

**EFFECTIVE FISHERIES CO-MANAGEMENT BETWEEN THE MINISTRY OF FISHERIES  
AND TE ARAWA AN INDIGENOUS PEOPLE OF AOTEAROA/ NEW ZEALAND:  
IMPLEMENTING POLICY AND KAITIAKITANGA THROUGH A LEGISLATIVE  
FRAMEWORK**

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**ABSTRACT**

This paper will address the effectiveness of fisheries co-management between the Ministry of Fisheries and Te Arawa a central north island indigenous tribe of Aotearoa/New Zealand. The Ministry of Fisheries, as the manager of fisheries resources, must provide a balance between the interests of all New Zealanders and the rights of the indigenous people of Aotearoa/NZ, Maori, as provided under the Treaty of Waitangi 1840. As a case study this paper will examine the working relationship between the Ministry of Fisheries and Te Arawa that demonstrates when tools are provided either through legislation or kaitiakitanga (traditional and customary management practices) this allows for effective fisheries co-management to occur. The key issues for the case study are:

- a) settlement of Te Arawa historical Treaty of Waitangi claim for their lakes
- b) promulgation of the Te Arawa Lakes Fisheries regulations
- c) providing mechanisms for Maori to have input and participation into fisheries management;
- d) ability for Maori to manage customary non-commercial harvest in their tribal area;
- e) commitment to a strong working relationship as partners; and
- f) provision of resources to enhance capacity for Maori to participate in fisheries management

This paper will also look at the process Te Arawa undertook to have the lakebeds returned, how legislative frameworks and policies are assisting Te Arawa to develop fisheries management. Addressing implementation of a co-management process for taonga (treasured) species within the 14 lakes and how this has added value to relationship building for both Treaty partners.

**Keywords:**

Fisheries co \_management, customary non-commercial fishing, kaitiakitanga, Te Arawa, taonga, Te Tau Tiaki I nga tini a tangaroa, Treaty of Waitangi 1840.

