

## ***Te Huapae Mataora mo Tangaroa – The Future of Our Fisheries, Consultation Document***

### ***Te Ohu Kaimoana’s Preliminary Analysis***

The following table provides a preliminary analysis of the Future of Our Fisheries Consultation Document released by the Ministry for Primary Industries. Please note that due to time constraints this analysis is based on the information presented in the summary document only. A full considered analysis of information contained in all volumes will be provided to iwi from Te Ohu Kaimoana in due course.

Te Ohu Kaimoana notes that at no time was it approached to provide input or a perspective into the proposals regarding their possible impact on the Deed of Settlement and is unaware of any iwi being approached for feedback on any of the proposals contained in the documentation prior to their public release.

<b>Ministry for Primary Industries’ Vision / Objective</b>	<b>General comments/concerns:</b>
<i>Vision: abundant fisheries and healthy aquatic environment that provide for all our people, now and in the future.</i>	<ul style="list-style-type: none"> <li>• <b>The vision and objectives have been considered against what Te Ohu Kaimoana consider are the Crown’s obligations in relation to the Deed of Settlement.</b></li> <li>• Aspects of the proposals to implement the vision undermine the Government’s obligations to Maori under the Deed of Settlement and Fisheries Settlement Act;</li> <li>• Section (k) of the preamble to the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 states “the Crown recognises that traditional fisheries are of importance to Māori and the Crown’s Treaty duty is to develop policies to help recognise use and management practices and provide protection for and scope for the exercise of rangatiratanga in respect of traditional fisheries”. The Settlement shows that traditional fisheries included commercial aspects;</li> <li>• The document ignores the full scope of the Settlement when referring to the Crown’s obligations. While it acknowledges the settlement provides for iwi commercial interests in fisheries, it suggests that the Crown only has partnership with “tangata whenua in relation to the management of customary (non-commercial) fishing”. Māori commercial interests under the Settlement are likely to be negatively affected by a number of proposals in the document;</li> <li>• The impact on the Settlement must be taken into account and <b>agreed with iwi</b> prior to proposing changes.</li> </ul>
<i>Objective 1: Abundant fisheries in our seas and healthy aquatic system.</i>	<ul style="list-style-type: none"> <li>• Proposals appear to ignore the greatest negative effects on the aquatic environment, e.g. sedimentation, pollution of waterways etc that affect both the environment and the abundance of inshore fisheries;</li> <li>• Commercial fishers appear to be the scapegoat for any adverse impacts on the aquatic environment, with no consideration or questioning of the effect of recreational fishing on the aquatic environment (and on fish stocks).</li> </ul>
<i>Objective 2: Everyone plays their part in managing New Zealand’s shared aquatic resources.</i>	<ul style="list-style-type: none"> <li>• Proposals set out in the summary document ignore the responsibilities of the recreational sector and appear to put all the risks and costs on the commercial sector</li> </ul>
<i>Objective 3: Everyone can share fairly in the benefits of our aquatic resources.</i>	<ul style="list-style-type: none"> <li>• What is considered to be “fair” needs to encompass respect for existing Treaty settlements and property rights in the allocation of rights to the Total Allowable Catch (TAC);</li> <li>• Proposals for shared fisheries do not reflect these matters;</li> <li>• Changes to the “shares” of the TAC should only be supported if subject to the <i>a priori</i> rights of Māori under the Treaty, the Deed of Settlement and the Settlement Act.</li> </ul>
<i>Objective 4: The Fisheries Management System is widely trusted in NZ and internationally.</i>	<ul style="list-style-type: none"> <li>• Trust needs to be based on robust information and evidence. There is concern that some aspects of the proposals appear to be driven more by public pressure and politics than the need to obtain evidence about fisheries sustainability.</li> </ul>

