TE OHU KAIMOANA

MĀORI FISHERIES TRUST

23 August 2013

Inshore Fisheries Management
Ministry for Primary Industries
PO Box 2526
Wellington 6011

FMsubmissions@mpi.govt.nz

REVIEW OF SUSTAINABILITY AND OTHER MANAGEMENT CONTROLS FOR SNAPPER 1 (SNA 1)

Introduction

1. This submission is from Te Ohu Kai Moana Trustee Ltd (Te Ohu) in its role as corporate trustee of Te Ohu Kai Moana Trust. It is made in response to the Ministry for Primary Industry's discussion paper reviewing the sustainability and other management controls for Snapper 1 (SNA1).

2. Te Ohu Kai Moana trust was established under s.31 of the Maori Fisheries Act 2004. The purpose of Te Ohu Kai Moana Trust 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 Maori generally
   - further the agreements made in the Deed of Settlement and to assist the Crown to discharge its obligations under the Deed of Settlement and the Treaty of Waitangi
   - contribute to the achievement of an enduring settlement of the claims and grievances referred to in the Deed of Settlement.

Summary of submission and recommendations

3. As a result of the Fisheries Settlement, iwi were allocated 10% of the quota shares for snapper within each quota management area (QMA). Te Ohu Kaimoana has allocated around 9% of the quota shares to iwi in SNA 1. In addition, as part of the Settlement, the Crown undertook to promulgate regulations to provide for customary food gathering. The Kaimoana (Customary Fishing) Regulations were enacted for the North Island in 1996. While these regulations have been implemented in a few areas within SNA 1, the default for the remainder is regulation 27 and 27A of the Amateur Fishing Regulations.

4. Aside from the measures agreed under the Fisheries Settlement – many Maori also fish as recreational fishers under the Amateur Fisheries Regulations.

TE OHU KAI MOANA TRUSTEE LIMITED
Trustee for the Māori Fisheries Trust
Protecting Māori fisheries assets for future generations

Level 4 | Revera House
48 Mulgrave Street
PO Box 3277
Wellington | New Zealand

Phone 64 4 931 9500
Fax: 64 4 931 9518
Email: tari@teohu.maori.nz
Web: www.teohu.maori.nz

5. Te Ohu supports the following steps to improve the management of the SNA1 fishery:

    a. increase the TAC based on Option 2 and
    b. take a proportional approach to sharing the increase, as at 1 October 2013. This would increase the current TACC to 4820 tonnes, the recreational allowance to 2730 tonnes, as well as establish a customary allowance of 50 tonnes.
    c. support the proposed allocation of 50 tonnes to the customary sector as an interim step until such time as these rights are able to be fully exercised under the customary regulations, and the levels of need can be reliably determined.
    d. make it a condition that if the commercial and recreational sectors are to retain this increase in the following year (starting October 2014), they need to demonstrate commitment to develop measures to manage their own harvesting and to work together in partnership with all stakeholders and MPI to develop a joint management strategy
    e. that the measures that should be explored include catch reporting, gathering of information on unwanted catch, measures to mitigate the harvest of unwanted catch, and move on rules where high numbers of juvenile fish are found.
    f. MPI should commission an independent review of the stock assessment model.

6. The Snapper 1 (SNA1) fishery is understood to be one of the most valuable inshore fisheries in New Zealand. It is therefore no surprise that this fishery is fully allocated. MPI concludes that the stock is currently slowly rebuilding and that in the short term at least (the next five or so years) the current allowances – and even a slight increase - would most likely continue to enable the stock to rebuild slowly.

7. Te Ohu Kaimoana considers there are two key issues that emerge from MPI's discussion paper: the need for good information, and the need for better management of the fishery within sector allowances. While the commercial sector has managed harvesting to levels close to its catch limit for many years, the recreational sector has far exceeded its allowance in recent years.

8. MPI proposes three options for management: the status quo, a proportional increase in the TAC of 500 tonnes, and a proportional decrease of 500 tonnes. The stock assessment suggests that under each scenario, the fishery will slowly build or at least be maintained. It is critical for fisheries management that all involved have positive incentives to contribute in the short and long-term to the sustainability of the fishery. In that context we consider there is a case for an increase in the TAC provided management across the sectors is improved, including far more active measures to obtain better information on total extractions from harvesting activity across all sectors.