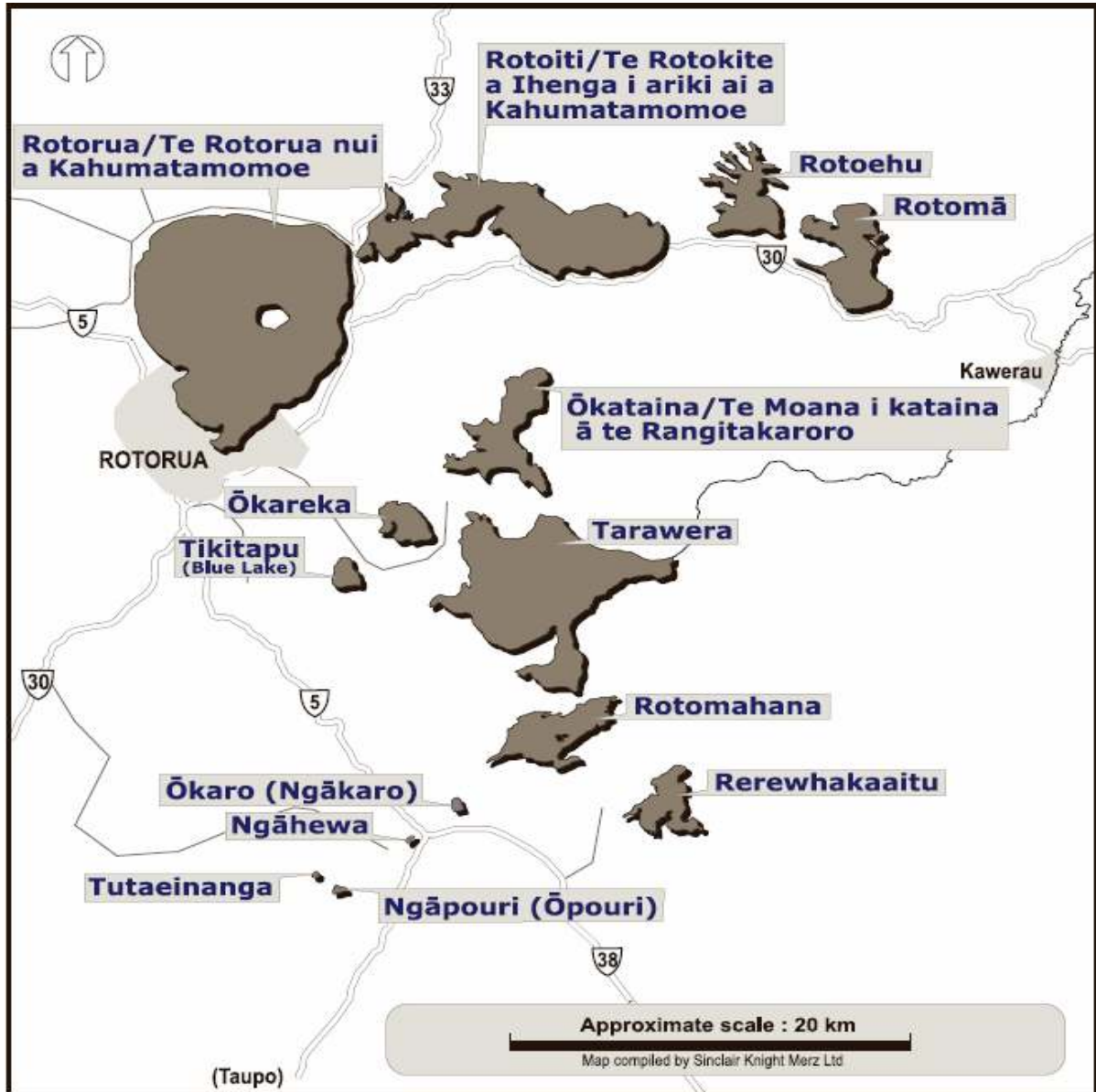
**Te Arawa**

Te Arawa is an indigenous (Maori) tribe of New Zealand who are primarily located in the central North Island city of Rotorua. In the 2006 New Zealand census over 40,000 Maori identified themselves as being of Te Arawa descent. During negotiations Te Arawa iwi were represented by the Te Arawa Maori Trust Board.

In 1840, lakes Ngahewa, Ngapouri, Okareka, Okaro, Okataina, Rerewhakaaitu, Rotoehu, Rotoehu, Rotoma, Rotomahana, Rotorua, Tarawera, Tikitapu and Tutaeinanga (Map 1) provided food, shelter, economic resources and primary transport routes for Te Arawa. The lakes of Te Arawa are regarded as

taonga (treasures) to the iwi and hapu of Te Arawa and their relationship with the lakes and environs continues to be, the foundation of their identity and cultural integrity<sup>1</sup>.

Map 1: Te Arawa Lakes



<sup>1</sup> Preamble to the Te Arawa Lakes Settlement Act 2006.

### **Treaty of Waitangi claim**

In 1987 Te Arawa Maori Trust Board lodged a Treaty of Waitangi claim with the Waitangi Tribunal<sup>2</sup> in relation to lake related grievances.

After a series of offers and negotiations Te Arawa Maori Trust Board decided to forego the Waitangi Tribunal process of hearing into their grievances and accepted an offer in December 2003. This offer was concluded in December 2004 with both the Crown and Te Arawa signing a Deed of Settlement. The offer included:

- Transfer of 13 lakebeds and provisions regarding the strategic management of the lakes to Te Arawa;
- Financial redress;
- An agreed historical account, an acknowledgment of breaches by the Crown of the Treaty of Waitangi and its principles, and an apology from the Crown based on these acknowledgments; and
- The promulgation of fishing regulations.

### **Te Arawa Lakes Fishing Regulations 2006 (TALFR)**

The regulations (developed in consultation with the Te Arawa Lakes Trust<sup>3</sup>) enable Te Arawa to manage the harvest of certain species in accordance with the sustainable utilisation principles of the Fisheries Act 1996. Specifically, the regulations enable Te Arawa Lakes Trust (TALT);

- to appoint persons to issue authorisations to allow non-commercial food gathering (of the Included Species);
- to nominate for all or any of the Te Arawa lakes a management structure or structures to manage customary food gathering within Te Arawa Fisheries Area; and
- recommends to the Minister of Fisheries that commercial fishing be allowed for some or all Included Species on some or all of the Te Arawa lakes, in accordance with the Fisheries Act 1996.

