding of both the Crown's ongoing statutory obligations to Maori regarding non-commercial fishing interests and the potential benefits of implementing customary management measures.

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On behalf of the Hokianga Accord