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Tena koe,

Stock Strategies Consultation

Introduction

This submission is the response from Te Ohu Kai Moana Trustee Limited (Te Ohu) to the *Ministry of Fisheries Stock Strategies Consultation Document 2005/06* dated 10 December 2001.

We have met with industry participants to discuss this consultation document and, in particular with SeaFIC to develop a way forward. While our submissions may differ in detail, content and scope we are generally agree on the need for a collective approach to pursuing beneficial fisheries management outcomes.

It is not our intention in this submission to undermine any submission that you may receive from individual Iwi, Iwi collectives or Maori Fishing Companies. We have not had sufficient time to develop this submission in consultation with those groups.

Background

Te Ohu supports the overall rationale and purpose outlined in the *Introduction* of the Stock Strategy discussion document. That introduction contains a number of sensible bases for the future evolution of fisheries management in New Zealand including:

- Increase transparency by detailing management initiatives applied to each fishery, and their costs;
- Ensure regulatory interventions are justified, and remove those no longer required;
- Move to objectives-based fisheries management underpinned by the assessment and management of risk;
- Monitor performance of management against objectives; and
- Clarify Government and stakeholder roles and responsibilities for sustainability and utilisation of fisheries resources.

This submission addresses each of these areas (above) in a logical step by step sequence. At the end of each section we provide our recommendations for each of the steps that we consider should be followed to arrive at an alternative proposal. That alternate is discussed at the end of this submission. Our full set of recommendations are summarised in the Executive Summary (below).

In this submission we address “objectives-based management” from the perspective that different sector groups can pursue their unique objectives through different strategies, provided that they are consistent with the purpose and principles of the Fisheries Act.

- “Stock strategies” seem to be the name chosen by MFish to pursue its objectives (i.e. the purpose and principles of the Fisheries Act 1996) and
- “Fisheries Plans” seem to be the name provided through the Fisheries Act for other sectors to pursue their objectives – which may differ from those of MFish but which we accept must be at least consistent with the purpose and principles of the Fisheries Act.

Therefore this submission focuses on objectives-based management rather than considering stock strategies or fisheries plans as something separate.

We consider that any strategy, despite its name, should contain specific fisheries management objectives that are related to individual stocks or stock groupings and any risk assessment must be both objective and measurable. We do not see these elements present in the MFish strategy (at this time) although we would expect to see them once stock groupings have been decided in consultation with users.

In this submission we consistently refer to stocks or stock groupings as the management unit¹ that all strategies must have in common, whether they are pursued by MFish or sector groups. Therefore the unit of management is critical to determining how fisheries management is to evolve in New Zealand. There are a number of important objectives-based management considerations outlined in this submission that will assist in the determination of these management units.

¹ The definition of “stock” in section 2 of the Fisheries Act 1996 states – “stock” means any fish, aquatic life, or seaweed of one or more species that are treated as a unit for the purposes of fisheries management.

Executive Summary

Te Ohu:-

1. Recommends that the first step in evolving fisheries management for New Zealand is to undertake a comprehensive information brief for each stock. Along with the range of other information collected in the information brief the economic and risk information will enable objectives-based planning to follow because it will provide a quantitative comparative baseline as a performance measure. In addition the information brief will provide the information needed to make decisions about combining stocks to form stock groupings.
2. Agrees that the next step is to review the need to maintain regulatory interventions associated with each stock, in consultation with users, and
3. Recommends that a risk assessment and economic evaluation is undertaken to consider the effects of removing any such interventions.
4. Recommends that stock groupings be decided upon, in consultation with stakeholders, after the information needed to make informed decisions has been provided through the information brief.
5. Recommends the next step is to consider a series of objectives-based management matters, in an iterative manner, until suitable fisheries management objectives, strategies, performance measures and so on have been set for the particular stocks or stock groupings.
6. Recommends that, at the stock grouping level, monitoring and review requirements be determined by the participants involved in the development of objectives, strategies, performance measures for each stock grouping within an appropriate time period that will allow for the evolution of the fisheries management approach adopted to bed-down. Reviews should occur at suitable regular intervals after that, to be agreed by MFish and stakeholders as part of a transitional plan.
7. Recommends that MFish and industry (including Maori) establish a two tiered collaborative transitional plan that provides for both oversight and operational development of strategies for a small number of stocks or stock groupings. Note that this would require both MFish and industry to commit resources and skills necessary to see the transitional plan to a satisfactory completion.