The regulations enable the Te Arawa Lakes Trust to propose bylaws restricting or prohibiting the taking of 'Included Species' from within the whole or any part of the Te Arawa Fisheries Area (the 14 lakes) for any purpose that they consider necessary for the sustainable utilisation of the fisheries resources in the Te

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<sup>2</sup> Since the signing of the Treaty of Waitangi (The Treaty is a broad statement of principles on which the British and Maori made a political compact to found a nation state and build a government in New Zealand) on 6 February 1840 actions taken by governments resulted in the alienation of Maori land, waters and other resources from their owners, generally without proper consent or compensation. Maori have tried to have their grievances addressed, and some early governments made attempts to settle their claims. Only some of those claims were addressed, and these attempts are now considered to have been inadequate. Recent governments have recognised that the way some land transactions took place was unjust, leaving a strong sense of grievance with the original owners and their descendants. In 1975 the Waitangi Tribunal was established to consider claims by Maori against the Crown regarding breaches of principles of the Treaty and to make recommendations to government to remove the prejudice and provide recompense. Since 1985 the tribunal has been able to consider Crown acts and omissions dating back to 1840. This has provided Maori with an important means to have their grievances against the actions of past governments investigated.

<sup>3</sup> As a result of the negotiations the Te Arawa Lakes Trust replaced the Te Arawa Maori Trust Board

Arawa fisheries area. The approval and gazettal of any bylaw would remain a duty of the Minister of Fisheries. Bylaws will allow any person to take certain fish in accordance with the constraints imposed by the bylaws.

Where a certain species is insufficiently abundant to support for general fishing, bylaws could be made to prohibit general fishing but allow for the granting of written authorisations to meet the customary requirements of Te Arawa. These provisions are consistent with the requirements of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and the Fisheries Act 1996 both of which require the making of regulations to recognise and provide for customary food gathering by Maori to the extent that such food gathering is not for commercial use.

The Te Arawa Lakes Fishing Regulations 2006:

- require the management structure or structures nominated by the Governance Entity to keep accurate records of the quantities of Included Species taken by authorised persons and submit these records to the Minister of Fisheries;
- provide that the management structure(s) hold annual meetings with Te Arawa by calling a hui to report on matters relevant to the effective management of customary food gathering by the management structure including the number of authorisations granted for the year and any restrictions or prohibitions in force for the year;
- Provides for regulations and penalties applicable where a person(s) commits an offence(s) against the regulations.

In developing a management process for Te Arawa Lakes and implementing Te Arawa Lakes Fisheries Regulations (TALFR), MFish provided staff through secondment of a Pou Takawaenga as a resource through the Deed of Settlement programme to assist Te Arawa Lakes Trust to develop a framework and process to implement the regulations.

## **FRAMEWORK**

The framework for TALT to establish Komiti Whakahaere (management committee) and a Mahire Whakahaere (management plan) for Te Arawa Lakes, was jointly developed by TALT and MFish. For this framework to be consistent with TALFR it required from Te Arawa the following structure to be established;

1. Komiti Whakahaere (a representative management committee of Te Arawa hapu and iwi) to implement the regulations to provide management of Te Arawa Lakes fisheries on behalf of nga hapu and iwi of Te Arawa.
2. A process developed for the appointment of Poutiriao (guardian) and implementation of a Mahire Whakahaere consistent with the TALFR. Te Arawa Lakes Trust will need to consider the cost of establishment, and resourcing of Komiti Whakahaere and Poutiriao and source funding for the longevity and sustainable management of Te Arawa lakes fisheries, and the role of the MFish within this process.
3. The process required input, consultation and commentary from the many beneficiaries to the settlement.

4. The framework also needed to be consistent with the vision, mission and objectives of TALT.

The secondment of a Pou Takawaenga to Te Arawa from MFish provided technical advice to work alongside Te Arawa to develop the structure and process. In addition to this MFish also needed to provide within the process meaningful engagement for input and participation for the management of the Included Species to be consistent with the Fisheries Act 1996.