9. Te Ohu supports the second option put forward in the discussion paper. That is, a modest increase of 500 tonnes to the TAC to be shared proportionally between the recreational and commercial sectors (following the setting of the customary allowance). This increase would be <u>conditional</u> on a number of measures being introduced to improve management of the fishery. In practical terms, while this would mean an increase in the current recreational allowance from 2600 to 2730 tonnes (taking into account the removal of 50 tonnes for a customary allowance), the new allowance would need to be more tightly managed, for instance through implementation of a reduction in the daily bag limit combined with changes to the minimum legal size (MLS).

10. While there is clear political pressure to reduce the commercial allowance in favour of the recreational allowance – to do so would be akin to taking water from a leak-proof container and pouring it into bucket with a hole in the bottom. The consequence would be that the

share of the commercial sector, who pays a significant contribution towards management and is subject to strict management controls, would reduce in size while the recreational sector would take an ever expanding share of the fishery with no obligation for individuals to exercise any restrictions. It is inevitable that at some stage, tighter constraints in the recreational sector will be necessary. While there is time to resolve this issue we consider it is time to face this reality now. We congratulate MPI for taking the initiative to address these issues.

11. A related issue is what is an appropriate customary allowance? We have always advocated that the customary allowance should be provided for to the fullest extent necessary. With much of SNA1 still be to subject the Kaimoana (Customary Fisheries) Regulations, the level of information MPI has received through reporting will still not be to the level it would be with full implementation of the regulations. Feedback from some iwi on a draft of this submission expresses a concern that the level of the proposed customary allowance is too low and that it may restrict Maori from fulfilling their customary requirements. Thus the proposed 50 tonnes should be seen as an interim allowance until the level of need can be more accurately assessed. This means that the allowance may well need to be increased. We wish to ensure that at whatever level the allowance is set initially – there will be scope to ensure these needs can be met.

12. As a separate issue, while the stock assessment suggests the fishery is slowly rebuilding, we acknowledge that there are still unanswered questions about the stock that may require a review of the target levels in the future. In particular we refer to the disjunct between the stock assessment model, which suggests that the stock is near the "soft limit" of 20% B_0, and the experience of fishers on the water – which suggests the stock is in much better shape than the model would suggest. While we accept that the stock assessment model provides the best available information, we consider that an independent review of the model would help to provide confidence in the current model – or suggest changes that might enable greater confidence to be gained.

13. All sectors need to work together to obtain better information about this fishery and identify practical and innovative ways to improve its management. However unless each sector is willing to work within their allowances, there will be little incentive for them to cooperate.

Current harvest – what is the picture?

14. The current TAC for SNA 1 is 7550 tonnes. This is made up of a TACC of 4500 tonnes, a combined Maori Customary and Recreational Allowance of 2600 tonnes and an allowance for other sources of mortality of 450 tonnes.

15. Information provided by MPI shows estimates of current catch against these allowances is set out in Table 1.

Table 1: Limits, allowances and current catch

	Limits/allowances	**Current catch estimates**
Total Allowable Catch	7550	9000
Commercial (TACC)	4500	4615
Recreational/Customary[1]	2600	Recreational: 3800
		Customary: 50
		Charter vessels: 200
Fishing related mortality	450	450

16. The harvest from the commercial sector is tightly managed through the requirement to cover catch with ACE or pay deemed values. In addition, reporting requirements are rigorous – although the commercial sector recognises that some improvements can be made to gain a more accurate picture of the fish that are returned to the sea (see below).

17. Recreational catch is not required to be reported. There are no robust systems that would assist responsible recreational fishers to report. In addition, while reporting of catch from charter boats is required for many species, it is not required for snapper. This means that current catch levels have to be estimated, based on a number of research methods. What the research into recreational harvest is telling us is that as a consequence of ineffective management measures to constrain the recreational catch within the recreational allocation over the last ten years we have seen the annual recreational catch increase an estimated 1500 tonnes or 57%. While this includes a rough estimate of 200 tonnes from charter vessels, anecdotal information suggests this estimate is very conservative. We note there is an MPI consultation paper out that proposes reporting of snapper catch by charter boats. We applaud and support this proposal, which we consider must happen.

18. Had we not experienced better than average levels of recruitment recently it is highly likely that the unconstrained and increased recreational catch would have resulted in a downward trend to the status of the stock. In our view more effective management of recreational catch within the recreational allowance is an essential part of the way forward.