Strategic Proposal	Options	Comments/concerns
<p><b>Strategic Proposal 1: Maximising value from our fisheries</b></p>	<p>Addressing discarding of fish</p>	<ul style="list-style-type: none"> <li>The purpose of the current Fisheries Act 1996 is to achieve sustainability while allowing utilisation. There is no principle in the Act about waste. Reducing waste may be a commonly held value (including amongst Māori) but there is no requirement to minimise it under the Act. The options must be applied in a way that best achieves the Act’s purpose. The current sustainability limits are based largely on landed catch. At current settings, in which the stocks are continuing to provide stable levels of landed catch, there are unlikely to be any significant sustainability issues resulting from current discarding. Nevertheless, we have been advocating for discarding to be addressed in a comprehensive manner for some years and undertaken trials to provide solutions. We recognise discarding should be investigated and practical solutions to sensibly minimise it developed and implemented. It must deal with causes not symptoms and provide comprehensive solutions. This may require adjustment of Total Allowable Commercial Catches (TACCs), and / or incentives and penalties to address such issues. Fisheries management can be improved with reporting of all catch of QMS species, including any live fish returned to the sea. Non-QMS catch should also be reported. This will provide better information about the fishery.</li> </ul>
		<ul style="list-style-type: none"> <li>Option 1: No discarding: From a commercial perspective this is impractical, and overly costly for the benefits obtained;</li> <li>There would be significant additional costs in bringing all catch to shore and then disposing of it – there will be detrimental effects for sustainability in killing additional fish rather than current practice of releasing live fish that can be safely returned to the sea, there will be no significant additional sales of fish, no economic market for additional fish-meal, but substantial costs of dumping waste into landfills that could otherwise have been part of its natural ecosystem.</li> </ul>
		<ul style="list-style-type: none"> <li>Option 2: Return of live fish to the sea if likely to survive: better than option 1 but will still have significant costs as above with little to no benefits.</li> </ul>
		<ul style="list-style-type: none"> <li>Option 3: Return of live fish to the sea if likely to survive plus dead fish of low economic value. This will require a transition programme to management settings based on improved information and will still have significant costs to industry.</li> </ul>
	<p>Encouraging and enabling innovative harvest</p>	<ul style="list-style-type: none"> <li>The fishing industry, particularly Māori settlement companies, has undertaken initiatives to develop new harvesting technologies. Regulatory barriers should be removed and support provided for implementing improved harvesting technology.</li> </ul>
	<p>Maximising the value of shared fisheries</p>	<ul style="list-style-type: none"> <li>Under this proposal there is a <b>high risk</b> that the value of iwi settlement quota will be reduced if the Government decides to reallocate some of the TACC to other sectors;</li> <li>The proposal is based on a contentious model for shared fisheries. It suggests the Government can and should reallocate the current share of the TAC between sectors for what it considers to provide the maximum value for the fishery. While the Government has powers to alter allocations under the present legislation it can only be done when making sustainability decisions;</li> <li>The maximised value of shared fisheries can only be achieved through dynamic collaboration and trade between the sectors, not through regulation by Government. Each sector can manage for its desired levels of abundance if each sector receives and takes responsibility for a specific share that has clear limits, all sectors collaborate to agree an overall level of abundance over time; and each sector manages the activities of its members to ensure their fishing activity takes place within their sector limits;</li> <li>The proposal is a major departure from the kind of regime we consider appropriate. It suggests Government could arbitrarily alter the allocations that have been attributed to each sector. Any transfer of catch (or reduction on a sector’s share when the TAC is increased) from the commercial to the recreational sector by Government would significantly: <ul style="list-style-type: none"> <li>alter the incentives under the QMS for quota holders to invest long term in commercial fisheries, and</li> <li>undermine the interests of Māori under the Deed of Settlement and Settlement Act.</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>The proposal suggests a future transfer of a greater share of the TAC from the commercial sector to recreational sector. The data provided in MPI's document appears to be based on a Legasea-sponsored report (Southwick Report) that has questionable assumptions, eg, it includes capital costs (like baches) as part of the valuation. There are questions around the validity of the economic values ascribed to the recreational sector and whether its comparison with the commercial sector is based on an "apples for apples" approach.</li> </ul>
	Build the market position of NZ seafood	<ul style="list-style-type: none"> <li>MPI (and the Government generally) need to take a more active role in providing the public with confidence in the management of NZ's fisheries including impartial comment on any ill-informed slurs on its current management. This can and should happen now. MPI should also provide information to support recognition of our fisheries management system under other certification schemes. This should also extend to supporting the development of any NZ assurance scheme;</li> <li>We do not consider the Government should attempt to develop a certification scheme of its own to compete with existing domestic or international programmes.</li> </ul>
	Deliver value from new and/or under-developed fisheries	<ul style="list-style-type: none"> <li>The circumstances driving the need for this proposal is what Te Ohu Kaimoana and iwi faced over possible development of fisheries in the Kermadec zone. There needs to be adequate recognition of risk by any developer, but without compromising sustainability;</li> <li>At the same time, it needs to be recognised that iwi have extensive interests in all fisheries. Iwi are involved in the non-commercial sector for customary purposes (reflected in the "customary regulations") as well as the recreational sector (as individuals) with iwi members fishing for whanau being a significant portion of amateur catch. Together they also hold a minimum of 10 or 20% of quota shares in all commercial fisheries and with other Maori fisheries settlement companies up to another 10-20% of some fisheries;</li> <li>MPI must recognise its obligations under the Deed of Settlement and require any proponent who wishes to develop a fishery to collaborate with iwi. Any special permit must make sure that iwi interests across all sectors are not adversely affected or be subject to increased risk without the explicit approval of iwi.</li> </ul>
<b>Strategic Proposal</b>	<b>Options</b>	<b>Comments/concerns</b>
<b><i>Strategic Proposal 2: Better fisheries information</i></b>	Implement Integrated Electronic Monitoring and Reporting System (IEMRS)	<ul style="list-style-type: none"> <li>Obtaining and using better data from fishers to assist in better management of fisheries is necessary, including electronic reporting. Further reporting will need to be advanced progressively and improved over time as technology and capability grows. Data on its own doesn't necessarily support better decisions – the data must be selected to inform management. It is key that managers are clear about how a fishery will be managed and then, based on that, the required data is collected to inform the effectiveness or otherwise of the management settings. The installation of cameras should be for defined science objectives. Clear rules will be needed around ownership of information and access to data.</li> </ul>
	Gather more information to support decision making and value-adding	<ul style="list-style-type: none"> <li>Measures that support the recreational and customary sectors to report catch would enable better assessment of fish stocks at a finer scale. This would also enable a shared fisheries model in which each sector manages its share within limits and can trade with other sectors. However, it is not clear how and if more information is proposed to be collected from the recreational and customary sectors and whether they will be directly responsible for reporting catches. We consider reporting of catch by recreational charter vessels should be mandatory and included under IEMRS using electronic reporting to the same standards and timetable as the commercial sector;</li> <li>The document suggests a need to consider management scale. Any change in scale comes at a cost and the document questions how sector stakeholders might contribute to the additional costs. Any proposals should be consistent with the current cost recovery principles in the Act.</li> <li>The document suggests there is a need for non-commercial and non-extractive values to be factored into management decisions. It would be concerning if MPI was to develop non-market valuation techniques to deal with non-commercial and non-extractive values. As noted earlier, the model for sectors to add value to their interests would enable them to deal directly with each other; it is not clear what is meant by "non-extractive" values.</li> </ul>

