

INDIGENOUS FISHING RIGHTS IN NEW ZEALAND – FROM RHETORIC TO REALITY

Matthew Hooper
New Zealand Ministry of Fisheries
PO Box 1020
Wellington

Email: hooperm@fish.govt.nz

ABSTRACT

The 1992 fisheries settlement between the New Zealand government and Maori is the largest Treaty settlement to date in New Zealand and is significant internationally for the extent of the transfer of rights to a resource from the state to an indigenous people. In this paper, the challenges presented by the ongoing implementation of the fisheries settlement are assessed on three fronts - the challenges for Maori, the government, and other fisheries stakeholders respectively - particularly in the context of moves to encourage greater stakeholder participation in fisheries management and the promotion of stakeholder driven 'Fisheries Plans' as a tool for achieving greater participation.

The decade since 1992 has seen a slow but steady implementation of the fisheries settlement on two main fronts - the negotiation and implementation of non-commercial customary fishing regulations, and the less steady path towards the allocation of commercial fisheries assets to iwi (tribes). While progress in both these areas to date has been relatively self-contained, the implications of each for wider fisheries management are large. The integration of Maori customary and commercial fishing rights into the overall fisheries property rights framework will impact on all fisheries stakeholders in the immediate future.

Introduction

A decade has passed since the settlement of Maori fisheries claims in 1992. This paper seeks to provide some insights into the challenges being faced in implementing the settlement, and in the integration of Maori fishing rights into the overall rights based framework for fisheries management in New Zealand.

A brief summary of the basic premises of rights-based fisheries management precedes the main body of the paper. Part 1 of this paper provides some historical background and an overview of the key elements of the 1992 fisheries settlement. Part 2 of the paper outlines three key issues that are impacting on the implementation of the fisheries settlement and the challenges they pose for the Government, Maori and other fisheries stakeholders. Part 3 of the paper contains some suggestions for addressing these issues.

Rights based management

A basic premise of rights-based approaches to resource management is that by better defining the rights of stakeholders to the use of a resource, the government can take a back seat and allow stakeholders to get on with making decisions that are in their best long term interests and, by association, in the best interests of the resource. Specifying rights to the use of the resource in terms of outputs (the amount that can be extracted from the resource) frees up stakeholders to consider how to maximise the use of their share of the resource to meet whatever objectives they might aspire to – for example economic efficiency or recognition of traditional values.

When there are different stakeholder groups with extractive interests in a resource, problems still arise when the relationship between the rights of those different groups are ill defined. If shares to the resource between groups are not well defined, and if there are not clear decision rules about when shares go up or down, then there will still be incentives on the part of different groups to work against other stakeholders in trying to maximise their share of the resource pie.

In the case of fisheries there needs to be explicit links between the activities of individual fishers and the allocation of a share of a fishery to the entire stakeholder group to which those fishers belong. If those links are not present, the way they are with Individual Transferable Quota (ITQ) and Total Allowable Commercial Catches (TACCs) in the commercial fishery, then the incentives of individual fishers to restrain their catch will not be realised. Rights-based

management can accommodate collective rights as long as members of the collective are able to be constrained within the overall allocation of the resource to their stakeholder group.

Part 1 – Summary of fisheries settlement

History

As the indigenous people of New Zealand, Maori held customary fishing rights under British common law. These rights were guaranteed by the Treaty of Waitangi, signed between the British monarchy and Maori chiefs in 1840, which guaranteed Maori “the full exclusive and undisturbed possession” of their fisheries. Customary fishing activity was exempted from the rules and regulations in fisheries legislation made after the signing of the Treaty. The most recent example of this exemption was section 88(2) of the Fisheries Act 1983 that stated “Nothing in this Act shall affect a Maori fishing right”.

However, the exact nature of Maori customary fishing rights was never defined. As a result, Maori fishing rights were slowly negated by successive governments and legislation.¹ The statutory provisions protecting Maori customary fishing rights meant little without any associated definition of the nature of those rights, or ability to protect them from encroachment by the activities of others. Maori fishing rights came to be regarded as little more than a subsistence right to gather seafood for ceremonial occasions.

The task of defining the nature of Maori customary fishing rights fell to the Courts. In an important test case in 1986 Tom Te Weehi was found not guilty of taking undersized paua on the grounds that he was exercising a customary fishing right, and thereby exempted from the limits in the amateur fishing regulations by s 88(2) of the Fisheries Act 1983. He had fished in accordance with customary practices by obtaining permission from the kaitiaki, or guardian, of the tangata whenua from the area where the fishing occurred, and acted in accordance with the instructions of the kaitiaki.