Evolution of Fisheries Management in New Zealand

1. Increase transparency by detailing management initiatives provided to each fishery and their costs

Te Ohu applauds this objective despite any strategy that may, or may not, follow. For some time now we have been seeking to understand why services are allotted to particular fisheries in the way they are. While we have some understanding of how services are levied we have little understanding of why services are deployed in the way that they are.

The SBW case study very clearly demonstrates the problem. On page 32 of the information brief (see paragraph 58) in relation to enforcement it states that “The capacity is not, as a rule, directed at enforcing rules specific to the SBW fishery” and yet the costs allocated to “enforce commercial fish rules” in the table on page 33 are the highest cost/output area in terms of Mfish providing a service to this specific fishery. If there is little or no enforcement activity directed at this fishery, how can Mfish continue to justify levies collected for this service area or output class? If there is a justifiable explanation for this apparent discrepancy we would recommend that further information to this effect is provided in the information brief.

On a more positive note, this is precisely the type of information that is needed to enable the industry (including Maori) to develop objectives and set strategies to reduce management costs while ensuring sustainability. Te Ohu recommends that the information brief also contains a risk evaluation for each stock – outlining what risks are present to that stock if the fishery continues to be managed in its current mode (i.e. status quo). Again, at a later point this information can be used as a sound basis for comparison when evaluating alternative management regimes for the stock.

Paragraph 77, page 17 of the consultation document discusses the matter of stock groupings. However, we consider that the information brief, once prepared for each “stock”, can then be used to inform consultation on how stocks should be grouped together, if at all. We agree that some stocks may be best managed individually while others can be more rationally grouped – either by location, by method, by water depth or by habitat.

We consider it is premature at this stage to seek to define those groupings until information about each stock is clarified and fisheries management objectives have been developed. These will provide a more comprehensive method for making informed decisions on stock groupings and subsequent to that, develop appropriately informed Fisheries Management Objectives.

Te Ohu recommends that the **first step** in evolving fisheries management for New Zealand is to undertake a comprehensive information brief for each stock. Along with the range of other information collected in the information brief the economic and risk information will enable objectives-based planning to follow because it will provide a quantitative comparative baseline as a performance measure. In addition the information brief will provide the information needed to make decisions about combining stocks to form stock groupings.

2. Ensure regulatory interventions are justified, and remove those no longer required

Te Ohu agrees with SeaFIC that the need for regulatory interventions will emerge from the process used to set objectives and determine how to achieve them.

We would add however, that the nature of the results at the commencement of the objectives setting process could be biased by the existing regulatory interventions. It is essential therefore that the objectives process be conducted from a zero base, that is, as if no regulatory controls existed so that regulatory needs are properly assessed. If need be, an iterative process could be employed. This approach may or may not expose cost savings (as discussed on page 12 paragraph 47 of the consultation document) and the fisheries information brief can be updated accordingly – demonstrating very clearly the outcome of this step in the process.

There is some concern in the industry that Mfish may attempt to undertake the objectives setting/regulatory review exercise in isolation from the industry, or that the removal of interventions could in turn upset trends in stock assessment resulting in inappropriate management measures being put in place without industry involvement.

It is not explicit in the consultation document but there is also suspicion in the industry that the Stock Strategies framework is being progressed as a means of limiting or reducing stakeholder involvement in fisheries management to:

- the development of the information brief and
- the risk assessment

but not including:

- fisheries management objective setting
- decisions about what is and what is not an acceptable level of risk
- exploring the full range of options to manage the risk (including the costs and benefits) in the operational plan
- and finally arriving at the optimal tool or set of tools needed to manage the risk.

