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Building on the Fisheries Settlement

Introduction

1. Thank you for providing an opportunity for Te Ohu Kaimoana to comment on the participation of Māori in the fishing sector. Please note that this submission does not detract from any submissions independently provided by iwi.

Summary

2. The 1992 Deed of Settlement continues to shape Māori participation in the Aotearoa New Zealand fishing sector. It guaranteed customary fishing rights while also laying the foundation for the delivery of commercial quota and assets to iwi. In order to continue to develop these assets and generate value for Māori, a two-pronged approach is being adopted: improving value chain performance through co-operation and improving management through collaboration.

Who are we?

3. Te Ohu Kaimoana was established to implement and protect the Fisheries Settlement. Its purpose, set out in section 32 of the Māori Fisheries Act, is to “advance the interests of iwi, individually and collectively, primarily in the development of fisheries, fishing and fisheries-related activities, in order to-
 - Ultimately benefit the members of iwi and Māori generally; and
 - Further the agreements made in the Deed of Settlement; and
 - Assist the Crown to discharge its obligations under the Deed of Settlement and the Treaty of Waitangi; and
 - Contribute to the achievement of an enduring settlement of the claims and grievances referred to in the Deed of Settlement.
4. Mandated Iwi Organisations (MIOs) have approved a Māori Fisheries Strategy and three-year strategic plan for Te Ohu Kaimoana, which has as its goal “that MIOs collectively lead the development of Aotearoa’s marine and environmental policy affecting fisheries management through Te Ohu Kaimoana as their mandated agent”.

Current Status of Māori Fishing

5. Māori Involvement in fishing today is overwhelmingly shaped by the 1992 Deed of Settlement and its legacy. Prior to the Deed of Settlement, customary and commercial fishing were indistinguishable. While the 1992 Deed of Settlement enshrined Māori fishing rights within the current fisheries management system, it created an artificial separation between customary and commercial fishing.

Structure and Participants

6. There are 58 MIOs covering all Māori who own the Fisheries Settlement Commercial Assets (Individual Transferable Quota and shares in Aotearoa Fisheries Limited which, in turn, owns 50% of Sealord Group). Around 450 tangata kaitiaki and tangata tiaki (appointed by MPI) authorise customary fishing. The Te Ohu Kaimoana Board is appointed by MIOs through an electoral college structure and has a range of statutory responsibilities under the Settlement including responsibility for the appointment of the Board of Aotearoa Fisheries Limited.

Customary Fishing

7. Customary take is provided for within Total Allowable Catches set for each fish stock. The responsibilities for customary fishing rest largely with hapū and marae and is carried out under the authority of tangata kaitiaki/tangata tiaki. Eleven Mātaitai (customary fishing areas) have been established in the North Island and thirty-three in the South Island. Ten Taiāpure (another form of customary fishing area) have been established nationally.
8. The activity of 'customary fishing' has existed in New Zealand for generations but was formalised with the passing of the customary fishing regulations in 1998 and 1999 (well before the law establishing MIOs was passed in 2004). This disjunct within the administrative arrangements for the commercial and customary aspects of the Fisheries Settlement can be challenging for iwi for several reasons. MIOs, nearly all of whom have received their commercial settlement assets, are developing their assets for the benefit of their people. However, MIOs are not necessarily responsible for managing customary fishing for an iwi as this typically rests with hapū and marae, as provided for under various fishing regulations.
9. The customary regulations can have the effect of undermining their efforts and the tribal structures they are working to build. For example, the process for the Minister to appoint kaitiaki in the North Island is carried out with no reference to relevant MIOs, despite them being part of the same tribal structures, and having interests in the same fisheries. This has caused tensions within iwi that need to be resolved by iwi themselves. Wittingly or not, Crown agencies including MPI maintain and strengthen these divisions when they fail to work through MIOs.
10. Te Ohu Kaimoana has a mandate from iwi to promote and protect Māori interests in all aspects of the Fisheries Settlement and fishing whether those interests are commercial, customary, fresh water or aquaculture. To that end, we are working with MIOs this year to review and report on how the Customary Fisheries Framework is operating across the country, and what enhancements could provide for better expression of customary non-commercial rights consistent with the Deed of Settlement.

Commercial Fishing

11. The main commercial fishing asset owned by Māori is Individual Transferable Quota. There are now 130 species and 638 stocks in the Quota Management System (QMS) but more than 90% of the value of quota is associated with the original 29 species introduced into the QMS in 1986 (and in which Māori received a 10% share).

12. The Māori stake in the industry has been expanded by two means. First, by the 1992 “Sealord Deal” in which the Government provided a total of \$150 million enabling Māori to purchase 50% of Sealord. Second, by acquisitions funded by retained earnings (notably Moana Pacific Fisheries, OPC Fish and Lobster Ltd., Ocean Ranch and Kia Ora Seafood). Total Government funding for the Fisheries Settlement (delivered from 1989 to 1994) was \$270 million.
13. Today, Māori own approximately 27% of all quota by volume and value. Total value of New Zealand quota is approximately \$4 billion, and the total value of Māori-owned quota is approximately \$1 billion. Higher estimates of the Māori position in the industry are frequently quoted but these rely upon Sealord quota being counted as 100% Māori owned (Sealord (through a holding company) owns 25% of New Zealand quota by volume). Māori ownership is strongest in North Island eels (50%), pāua (40%) and rock lobster (30%).
14. Financial returns from Individual Transferable Quota ownership have fallen as a percentage of quota value since 2004, reflecting generally falling interest rates in New Zealand over that period. Yields on quota are now around 6% per annum and the Māori fishing asset returns approximately \$60m per year (around \$100 per Māori). Of this return, about half is retained for re-investment and half supports MIOs and the distribution programmes they are developing and operating (ultimately for the benefit of all registered iwi members).