The concept of tangata whenua, or “people of the land”, is crucial to the definition of Maori customary fishing rights. Tangata whenua are the iwi (tribe) or hapu (sub-tribe) that hold customary authority over a particular area. Rather than being general Maori rights, customary rights belong to tangata whenua and can only be exercised within their area. Most importantly, customary fishing rights pertained not only to the use of fisheries, but also to the management of the resource. While fishing practices differed between the different tribes, customary fisheries had always been actively managed by individuals known as kaitiaki, or guardians. Traditionally, fishing outside of the rules set by the kaitiaki could make the fisher subject to severe penalties.

The nature and extent of customary fishing rights was further elucidated by the Waitangi Tribunal as a result of extensive research into tribal claims to fisheries². Maori customary fishing rights were found to have both a commercial and a non-commercial component, based on evidence that Maori were trading seafood widely prior to the signing of the Treaty of Waitangi. The fisheries they exploited were extensive, and the methods they had used to catch fish were highly advanced compared to those of their European counterparts. The Tribunal also ascribed a developmental component to the customary right, giving Maori a right to a share of the deep-sea fisheries off the coast of New Zealand, even if they were not being fished at the time the Treaty was signed³.

In 1986 the Ministry of Fisheries was moving to introduce the Quota Management System, based on the use of Individual Transferable Quota (ITQ), for the management of New Zealand’s commercial fisheries. In 1987, following an application from several Maori leaders, the High Court placed an injunction on the Crown preventing it from proceeding with the introduction of the QMS on the grounds that Maori fishing rights had not been recognised or provided for in the allocation of commercial fishing quota. Until such time as Maori fishing rights were provided for in the allocation of quota, the Government was prevented from proceeding with the implementation of the quota management system. The 1987 injunction forced the Government into negotiations with Maori.

Deed and Settlement Act

An interim settlement of Maori fisheries claims was negotiated in 1989 with a full and final settlement signed and legislated for in 1992. The principle effect of the settlement on the customary fishing rights of Maori was to effect a

¹ Oyster Fisheries Act 1866 banned Maori from commercial oyster fishery. Limited licensing of the commercial fishery from the 1940s assumed Crown ownership of fisheries. Exclusion of part-timers from commercial fishing in early 1980s removed ability of large number of Maori to fish commercially.

² Muriwhenua Fishing Report: Report of the Waitangi Tribunal on the Muriwhenua Fishing Claim (Wai 22) – Wellington, N.Z., 1988

³ The Ngai Tahu Sea Fisheries Report (Wai 27) – Wellington, N.Z., 1992

split between the commercial and non-commercial components of those rights. This distinction was made necessary by the need to accommodate the settlement within the broader fisheries management framework, which was by then based on the use of ITQ for commercial fisheries, while non-commercial fishing continued to be managed by regulation.

Commercial settlement

An interim settlement negotiated and legislated for in the Maori Fisheries Act 1989, provided for 10 percent of all existing commercial fishing quota, or its cash equivalent, to be transferred to Maori. The Maori Fisheries Commission was established to manage that quota and to get Maori into the business and activity of fishing. The interim settlement allowed the quota management system to continue while a full and final settlement was negotiated.

Central to the full and final settlement in 1992 was the Crown's provision to Maori of \$150 million to purchase a half-share of Sealord Products Ltd. Sealords was the largest commercial fishing company in New Zealand at the time, owning over 20 percent of all commercial fishing quota. The Settlement also resulted in the establishment of the Treaty of Waitangi Fisheries Commission, previously the Maori Fisheries Commission, to manage the commercial settlement assets on behalf of Maori.

The main on-going obligation on the Crown resulting from the commercial component of the fisheries settlement is the requirement to allocate 20 percent of quota for fish species to Maori via the Fisheries Commission, on their introduction to the QMS. The Fisheries Commission, or Te Ohu Kai Moana (the Commission's Maori name), has dual responsibilities – first, to get Maori into the business and activity of fishing; and second, to develop proposals for the allocation of settlement assets to iwi and the distribution of the benefits of the Deed of Settlement in a manner that ensures all Maori can ultimately benefit from the settlement.