Industry is concerned that MFish are aiming for a more “command and control” type of management system. For example, while the consultation document calls for submissions on the framework and content of the information brief, we are not asked to contribute our thoughts to the formation of the objectives (see discussion below) or the operational plan (which is missing from the document). Both of these areas are critical to determining fisheries outcomes and we consider that an inclusive approach rather than an exclusive approach will yield more satisfying outcomes to all parties concerned.

We are concerned that this may be a deliberate attempt to limit industry (including Maori) involvement in fisheries management. If this is the case then we must **strongly register our objection** as being counter to the Treaty obligations under the Settlement (that is, to make better provision for Maori participation in the management and conservation of New Zealand's fisheries). Furthermore, we agree with SeaFIC that moves to remove regulatory interventions need to be made in consultation with those that are subject to them.

On the other hand if this is not the intention (as is demonstrated in some parts of the discussion document – see page 20-21) then we suggest that the risk evaluation tool could usefully be utilized to identify the potential risks of removing any existing intervention.

Te Ohu agrees that the next step is to review the need to maintain regulatory interventions associated with each stock, in consultation with users, and recommends that a risk assessment and economic evaluation is undertaken to consider the effects of removing any such interventions.

3. Move to objectives-based fisheries management underpinned by the assessment and management of risk

Te Ohu agrees with the move to objectives-based fisheries management and assessment and management of risk in relation to fisheries stocks. This is consistent with Fisheries Act 1996 and in particular section 11A in relation to Fisheries Plans².

Section 11A discusses objective based fisheries management in the context of setting Fisheries management objectives and Strategies (including interventions, rules and performance criteria against which the objectives can be managed) in relation to one or more stocks or stock groupings. It also discusses contingency strategies to deal with unforeseeable variations in circumstances. We consider that risk assessment and management are useful tools which could add value to the process of developing both Fisheries Management Objectives and Contingency Strategies.

As noted earlier, there is some concern in the industry that the Ministry is attempting to reserve to itself exclusive decision making capability in developing objectives and determining management interventions under stock strategies. If this is intended then we find it completely unacceptable. For example on page 5 at paragraph 15 it states - "This document outlines how the Ministry of Fisheries intends to use stock strategies to define its role and deliver on its objectives in managing fisheries". Te Ohu considers that any plan (regardless if it is a Fisheries Plan, a Stock Strategy or any other name) approved under the Fisheries Act, must contain fisheries management objectives which support the purpose and principles of the Act – otherwise it would be beyond the scope of the Act.

As outlined in Section 11A Fisheries Management Objectives must be focused on 1 or more stocks (or Stock-groupings). In this context we would expect the Ministry to develop its Fisheries Management Objectives consistent with its legal obligations. Those obligations include Section 12 consultation and the requirement for input and participation of Maori in Fisheries Management as discussed at pages 20-21 of the consultation document.

Objective-base management is an iterative process. We consider that while the Crown, Maori, and other sector groups may appear to have differing overall objectives, no one would dispute the purpose and principles of the Fisheries Act as the basis for good overarching Goals or Objectives. Within this context each sectors may desire different fisheries management objectives, strategies and outcomes.

The consultative process is the means by which parties may reconcile their objectives and negotiate their respective commitments, responsibilities and accountabilities – thereby defining and clarifying their role relative to the stock or stock grouping involve. The choice of stock groupings will initially determine the scope of management issues to be considered, including:

² See Appendix 1 on Fisheries Plans

- **who should participate** in determining fisheries management objectives. As recognized by MFish in the consultation document (see page 9-10), depending on the stock or stock-groupings chosen to form the management unit, there may be one or more sectors involved.
- **How they participate** – the timing and nature of consultation relative to the sector group, relative to the stock-grouping.
- **Risks** – specific to the particular stock grouping identified for each separate stock earlier in the information brief.
- **Sector based fisheries management objectives** – appropriate to each sector, but always requiring that they are consistent with the purpose and principles of the Fisheries Act 1996. These sector objectives in turn lead to:
 - **Role clarity** – who will be accountable and responsible for delivering on
 - **Performance based outcomes or standards** – within each strategy that is developed and finally
- **Contingency Strategies** – can be developed using the risk assessment tool applied to each strategy.