19. Prior to the development of the proposals contained in this discussion paper, there was no separate allowance for customary harvest. The best available information held by MPI suggests it is around 50 tonnes. However this is unlikely to be accurate given that the Kaimoana Regulations, along with mandatory reporting of harvest levels, are yet to be widely implemented within SNA1.

[1] The current daily bag limit is 9 fish. The minimum legal size is 27cm. 85% of the recreational catch is taken from boats. The average mean weight of snapper from recreational surveys is 1.02 kg per fish.

20. The allowance for other sources of mortality is an estimate. The formula used to make the estimate is based on 10% of the TACC. The estimate itself is intended to reflect fishing related mortality from all fishing activity, not just commercial fishing. Whether this is an accurate picture is not clear. There has been no specific estimate for the level of recreational harvest returned to the sea, however we understand the level is likely to be somewhere between 7 – 11% of the recreational allowance. This figure identifies an area of work that is needed to more accurately quantify the level of this mortality, and measures to mitigate it that can be used across the sectors.

What the discussion document says about the state of the fishery

21. MPI states that SNA 1 is believed to be comprised of two separate sub-stocks: east Northland, Hauraki Gulf-Bay of Plenty. The two substocks are considered to be at different biomass levels, have different rebuilding rates and the snapper have different growth rates. MPI notes that the assessment information suggests that in the future, there is the possibility of implementing measures to manage the two sub-stocks independently (p 41).

22. A new stock assessment model has been developed that treats SNA 1 as one stock. An interim "target" has been set equivalent to 40% B_0, which is consistent with the harvest strategy standard developed to guide the setting of allowances for various stocks. This harvest strategy standard is generally used in the absence of a management strategy and a long term biomass target level (p42).

23. Estimates for the current state of the stock, based on combining the sub-stock estimates - suggest that the overall stock status for SNA 1 is around 20% B_0. MPI acknowledges there are some uncertainties with this assessment but considers it represents the best available information. MPIs primary conclusion is that any likely future biomass target will need to be well above the current biomass and as a result there is a need to continue with the rebuild of SNA 1. In their view, the key issue is the way and the rate at which the stock builds (p43).

24. While we acknowledge that 40% B_0 is an interim target, we are aware that it raises a number of questions. The first question (which would relate to any target) is: 40% of what? We understand that estimates of B_0 (the un-fished biomass) are based on assumptions of the stock levels around 1900. Given the considerable amount of environmental change that has occurred since then and which will have affected recruitment, it is not clear that the establishment of 40% of this biomass realistic or appropriate. An alternative approach to understanding B_0 and therefore what 40% B_0 is likely to look like is to use a dynamic B_0, where %B_0 would be measured against the un-fished biomass given actual/prevailing recruitment.

25. The second is, whether 40% is an appropriate target. As we understand it, the harvest strategy standard sets the target of 40% as appropriate for low productivity stocks, whereas snapper can be argued to be a medium productivity stock. We note that MPI proposes that 40% is an interim target and that a more appropriate target is best developed in the context of a wider harvest strategy (including a management target and research and monitoring strategy) by working with stakeholders.

26. Te Ohu considers that two initiatives have the potential to create greater confidence in the assessment of SNA1. The first is to carry out an independent review of the stock assessment

model. While we acknowledge it represents best available information, the disjunct between the results of the modelling and perceptions on the water does not add up. The second initiative is to improve information on total mortalities by initiating development of a recreational catch reporting scheme, and providing for more accurate reporting of catch that is returned to the sea. We understand the commercial sector is supportive to taking action to identify and reduce the level of unwanted catch.

Proposed management options

27. MPI is putting forward three management options for consideration. These involve decisions about:
    a. Appropriate limits and allowances
    b. How the TAC should be shared between the sectors.

28. In the longer term MPI proposes the development of a management strategy by stakeholders to address information needs and to address a number of questions, including how to maximise and allocate benefits, identify an appropriate target biomass (or a range to work within), how to provide transparency and certainty in decision making, how to identify what cost effective research should be carried out, and how best to manage the sub-stocks in SNA1.

Limits and allowances

29. MPI proposes three possible TACs and allowances. These involve the status quo (Option 1), a 7% increase (Option 2) and a 7% decrease (Option 3). The relevant figures are set out in Table 2 below, alongside current catch estimates.