Customary settlement

Section 10 of the Settlement Act 1992 addressed the effect of the settlement on Maori non-commercial fishing rights. The status of those rights changed so that they no longer have legal effect except to the extent that they are provided for in regulations made in accordance with s10(c) of the Settlement Act 1992. However, Maori non-commercial fishing rights continue to give rise to Treaty obligations on the Crown. Section 10(b) of the Settlement Act 1992 places an ongoing obligation on the Minister to consult with tangata whenua about, and develop policies to help recognise the use and management practices of Maori in the exercise of non-commercial fishing rights.

Customary Fishing Regulations

Section 10(c) of the Settlement Act 1992 provides for the making of regulations to recognise and provide for customary food gathering by Maori and the special relationship between tangata whenua and those places of customary food gathering importance, *to the extent* that such food gathering is neither commercial in any way nor for pecuniary gain or trade. The regulations provide a legislative framework for ensuring that customary fishing takes place under the management of kaitiaki who have been properly appointed by, and are accountable to, the tangata whenua.

The regulations also provide for the establishment of mataitai reserves over traditional fishing grounds. Commercial fishing is generally prohibited within mataitai reserves and all non-commercial fishing is managed by the kaitiaki through the making of bylaws that must apply equally to all individuals.

The Fisheries (South Island Customary Fishing) Regulations 1998 were made on April 20 1998 after Ngai Tahu and Te Tau Ihu iwi agreed to use the Ngai Tahu Treaty Settlement to progress the finalisation of the regulations. The Fisheries (Kaimoana Customary Fishing) Regulations 1998, covering the remainder of New Zealand, came into effect on 1 February 1999.

Summary

In summary the fisheries settlement recognised Maori fishing rights through a range of mechanisms: ITQ for commercial catch; customary regulations for management of customary take; mataitai reserves for spatial management of fishing grounds for non-commercial purposes; and an ongoing obligation on the Crown to develop policies to recognise the use and management practices of Maori.

The settlement envisaged Maori being reinstated as active participants in New Zealand's commercial fishing industry. Maori commercial rights were provided for in the form of ITQ and Maori commercial fishers were expected to adhere to all the general requirements and constraints that applied to the quota management system.

The authority of tangata whenua to manage customary non-commercial fishing activity would be recognised through a regulatory framework providing for the statutory appointment of kaitiaki by tangata whenua. Kaitiaki would have the ability to manage all customary non-commercial fishing activity through the issuing of authorisations, and the ability to manage certain traditional fishing grounds to ensure availability of fish for customary purposes. The use and management practices of tangata whenua would be recognised and provided for by the Crown in the wider management of fisheries.

Part 2 – What's happening on the ground

Commercial customary separation

The fisheries settlement effected an unnatural split of Maori customary fishing rights into two separate components – commercial rights provided for through the provision of ITQ, and non-commercial rights provided for through a regulatory framework for the authorisation of non-commercial fishing.

These separate sets of rights were vested in different entities. The commercial assets were transferred to Te Ohu Kai Moana whose job it is to manage those assets on behalf of Maori and to develop an allocation model for distributing the benefits of the commercial settlement to iwi for the ultimate benefit of all Maori. The non-commercial regulatory framework on the other hand, provides for tangata whenua (defined as whānau, hapu or iwi that hold traditional authority over a particular area) to appoint kaitiaki for the management of non-commercial fishing activity.

The legislative split between the two sets of rights is exaggerated in practice, especially while commercial assets are not yet allocated to iwi groups and implementation of the customary fishing regulations continues in a piecemeal bottom up fashion spearheaded by hapu and marae groups. Iwi organisations lease quota from TOKM, often on-leasing it to other companies due to lack of their own capacity to fish it. Profits are returned to the iwi organisation with varying degrees of accountability to individual tribal members or constituent hapu.

Marae organisations, by contrast, are more involved in the hands-on protection of traditional fisheries as a source of food. The non-commercial customary fishing provisions of the settlement are mobilised against the perceived threats to traditional fishing from commercial fishers in particular – even though those commercial fisheries may be substantially owned by Maori. In other words, the split in Maori rights has resulted in different sections of Maori society competing for the same fish.

The divisions between iwi organisations endeavouring to extract economic returns from the commercial component of the fisheries settlement and hapu groups who feel disenfranchised from the commercial benefits of the settlement is a real threat to the settlement's overall longevity. Some hapu groups, asserting their independence from iwi organisations, have argued for allocation of settlement assets down to hapu level. Any further fragmentation of the settlement assets to a sub-tribal level would likely result in economically unviable parcels of quota.