### **Roles and Responsibilities of Trustees**

Diagram 1 below, illustrates the interconnection between TALT Trustees and Komiti Whakahaere, Poutiriao, additional Poutiriao and the Minister of Fisheries. Whilst all processes are linked, the Trustees have a governance role to implement and initiate the process for establishment of Komiti Whakahaere.

These roles are;

#### **1. Appointment of Komiti Whakahaere and additional Poutiriao**

Trustees within the regulations may appoint Komiti Whakahaere and additional Poutiriao in consultation with hapu and iwi, and specify areas of Te Arawa fisheries where Poutiriao will exercise their functions. Trustees are also responsible for cancellation of appointments and must notify the Minister when there are resignations, death or actions that are inconsistent with duties of a Poutiriao.

#### **2. Approve Mahire Whakahaere**

Trustees must approve a Mahire Whakahaere providing that it meets Regulation 13 (TALFR), and is consistent with objectives and policies of TALT for achieving sustainable utilisation of species included in the TALS. Trustees are responsible for the notification of the Mahire Whakahaere.

The election of Trustees is set out in the TALS.

### **Roles and Responsibilities of the Ministry of Fisheries**

The Minister and the Ministry of Fisheries have a role in regulating the fish species these are set out in two parts;

#### **1. Gazette and Notify Komiti Whakahaere and Additional Poutiriao**

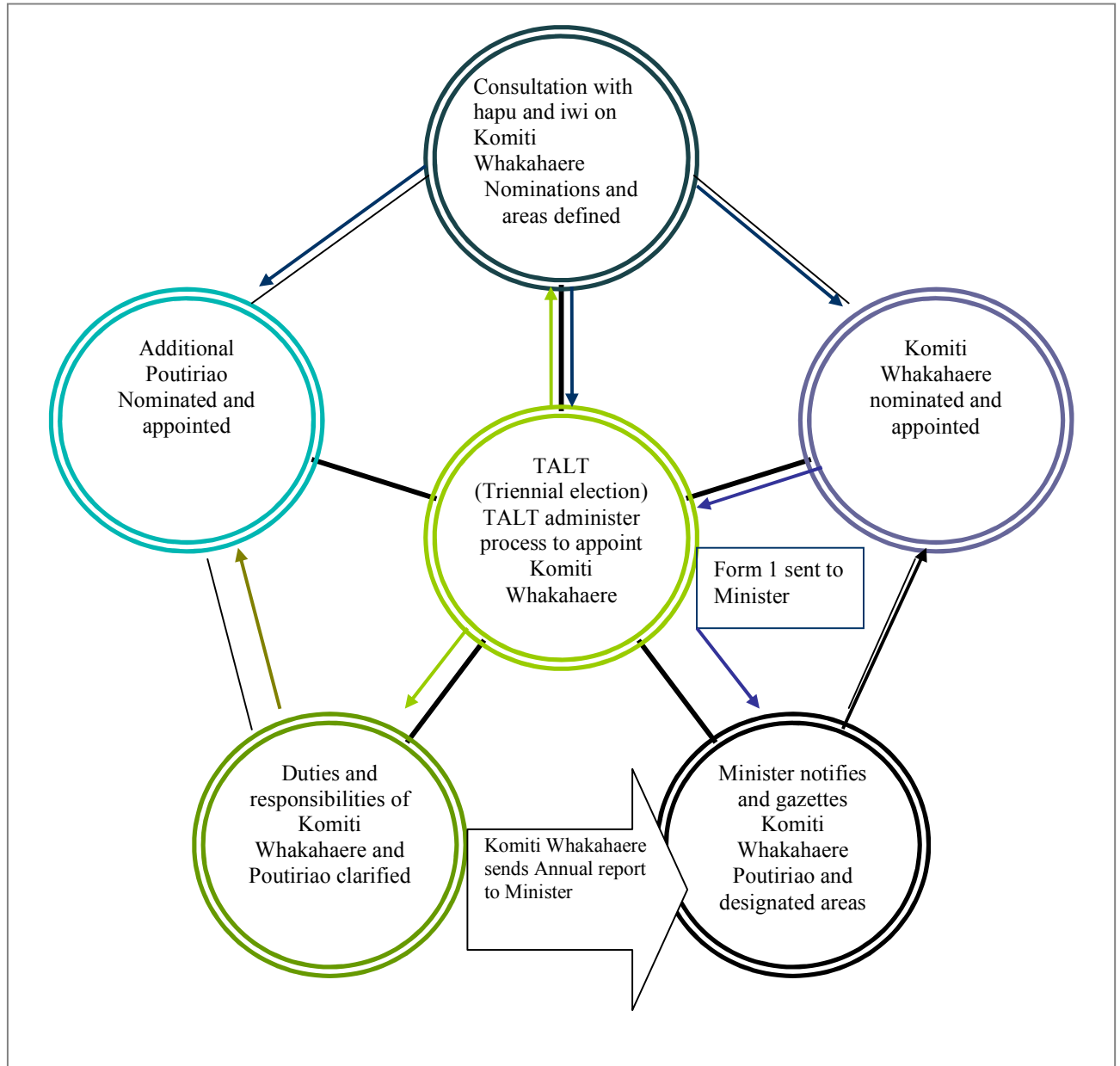
The Minister of Fisheries notifies and gazettes the Komiti Whakahaere and additional Poutiriao once they have been elected and approved by Te Arawa. This provides for recognition of an approved member to manage and if required issue customary authorizations for take of Included Species.