	Invest in ecosystem-based management	<ul style="list-style-type: none"> <li>The Fisheries Act already enables the effects of fishing on marine ecosystems to be managed. As the document notes, measures have been put in place to manage the effects of fishing on seabirds, sharks, marine mammals and the benthic environment, and further measures can be accommodated in future. Any measures need to be debated and argued through fisheries and aquatic environment assessment science working group and management processes to ensure they are based on robust scientific evidence, have clear objectives and can implement cost effective measures to achieve those objectives;</li> <li>The document suggests that the settings could be “refined” to deliver on stronger environmental principles and adopt international best practice such as ecosystem-based fisheries management to respond to public pressure for stronger habitat protection and higher fish abundance (which means lower catches). This seems to be a political response to public pressure. Note: Te Ohu’s submission on the operational review of the Fisheries Act stated that no changes should be made to the “front end” of the Act because it would be considered outside of the 2015 Review of the Act and a fundamental change to the QMS. That would therefore be a change to the Fisheries Settlement and would breach the obligations of the Crown to Māori. Te Ohu has previously rejected and successfully fought against proposals to change the environmental and other principles in the Fisheries Act where that would mean fisheries management would not be based on scientific knowledge or an evidential basis.</li> </ul>
	Use more independently commissioned research	<ul style="list-style-type: none"> <li>As noted above, collection of data and research should be directed at discerning the effectiveness or otherwise of fisheries management settings to achieve the Act’s goals of sustainability and utilisation. It is assumed all research would meet the Research and Science Information Standards. Te Ohu would expect the results of any research to be discussed with the Treaty partner before it is applied to management.</li> </ul>
<b>Strategic Proposal</b>	<b>Options</b>	<b>Preliminary Comments/concerns</b>
<b><i>Strategic Proposal 3: Agile and responsive decision making</i></b>	Shift decisions to a level of accountability that reflects the level of risk to achieve clearly identified management objectives	<ul style="list-style-type: none"> <li>As signalled in the Te Ohu submission on the operational review of the Fisheries Act, there is need for changes to ensure more nimble decision-making on management settings for fisheries efficiently made consistent with acceptable levels of risk in suitable time periods when compared with the present system. Any changes must be cost effective and be agreed with iwi as advancing the agreements under the Deed of Settlement. Proposals under Strategic Proposal 3 must ensure the processes for involvement of iwi to meet the Crown’s commitments to Māori (as stated in the text) mean early and full meaningful engagement on all issues iwi signal as significant and agreed appropriate involvement in other matters. Arrangements under these proposals must not cut across the Treaty Partnership.</li> <li>Improvements to decisions on implementation of the customary regulations and how improvements might be made need to be discussed with iwi and Te Ohu Kaimoana.</li> </ul>
	Support independent advice through a National Fisheries Advisory Council	<ul style="list-style-type: none"> <li>Requires further information. An independent council is proposed but also proposes members who represent sectors.</li> </ul>
	Develop a more flexible decision-making framework	<ul style="list-style-type: none"> <li>This needs to be done in a way that is consistent with the fisheries settlement. Iwi need to be involved in the development of the standards for decision-making and operations.</li> </ul>
<b><i>Proposed regulatory change 1: IEMRS</i></b>		<ul style="list-style-type: none"> <li>Obtaining and using better data from fishers to assist in better management of fisheries is necessary, including electronic reporting. Further reporting will need to be advanced progressively and improved over time as technology and capability grows. The installation of cameras should be for defined science objectives. Clear rules will be needed around ownership of information and access to data.</li> </ul>
<b><i>Proposed regulatory change 2: enabling innovative trawl technologies</i></b>		<ul style="list-style-type: none"> <li>Regulations that enable and encourage innovative trawl technologies as well as improvements in other fishing methods are needed. Where possible any regulatory change should enable the ability for innovation in all technologies – the future-proofing should not be restricted to trawling.</li> </ul>