Lack of capacity

There is a lack of capacity amongst fisheries stakeholder groups in New Zealand generally, to engage meaningfully in the business of fisheries management – and Maori are no different. This is partially a symptom of the lack of strong institutional structures, governance arrangements and resources for representing the interests of the various rights-holders. Commercial fishers have a relative advantage in terms of sharing common economic objectives and being relatively easy to define, at least in respect of quota owners and fishing permit holders.

Maori have strong tribal groupings based on whakapapa (genealogical association), but the associated governance entities are often far from robust or accountable. This situation is perpetuated by the lack of an overall framework for Crown-Maori relationships, with different government agencies dealing with different groups in different ways, to achieve a diverse range of objectives. The effectiveness of governance arrangements established for one purpose are often undermined by different Crown agencies dealing with different bodies in respect of related issues.

The mere existence of tribal and sub-tribal structures within Maori society, means that Maori management of commercial and customary fisheries has a head start on recreational fisheries management where a lack of robust and

accountable institutions and governance arrangements makes it difficult to envisage how recreational fishing rights could be managed other than by the government on behalf of the fishing public.

Rights-based fisheries management is based on the premise that rights-holders are responsible for representing their own interests and for engaging with other rights holders in fisheries management processes that affect those interests. To this extent, a lack of capacity amongst rights holders poses real challenges to the successful implementation of a rights-based approach to fisheries management, both for fisheries stakeholder groups and for the Crown.

Lack of integration between the rights of fisheries stakeholders

There is a lack of integration between customary fishing rights and the rights of commercial and recreational fishers. Maori fishing rights are now well defined, but in two different forms. Maori face their own internal challenges in respect of balancing their interests in commercial and customary fishing. In the wider arena, the interface between customary non-commercial rights and the rights of commercial and recreational fishers is the subject of ongoing conflict. This is compounded by the fact that the different sector groups do not often interact with each other over fisheries management – at least not in a constructive manner.

Spatial tools designed to recognise and provide for customary non-commercial fishing rights, such as mataitai reserves, taiapure and temporary closures under s186A of the Fisheries Act 1996, are almost universally objected to by the commercial fishing industry. The tools are applied by tangata whenua as a last resort for protecting their fisheries which they see as being depleted by the actions of irresponsible commercial or recreational fishers. In return, commercial and recreational fishers often perceive these tools as diminishing their rights, either by reducing the fishable area of a Quota Management Area, or by restricting recreational fishing activity on what is often perceived to be a racial basis.

The customary fishing regulations create what is sometimes referred to as a “de-facto priority” for customary fishing in the allocation of the Total Allowable Catch (TAC) for a fishery between sector groups under section 21 of the Fisheries Act 1996. MFish policy in making an allowance for customary take has been to rely on best available information on the extent of customary harvest in a particular fishery and then make an allowance for that quantum for the following fishing year⁴. In theory customary non-commercial take, as authorised by kaitiaki appointed under the regulations, could increase to the level of the TAC, resulting in ever-diminishing allocations for the commercial and recreational sectors.

In reality the situation is very different. The role of kaitiaki is a traditional one in Polynesian cultures and it centres on exercising an ethic of guardianship in accordance with traditional practices. Kaitiaki, and tangata whenua, regard their relationship with natural resources as one of a caretaker and the onus is on them to protect the resource – not just for future generations but in terms of the intrinsic life-force or ‘mauri’ of the resource itself.

In practice this means that kaitiaki will stop issuing fishing permits for customary fishing long before commercial or recreational fishers stop fishing an area. This in turn can result in a customary allowance being set very low and effectively result in a reallocation of the TAC to other sectors. In the absence of effective provisions to provide for the availability of fish for customary non-commercial purposes, the much touted “priority of customary take” in the TACC setting process is nothing more than a misleading catchphrase.

In this respect recreational and customary fishers are in the same situation in that allowances for recreational fishing in the TACC setting process are also based on best available information on recreational catch levels. If a TAC is reduced due to decreasing stock numbers, constraints are often tightened on recreational fishing along with any reduction to the TACC. In the opposite scenario of a TAC increase, the lack of specification or definition surrounding the rights of the non-commercial sectors to a share of the resource means that there is not necessarily any commensurate increase in the recreational allowance or easing of constraints on recreational fishing let alone any proactive measures to increase availability of fish for recreational fishers.

Part 3 – Moving forward and the challenges for each sector group and MFish

This section of the paper identifies and discusses three key areas where progress could be made in addressing the issues referred to in the previous section. The three areas are the building of Maori capacity in terms of institutional arrangements and fisheries management expertise; clarifying the interface between the rights of the different

⁴ MFish advice on allocation of TAC between fisheries stakeholder groups, August 2001.

stakeholder groups to a share of the TAC for fishstocks; and making the link between the right to a share of the TAC and the actual availability or ‘catch-ability’ of fish by a particular stakeholder group. Each of these areas is discussed in turn.