#### **2. Resourcing**

Resourcing through provision of MFish staff to assist Te Arawa to manage their taonga within their lakes and have input and participation into management decisions on fish species. Further MFish, would provide compliance and technical advisors and relationship managers to meet MFish obligations set out in the Te Arawa Lakes Settlement, and to provide for input and participation into the management of other fisheries species outside of the TALS.

**Diagram 1: TALT Trustees process to appoint Komiti Whakahaere**

Diagram 1 illustrates the connection of TALT and the processes required to meet the TALFR and the role of the Minister of Fisheries.



**Komiti Whakahaere process**

In developing the process to provide a framework and structure MFish worked alongside Te Arawa Lakes Trust to identify key elements that would be consistent with tikanga (rules) and kawa (values and principles) of Te Arawa. Specifically, the process had to allow for specific areas and nomination of Komiti Whakahaere to be consistent with the tikanga and kawa of Te Arawa. It was also important for

the Hapu and Iwi within Te Arawa to be part of the discussion and decision making process to nominate and elect appropriate Komiti Whakahaere and additional Poutiriao for Te Arawa Lakes.

This would provide for collective decision making, consultation and a transparent and open process. This would enable Te Arawa to appoint appropriate people to manage their lakes, and have the ability to deliver on specific duties and responsibilities.

The management framework consists of;

- a) Komiti whakahaere
- b) Duties and responsibilities of Komiti whakahaere
- c) Membership of Komiti Whakahaere
- d) Appointment of Poutiriao
- e) Duties of Poutiriao
- f) Appointment of additional Poutiriao
- g) Duties of additional Poutiriao.

A process to assist the Trustees to appoint Komiti Whakahaere is set out in Table 1, and is part of their lakes fishing regulations.

**Table 1: Komiti Whakahaere and additional Poutiriao appointment process**

1. Trustees appointed at AGM
2. Consultation on issues relating to management of Te Arawa Lakes Fisheries Settlement (TALFS) canvassed amongst hapu and iwi of Te Arawa
3. Consultation on duties and responsibilities of Komiti Whakahaere
4. Hapu and Iwi to nominate people to represent them on Komiti Whakahaere
5. Trustees in consultation with hapu and iwi to define Te Arawa fisheries area of responsibility to nominated person or people on Komiti Whakahaere
6. Completion of Form 1 to give notice to the Minister of Fisheries of nominations for Komiti Whakahaere; name, area, date of fixed term. Can be transmitted to the Minister via electronic medium.
7. Minister on receiving Form 1 nominations under Reg 7 or 6 must no later than 40 working days confirm the appointment by public notice, via Gazette, and newspaper within the Te Arawa Fisheries area. Once nominated and appointed members are deemed to be Poutiriao.
8. Additional Poutiriao can be appointed under Reg 8 , via the process of point 4 but for additional Poutiriao and not Komiti Whakahaere, then follow points 5, 6 and 7and satisfy regulation 7 (1) (c) and (d).