While it may be possible to discuss these matters in a generic process sense, Te Ohu considers that the decisions about stock groupings will ultimately determine how all of the above matters will play out at the operational level.

We note the proposed risk scoring method described in Annex two on page 23 establishes a hierarchy of risk severity and likelihood. We agree that this is consistent with the Australian/New Zealand Standards. Throughout the document, however, mention is made of levels of risk and what may or may not be considered acceptable. The risk scoring hierarchy implies that a certain score will be considered acceptable or unacceptable but while this is not specified in the discussion, on page 23 the case study implies that a score as low as 3 is unacceptable.

A score of 3 out of the possible range (i.e. from 1 to 9) on the face of it seems quite low and we recommend that MFish provide more information about how the values will be applied. The example provided in the Australian/New Zealand Standards assigns an indication of the anticipate management action required for each score as follows:

- E: extreme risk; immediate action required
- H: high risk; senior management attention needed
- M: moderate risk; management responsibility must be specified
- L: low risk; manage by routine procedures.

Specifying the anticipated management action required for each score will provide all parties with a clearer and more transparent understanding of the risk management tool.

Te Ohu therefore recommends that stock groupings be decided upon, in consultation with stakeholders, after the information needed to make informed decisions has been provided through the information brief. The detail of objectives-based management can then be progresses, in an iterative manner, specific to the stocks or stock groupings agreed upon.

Links to the Biodiversity Strategy

Managing stock groupings and the environmental effects of fishing through objectives-based fisheries management and the assessment and management of

risks is consistent with addressing biodiversity objectives and establishing a network of marine protected areas. There is a clear need for other agencies with mandate in the marine environment to also move to do the same and to align strategies to ensure transparency, consistency and collaboration of efforts.

In our earlier submission on the Marine Reserves Bill we pointed out that the international community has already identified the threats to marine biodiversity in the following four areas:

- Pollution
- Alien Species
- Habitat disturbance
- Over-fishing

While over-fishing is addressed and managed under the Fisheries Act and in particular using the Quota Management System the remaining high level threats are not all within the control of the Ministry of Fisheries alone. Te Ohu considers that a joint and cooperative approach to managing the remaining threats is required between agencies and in consultation with stakeholders. This is where the Fisheries Act and therefore fisheries management objectives must be reconciled with conservation objectives to develop a network of marine protected areas – as required under objective 3.2 of the Biodiversity Strategy.

Departments need to jointly develop effective strategies that rationalize costs and risks using similar systems (i.e. information briefs outlining service costs assigned to the ecotypes decided upon for the marine classification system). It follows that existing management measures should similarly be reviewed and removed where there is no need to maintain them. Following this it then become possible to identify interested parties, develop consultation arrangements, develop conservation objectives, performance measures and so on to protect marine biodiversity from these threats in a manner consistent with the biodiversity objective.

In this context there is a need for MFish and stakeholders to also consider how stock groupings are established and the potential link between those groupings and the development of a marine classification system.

4. Monitor performance of management against objectives

Te Ohu agrees with this and considers that monitoring performance is an ongoing essential and standard component of any management process. We would add, however, that a review of both management outcomes for each fishery and of the entire management process seems to be missing from the explicit list of matters in the introduction of the consultation document.

Surely if we are to evolve fisheries management for New Zealand's fisheries we must be prepared to "stop and check" on our progress periodically and to reconsider if our objectives or strategies need to be updated in light of new information or changes in circumstances.

Changes of the type proposed will take time to get moving and then to bed-down. Te Ohu considers that a transitional plan could be developed that enables a number of initial stock groupings to be identified and developed (see below).