Table 2: MPI Options

	Current catch estimates (tonnes)		Option One (Status Quo)		Option Two 7 % increase	Option Three 7 % decrease
Total Allowable Catch (TAC)	9000	Share of TAC	7550	Share of TAC	8050 (+ 500 t)	7050 (- 500 t)
Commercial (TACC)	4615	51.3 %	4500	59.6 %	4820	4180
Customary	50	0.5 %	50	0.6 %	50	50
Recreational	3800	44.4 %	2550	33.7 %	2730	2370
Rec Charter	200					
Fishing related mortality (discards, released)	450	5.0 %	450	5.9 %		

Predicting what will happen under various scenarios

30. Future projections are dependent on the timeframe used to predict results, an understanding of the behaviour of the stock, including trends in recruitment, and confidence that actual harvest will fluctuate around the allowances and limits that are set.

31. MPI has predicted how the stock will respond to its proposed options in the next five years. These scenarios focus on the current TAC, plus and minus 500 tonnes, and suggest that, based on recent average recruitment levels, the stock is likely to slowly rebuild or remain at current levels over the next five years. Projections based on longer term recruitment levels

are not positive. MPI favours management based on shorter term projections, subject to more regular reviews.

32. MPI acknowledges that the stock assessment projections suggest the range of possible options is much broader than those set out above. They note that analysis based on recent average recruitment levels indicates that a TAC of up to 9000 tonnes could be taken over the next five years with minimal impact on the current status of the sub-stocks. However projections based on long term average recruitment indicate that a TAC level of around 3800 is required to rebuild the stock within the timeframe recommended by the harvest strategy standard. MPI notes that a reduction to this level is unlikely to be acceptable. MPI prefers a more active management approach which involves more regular adjustment of management controls as the stock rebuilds to maximise utilisation opportunities without compromising the rebuild timeframe (pp 44-45).

33. Regardless of which of MPI's options is adopted, significant management changes are required to constrain the growing recreational catch within the recreational allocation. Any intention to rebuild the stock is meaningless – particularly in a fully allocated fishery such as this – where access for one major sector is unconstrained. The growing population – particularly in the wider Auckland region - combined with more effective harvesting technology, means this issue is becoming urgent.

34. Te Ohu's preference is to create an incentive for the sectors to work together to agree on appropriate management targets, research and monitoring. Thus we support option 2 – a modest increase in the TAC – to be shared between the sectors <u>on a proportional basis</u> (once the customary allowance is set) – subject to measures to:

    a. improve management and catch reporting across all sectors
    b. more tightly constrain recreational catch to its allowance.

35. Te Ohu is aware of, and supports collective measures developed by quota owners and fishers to:
    a. protect juvenile fish, for instance by implementing move on rules when high levels of juvenile fish are harvested
    b. gain better information on levels of unwanted catch
    c. implement a voluntary data programme to supplement mandatory catch reporting
    d. carry out extensive research to minimise the harvest of unwanted catch.

Allocation between sectors

36. Te Ohu has submitted at length on shared fisheries and allocation between the different sectors. Some years ago the government consulted on options for managing shared fisheries. Te Ohu put considerable effort into developing solutions as to how fisheries might be shared and allocated between sectors.

37. In our submission on the process, made in early 2007, we identified a vision of "first class management" of shared fisheries, underpinned by the following principles:
    a. sustainability of fisheries resources is protected
    b. the integrity of the Fisheries Settlement is maintained
    c. sector rights are fully defined, integrated and protected providing incentives for all sectors to work cooperatively together to get the best possible fisheries management outcomes for each sector.

38. From a practical point of view, we identified three actions we considered would contribute to this vision. These were:
    a. getting first class information systems in place
    b. establishing clearly defined and integrated rights to the Total Allowable Catch and setting in place a flexible and dynamic approach to sector agreements
    c. building fully representative mandated organisations for all sectors to represent its members.

39. There is much that remains highly relevant to the decisions that need to be made about the SNA1 fishery.

Information

40. In our view, any robust fisheries management system involving shared fisheries cannot be effective if each sector does not have good information about its harvest levels – and is unable to monitor catch and take action when harvest is close to their maximum allowance.