**A proposed framework to establish Komiti Whakahaere**

Together Te Arawa and MFish developed a proposed framework to establish the Komiti Whakahaere, by including current processes within Te Arawa. This included looking at three tupuna (ancestral) groupings that covered the 14 lakes within the settlement act that was also aligned to their process for representation of TALT Trustees.

The proposed framework offered the following;

- 1. Election of three independent Komiti Whakahaere from the three tupuna groupings, that had three independent Mahire Whakahaere or

2. Election of three Komiti Whakahaere and have one Mahire Whakahaere where responsibility for specific areas is carried out by the appropriate tupuna grouping representatives or,
3. Election of One Komiti Whakahaere and one Mahire Whakahaere covering all lakes.

This framework allowed for areas of shared responsibility to include one or all tupuna groupings, where relevant and also maintained and upheld tikanga and kawa of Te Arawa. The issue for Te Arawa was to accommodate all the iwi who either had through tupuna groupings responsibilities for specific lakes and shared responsibilities for more than one lake. This was done to accommodate all the interests and responsibilities of the three tupuna groups, to enable them to have appropriate representation within the Komiti Whakahaere process.

### **Mahire Whakahaere**

A draft Mahire Whakahaere was also developed between MFish and Te Arawa that was consistent with the mission, vision and objectives of TALT. The Mahire Whakahaere is for the management of fisheries species specified in the TALS Act they are;

1. koura – *paranephrons planifrons*,
2. inanga – *galaxias sp*,
3. kakahi - *unio menziesi*,
4. koaro - *galaxias brevipinnis*,
5. tuna – *anguilla dieffenbach*, *a. australias* and
6. morihana – *carassius auratus*.

### **Objectives for a draft Mahire Whakahaere**

In developing a draft Mahire Whakahaere the objectives considered the following;

- a) To provide for kaitiakitanga consistent with Te Arawa tikanga and kawa
- b) To promote Poutiriao to add value to the educational, spiritual, economic, social and cultural advancement or well being of Te Arawa
- c) To provide for the protection of fisheries that have cultural or spiritual significance to Te Arawa
- d) To enhance and manage Te Arawa freshwater fisheries.
- e) To provide for sustainable utilisation of Te Arawa freshwater fisheries
- f) To provide effective management and control mechanisms for fisheries species in the 14 lakes
- g) To provide for method restrictions, limitations on take, and closures as they relate to taking of freshwater fish species
- h) To make by laws for the freshwater species and lakes
- i) To establish a process and criteria for issuing of Puka Whakamana

The objectives whilst draft recognised key elements that were consistent with the practices and management procedures that are valued by Te Arawa to provide for sustainable management of their fishery. The value of developing a draft Mahire Whakahaere allowed the TALT to provide guidance on key objectives that could be considered and for future discussions on what could be achieved in terms of management of their fisheries. It was important that a draft be completed for a Komiti Whakahaere to consider for future planning.



## **Compliance**

MFish has already completed a compliance management plan for the 14 Lakes which will assist to some degree in monitoring and proving some form of control. There is a provision within the compliance plan to provide for training of Poutiriao and development of tangata whenua packages.

## **Summary**

The settlement of the Te Arawa Lakes has initiated a more meaningful engagement process for both Treaty partners. The development of the regulations, compliance management plan, framework and process to implement the regulations, and draft Mahire Whakahaere has been done collectively to enable the implementation of the settlement and to give effect to the Treaty partnership. The work that had been completed leading to the promulgation of the TALFR and the secondment of MFish staff added value to the relationship between MFish and Te Arawa Lakes Trust.

Whilst the role of Treaty partner is on going and continues to develop and evolve, MFish has worked and continues to work with Te Arawa to achieve more effective co-management of fisheries within the Te Arawa area. The settlement of Te Arawa lakes has provided a more robust process to delivering on Treaty partnership relationships and Treaty obligations, to add value to sustainable fisheries management.

## **REFERENCES**

Fisheries Act 1996

Te Arawa Lakes Fishing Regulations 2006

Te Arawa Lakes Settlement Act 2006

Te Arawa Lakes Trust 2007: Board Vision statement