Te Ohu recommends that at the stock grouping level, monitoring and review requirements be determined by the participants involved in the development of objectives, strategies, performance measures for each stock grouping within an appropriate time period that will allow for the evolution of the fisheries management approach adopted to bed-down. Reviews should occur at suitable regular intervals after that, to be agreed by MFish and stakeholders as part of a transitional plan.

5. Clarifying Government and stakeholder roles and responsibilities for sustainable fisheries resources

We agree that role clarity concerning responsibilities and accountabilities are important in taking fisheries management to a more productive and collaborative level in New Zealand. Clearly the Ministry has a number of obligations (i.e. Treaty obligations and Consultation obligations) that it cannot abdicate through the development of a stock strategy framework.

If the intention is to seek better relationships with stakeholders then we propose that the clarification of roles and responsibilities can be discussed and agreed in a very broad context (i.e. the Treaty Principles and good faith bargaining) at the commencement of any process. These however are too generic to pin down to the parties involved until stock groupings have been decided and the overall objectives are agreed. Once the strategies and actions have been developed, then is the time to get greater clarity around the specific roles, responsibilities and accountabilities of each party involved in each stock or stock groupings.

For example, there have been various attempts within the industry to develop strategies as Fisheries Plans under section 11A. To date we are not aware of any approved plan. We are aware however of the frustration experienced as a result of those efforts and conclude that a more collaborative approach between MFish and industry needs to be taken to break the cycle.

Te Ohu considers that no objective or strategy can be developed in isolation from other sectors with an interest in the same stock grouping. After stock groupings are determined, then is the time to consider ways of working together collectively to achieve objectives and outcomes that are mutually beneficial. We have been discussing such an approach with industry in an attempt to progress a transitional plan.

The proposal is that MFish and industry (including Maori) agree to develop a small number of start-up stock or stock grouping strategies that will deliver mutually beneficial outcomes.

For industry, economic drivers are clearly important so we suggest that the stock or stock groupings chosen initially reflect those fisheries that have demonstrated economic value with potential for further growth. For MFish sustainability, utilization and environmental drivers are important so we suggest stock groupings that are evaluated with low sustainability and environmental risk and where the stock or stock groupings are already within the QMS providing access (i.e. utilization).

Once the stock or stock groupings are selected we agree with SeaFIC that a two tiered system providing for both; oversight of the selected stock or stock groupings, as well as development of the actual strategies is put in place. We agree that industry and MFish commit resources to both tiers and establish work plans including a

reporting system which will enable the initial selection of stocks or stock groupings to develop consistently and to the agreed time frames.

Te Ohu recommends that - MFish and industry establish a two tiered collaborative transitional plan which provides for both oversight and operational development of strategies for a small number of stocks or stock groupings; and

That both MFish and industry commit resources necessary to see the transitional plan to a satisfactory completion.

We would be please to discuss any aspect of this submission. If you have any questions about this submission please contact me at this officen to discuss.

Naku noa, na.

Tania McPherson
Senior Policy Analyst

Appendix 1

11A Fisheries plans

- (1) The Minister may from time to time approve, amend, or revoke a fisheries plan.
- (2) A fisheries plan approved under subsection (1) may relate to 1 or more stocks, fishing years, or areas, or any combination of those things.
- (3) Without limiting anything in subsection (2), a fisheries plan may include—
 - (a) Fisheries management objectives to support the purpose and principles of the Act:
 - (b) Strategies to achieve fisheries management objectives, which may include—
 - (i) Sustainability measures set or varied under any of sections 11, 13, 14, and 15:
 - (ii) Rules to manage the interaction between different fisheries sectors:
 - (c) Performance criteria to measure the achievement of the objectives and strategies:
 - (d) Conservation services or fisheries services:
 - (e) Contingency strategies to deal with foreseeable variations in circumstances.
- (4) Nothing in this section prevents the Minister from considering a proposal under Part 9.