Building capacity

Governance and institutional arrangements

Maori face four key challenges requiring strong governance arrangements: the establishment of the necessary infrastructure to be involved in successful commercial fishing operations following the allocation of settlement assets; the management of non-commercial fishing activity through the appointment of kaitiaki; ongoing participation in wider fisheries management processes that impact on their interests; and the integration of these three components into an overall fisheries framework that can deliver the benefits of the settlement in a manner that is both economically efficient and accountable to rights holders.

Having been almost entirely shut out of New Zealand’s commercial fishing industry by the mid-1980s, Maori are now the dominant player in that industry as a result of the 1992 settlement and subsequent growth of the settlement asset base by Te Ohu Kai Moana. Maori need to ensure they do not lose their fisheries rights again. The risk that this may occur is heightened with those rights being in the form of ITQ – Maori commercial fishing rights are potentially just as alienable as those of any commercial fisher, and all within a management system that relies on the transferability of those rights to achieve maximum economic efficiency from the use of New Zealand’s fisheries.

Maori have had their commercial fishing rights vested in bulk. Allocation of those rights cannot happen until such time as iwi organisations can demonstrate strong and robust institutional structures that can manage the rights, and be accountable to their beneficiaries. Te Ohu Kai Moana’s guide to representation on iwi organisations has the following to say about the relationship between an iwi and its hapu:

An Iwi organisation is the sum of its constituent hapu and/or marae. However it needs to be kept in mind that each hapu-iwi relationship is unique and what applies to one Iwi may be entirely inappropriate for another. Therefore, it is for the collective constituent hapu and marae to decide how their Iwi organisation will exercise its representative role.⁵

If strong linkages can also be made between those institutional structures and the management of non-commercial customary activity, say through the development of iwi fisheries strategies, then Maori will have taken positive steps to realising the vision of the fisheries settlement. Government agencies such as Te Puni Kokiri and the Office of Treaty Settlements carry out functions in terms of iwi governance and capacity building that could be usefully integrated into any strategic approach to addressing capacity issues amongst iwi and hapu in respect of fisheries management.

Fisheries management expertise

The other area where capacity building needs to occur amongst iwi and hapu is fisheries management expertise, particularly as it applies to the processes run by the Ministry of Fisheries under fisheries legislation. MFish has a role in eliminating barriers to effective participation in fisheries management including making sure that information is appropriately targeted and readily available, and that processes are physically accessible.

MFish is currently engaging in discussions with iwi and hapu groups about its overall strategy for delivering on its obligations to Maori under the fisheries settlement and the principles of the Treaty. Key components of the strategy are a focus on relationship building, and the establishment of regional forums that provide for the input of iwi and hapu fisheries representatives into fisheries management processes.

The Ministry of Fisheries has identified the need for targeted training for iwi and hapu on fisheries management – particularly as it applies to the management of fisheries in their region. Opportunities exist for collaboration between MFish, Te Puni Kokiri, Te Ohu Kai Moana and the Seafood Industry Training Organisation in the development of such a training programme that could be delivered via approved training providers across the country. Such training will be an important precursor to iwi and hapu taking a more proactive and planned approach to the management of their fisheries interests – both commercial and non-commercial.

⁵ He Tohu Arahi ‘A guide to representation on Iwi organisations’, Te Ohu Kai Moana, 2001, p. 4

Clarifying the interface between the rights of stakeholder groups

Rights have been well defined for the commercial sector, and for the customary non-commercial sector. However, the relationships between the rights of different stakeholder groups are not well defined – either in terms of shares of the overall TAC for a particular fishery, or in terms of spatial rights within a QMA.

In the absence of a common currency that might allow rights to be traded between sector groups, in the same way that ITQ is currently traded within the commercial sector, an adequate mechanism is required for determining the relative shares of each sector group to a particular fish stock. Opportunities for improved fisheries management outcomes would be enhanced if the respective shares of different sector groups to the extractable portion of the resource were better defined. Management measures could then be implemented with the express goal of providing each sector group with the ability to catch their share of the fishery – a concept that is discussed further below.

Implementation of a rights framework based on well defined shares to the fishery depends on two factors being present in respect of each sector group with an extractive interest in the resource: accurate information about the sector group's catch levels, and the ability to stop fishing when the sector group's share has been met. Both these factors are present in respect of the quota management system for commercial fishing with all catch having to be landed and counted against quota and fishing ceasing when quota has been caught.