Aquaculture

15. Iwi have significant interests in the aquaculture sector through the assets delivered under the Māori Commercial Aquaculture Claims Settlement Act 2004 and by other means. Settlement assets stemming from regional aquaculture agreements under the Act are transferred to iwi through Te Ohu Kaimoana.
16. The current value of aquaculture settlements to Iwi Aquaculture Organisations exceeds \$200m. These settlements include 500+ hectares of mussel space in Tasman and the Hauraki Gulf and 60 hectares of fish farming space also in the Hauraki Gulf to iwi. Because the development of aquaculture will take place over several years, the value of it will not be realised for some time. As more new space becomes available for aquaculture, iwi are entitled to 20% of agreed space and Te Ohu Kaimoana works to ensure this is realised.

Increasing the Value of Our Fisheries

17. In the interest of increasing the value of iwi fisheries assets, a two-pronged approach is being adopted. The first is to lift economic performance and the second is to lift fisheries management performance. Both of these rely upon finding suitable models for collective action wherein Māori values can be expressed. The starting point for this co-operation in both cases is highly disaggregated quota ownership that is the initial outcome of the Fisheries Settlement.

Improving Economic Performance

18. Māori Quota Ownership is dispersed between 58 Iwi, Aotearoa Fisheries and Sealord. This dispersal was a deliberate and widely supported feature of the design of the Fisheries Settlement. Iwi ownership of relevant quota parcels maintains the connection between particular peoples and particular fisheries that are an important part of the maintenance of iwi identity. Ownership of quota

in this dispersed fashion delivers very modest rates of return. These economic returns can only be improved by active participation in the value chains using quota. Individual iwi do not have the scale for such successful participation. A co-operative pan-iwi approach to this investment is essential.

19. Commercial co-operation requires new relationships between iwi and new business structures that strike the culturally appropriate balance between individual iwi quota ownership and collective iwi value chain investments to carry Māori products with an authentic Māori story to the wider world. Considerable effort has already gone into the development of these arrangements. Perhaps the most notable success to date has been the Port Nicholson Fisheries structure involving 28 iwi and Aotearoa Fisheries Ltd. This model can be readily adapted for other sectors such as pāua and inshore finfish species.
20. A key to the further development of commercial co-operation within the sphere of the Fisheries Settlement is the establishment of more direct governance arrangements over Aotearoa Fisheries (and Sealord) by their iwi shareholders. The need for such governance adjustments to both Aotearoa Fisheries Limited and Te Ohu Kaimoana were the central findings of the 10-year statutory review of Fisheries Settlement structures. The main thing Parliament can do to reinforce this very positive co-operative trend is therefore to pass those revisions to the Māori Fisheries Act recommended by the Review (February 2015) that are strongly supported by iwi.

Improving Fisheries Management Performance

21. Increased collaboration is undoubtedly the key to improved value chain performance. Likewise, it is the key to improved fisheries management performance in New Zealand. Commercial co-operation in the value chain process need only occur between iwi to be successful. Fisheries Management requires inter-iwi co-operation but also with non-Māori quota owners and (in some fisheries) other sector representatives especially from the recreational fishing sector.
22. The dramatic expansion of stocks managed under the QMS has not been matched by the capacity of Ministry for Primary Industries (MPI) to efficiently support the QMS. The 2017 Sustainability round reviewed 12 fish stocks out of 638, including Pāua 4 (Chatham Islands) for the first time since 1986. However, the required response to this unsatisfactory situation is not an increase in MPI funding or a review of the Fisheries Act 1996. The answer is already available within the Fisheries Act in currently unused sections empowering the development and operation of Fisheries Plans.
23. Fisheries Plans provide the framework and impetus for a more customised and co-operative approach to the sustainable management of our fisheries. Te Ohu Kaimoana, Ngāti Mutunga o Wharekauri and Moriori strongly support the Pāua 4 Fisheries Plan that has been developed collectively by Māori, industry and the Chatham Island community for their fishery and is currently before the Minister of Fisheries. This enables finer scale management and responsibility by local communities and key stakeholders for achieving fisheries management outcomes.

Risks to Māori Fisheries Development

24. This strategy to increase the value of iwi fishing assets is under threat from actions that result in reduced access to the fishery. Issues such as marine spatial planning and marine protected area proposals which encompass a ban on fishing activities diminishes the rights guaranteed under the Deed of Settlement. This also serves to devalue the quota that iwi seek to enhance. One example of

this is the Rangitahuahua/Kermadec Ocean Sanctuary proposal, which would restrict the right of future generations to develop this fishery.

25. The biological characteristics of different species necessitates finer scale management than is currently practiced. The approach that iwi are pursuing to enhance the value of their fisheries assets recognises this by providing for greater stakeholder responsibility within the management regime. However, current practice fails to utilize mechanisms within the Fisheries Act to their fullest extent, preventing timely responses to changes in abundance.

Naku noa, nā



Jamie Tuuta
CHAIRMAN



Dion Tuuta
CHIEF EXECUTIVE