

option4 Update #108

NZ Fishing News December 2008 edition
November 2008

option4 has received an incomplete response from the Ministry of Fisheries in regards to the Official Information Act request for background information on the proposal to amend section 13 of the Fisheries Act 1996. Some, but not all, of the requested documents were released.

Only three documents were provided prior to the amendment being passed through the parliamentary process. The remaining copies were received in the same week the Fisheries Act 1996 Amendment Act 2008 took effect.

These documents have now been reviewed and a timeline has been compiled online at http://option4.co.nz/Fisheries_Mgmt/s13timeline.htm.

As joint submitters option4, the Hokianga Accord and the New Zealand Big Game Fishing Council still hold major concerns about the amendment process and the new section 13(2A).

Both the fisheries Minister and Ministry acknowledged the need to have Maori involved in the amendment process however, due to the urgency they considered there would not be time to consult with all iwi. Instead, they would discuss the amendment with Te Ohu Kaimoana, Te Puni Kokiri and the fishing industry. Maori non-commercial fishing interests were not formally advised of the amendment process until four months later, in late July 2008.

Maori non-commercial fishing interests, both customary and recreational, could have expected to be involved early in the amendment process given the Crown's ongoing statutory obligations contained in the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and the Fisheries Act.

A Transitional Provision relating to consultation was included in the Amendment Bill and subsequent Act. This is significant acknowledgement by the Crown of their statutory obligations to provide for the 'input and participation' of tangata whenua in fisheries management and have particular regard to kaitiakitanga, as per section 12 of the Fisheries Act. The passage of this transitional clause has enabled the Minister to sidestep his otherwise mandatory obligations under section 12.

Of particular interest to all non-commercial fishers, both Maori and non-Maori, is the purpose of the Fisheries Act, which is sustainable utilisation of fisheries to enable people to provide for their social, economic and cultural wellbeing. In part this means having sufficient numbers of acceptable quality fish in the places that people normally fish for food.

Originally the objective of the proposed amendment was to achieve this purpose however, in the period from April to June the focus changed. The new objective was to achieve maximum sustainable yield in a fishery.

Maximum sustainable yield is not a customary concept whereas kaitiakitanga is. The question remains as to whether a focus on maximum yield may be at odds with the 1992 Settlement Deed, by potentially allowing the depletion of resources below a level that both enables tangata whenua to exercise their customary rights and recognises their traditional interests in fisheries.

Satisfying customary interests in fisheries and enabling the meaningful exercise of these traditional rights requires diversity, abundance, the ability to exercise authority over human activity and a balance in nature.

From a non-commercial Maori customary, traditional, environmental and recreational fisher's perspective, it is inappropriate to exchange these values for maximum sustainable yield.

http://option4.co.nz/Fisheries_Mgmt/documents/s13customary.pdf