The regulatory framework for customary fishing has the potential to provide for both of these factors once fully implemented. All customary fishing must be authorised by kaitiaki, and catches must be reported and recorded, thereby providing accurate assessments of customary take. Should tangata whenua agree to an output based share system, then kaitiaki have the ability to ensure that customary harvest stays within its allocated share.

Would tangata whenua ever agree to an output driven share system given it is generally accepted that customary take has priority over other sectors in the allocation of fisheries resources? While the question is largely hypothetical at this stage of the evolution of rights based management in New Zealand, one can presuppose at least two conditions that would need to be in evidence: the share would need to be sufficient to meet customary non-commercial requirements; and links would need to be made with management measures to ensure the customary share could actually be caught by customary fishers as discussed below.

The weak link in the chain at present is recreational fishing where information on catch levels is both sketchy and difficult to obtain. Recreational fishing is managed through a range of input controls, mainly bag and size limits, but there is no ability to constrain overall recreational catch within any allotted share, except in a retrospective sense which defeats the purpose. Note, I use the term recreational fishing rather than recreational fishers as I am not suggesting that recreational fishers are in any way to blame. Rather, the 'public-good' aspects of recreational fishing, the scale and unpredictable nature of recreational fishing activity, and historical attitudes about the nature of recreational fishing rights, mean that recreational fishing is a long way from being able to meet the basic prerequisites of output based management.

Links between the right and availability/catch-ability of fish

While the theoretical model presupposes the need to better define shares to a fishery between sector groups, such steps would be meaningless without the necessary co-relationship between a share of the TAC and actual fishing activity on the water. Appropriate shares of the TAC need to be determined for each sector group, along with the basis on which those shares might be reviewed. Each sector group must then be able to be assured that they will be able to catch their share – and not have it caught by others.

In the commercial sector the bulk fishing methods and ability to fish in rougher water mean that the TACC is directly relevant as a determiner of catch levels. For non-commercial fishers, restricted to a greater degree by the weather and in the fishing methods at their disposal, the allocation to them of a share of the TAC for a large QMA means very little without accompanying measures to ensure they can actually catch that share.

As discussed earlier, the so-called "priority of customary take" in the allocation of shares to a fishery means very little in the absence of an ability to actually catch that share. An output based shares system that took into account the need for associated measures to enable the share to be caught may be a more meaningful way of providing for customary non-commercial rights. It would also have the effect of integrating spatial management tools such as mataitai reserves, area closures and method restrictions into the context of the overall rights-based framework.

In the recreational sector, the lack of information about recreational take and the difficulty in enforcing recreational limits means that there are few husbandry incentives generated for individual recreational fishers in respect of fisheries resources. Any moves to better define the rights associated with the allocation of shares to the TAC would need to include demonstrable benefits to the recreational sector both in terms of the size of their share and measures to ensure they can catch it.

Under this scenario any reduction in a sector's share would require a lowering of bag limits and tightening of input controls. By the same token, any increase in the share may require a commensurate loosening of input controls and possibly the application of spatial management tools or method restrictions on the commercial sector to enable the non-commercial sectors to catch their share.

In Conclusion

Maori, the Crown and fisheries stakeholder groups each face different challenges relating to the implementation of the fisheries Treaty settlement, and to the implementation of the rights based fisheries management system as a whole.

There is clearly a need to better define the relationships between the extractive rights of the various fisheries stakeholder groups. And while this paper has focussed on the extractive uses of fisheries resources there is also the need to ensure that environmental standards and values are fully incorporated into the overall fisheries management framework. Fisheries Plans developed by fisheries stakeholder groups, and approved by the Minister of Fisheries under the Fisheries Act, provide a context for stakeholder-led management to occur. Participation of non-commercial sectors in the development of Fisheries Plans will require both capacity building and better definition of rights as outlined in this paper.

The current direction of fisheries management in New Zealand foresees the devolution of management responsibility to stakeholder groups, and stakeholder development of Fisheries Plans for key fisheries and areas. As a result of the indigenous fisheries settlement, Maori are well placed to take advantage of the opportunities offered by such an environment. Maori are part of all three extractive fisheries sectors – commercial, customary and recreational – and are already familiar with the necessary trade-offs that are an everyday part of managing fisheries. With ongoing developments in the definition and security of their rights, Maori are destined to be at the centre of co-operative management initiatives in the future.