41. Better information is required on total levels of extraction in the SNA1 fishery. All sectors need to be able to account for their catch as catch reporting by sectors is essential to determine if stocks are being managed sustainably. In our view, no survey claiming to estimate catch will ever be as good as actual catch reporting: it is a proxy. We recognise that any reporting system and its uptake will take time to implement in a robust manner and surveys must continue in the short term. However we must commit to investigating effective reporting systems.

42. Rigorous and reliable systems are currently in place for commercial fishers to report their catch. A rigorous system is also available for the customary sector by the system is not yet fully implemented, so current catch information is not reliable. The system could be improved if the customary regulations were fully implemented and reporting systems working. As you may be aware, Te Ohu is developing an electronic catch reporting system – e-ika – which we are trialling for wider use by iwi.

43. The recreational sector does not have a system either available or in place to provide reliable catch reporting. A system is urgently needed. The time is ripe to develop and trial some options for catch reporting. SNA1 – as a "fully allocated" fishery – would be a good place to start.

Establishing clearly defined rights and responsibilities

44. Good fisheries management does not just require information on what is being caught. It also demands managing the catch effort into that fishery so that cumulatively – what is extracted is not greater than what has been determined as sustainable. This requires both the determination of what share of the fishery each sector has, and the tools and mandate to constrain the take by that sector and MPI, consistent with those shares.

45. Looking ahead, it is desirable that all sectors are in a position to manage their share of the fishery in a responsible manner and to benefit from doing so, in an agreed partnership with MPI. The commercial sector pays levies and is investing in additional measures to improve management of the SNA1 fishery. The commercial sector will continue to invest, as long as they have certainty that they will receive the associated benefits. As far as allocation between sectors is concerned, they have absolutely no incentive to invest in management if

they cannot be certain that they will retain their share of the fishery for as long as they wish to do so.

46. At the time of the negotiations that lead to the Fisheries Settlement, the Crown promoted the concept of the quota management system (QMS) as having the following advantages:

    a. it was a means to cap total catch and therefore protect overall sustainability
    b. the property rights Maori would receive in the form of ITQ would be perpetual and therefore were robust and enduring
    c. an express purpose of allocating ITQ was to give security to ITQ holders which would allow them to plan and invest with greater confidence.

47. We refer to comments made by the High Court in 1997 in the Snapper 1 case that:

    It is clear Maori negotiators in 1992 were aware that ITQ held by the Commission, and further ITQ to be received by the Commission and Maori, would be subject to reduction along with the TACC on biological grounds. Likewise, it might be increased. That risk and potential benefit were known and accepted. I accept Maori did not envisage, or accept, that TACC and quota might be reduced simply to enable a greater recreational allocation of the resource. It is highly unlikely Maori would have agreed to surrender Treaty rights for the better gratification of Auckland boatmen. The thought did not cross the tangata whenua mind.[2]

48. The logical consequence of this is that the recreational sector should be managed under a clearer set of expectations and within a set proportion of the TAC. In the SNA1 fishery – in light of the growing population, it is inevitable that at some stage, tighter constraints in the recreational sector will be necessary. While in the next five or so years current or slightly elevated allowances will continue to support a slow increase in the stock, it is possible that decreases might be needed in future depending on longer term recruitment.

49. Te Ohu has advocated that the non-commercial customary fishing right should be provided for to the fullest extent necessary. This appears to be broadly accepted. In the case of SNA1, it needs to be acknowledged that these rights are not being fully exercised. As an interim step, the proposed allocation of 50 tonnes to this sector could stand until such time as these rights are able to be fully exercised and the levels of need can be reliably determined. This will require full implementation of the customary regulations which will ultimately lead to full coverage of the reporting requirements.

50. Unless an agreed management plan is in place, the customary non-commercial right should hold top priority. Where reductions are necessary, Te Ohu considers that these should apply to the commercial and recreational sectors in fixed proportion to their sector shares of the TAC.

51. As noted above, MPI has identified that stakeholders may support the development of a longer term management strategy for SNA1. It is intended such a strategy would focus on obtaining better information and improved benefits. It would also seek to identify how benefits should be maximised and allocated, and how achievements of those benefits should be monitored.

[2] McGechan J, High Court Snapper 1 Decision, 1997

52. MPI refers in many instances to a lack of information on the value of the fishery to the recreational fishery. In principle, Te Ohu considers that it is not for the Government to determine who values the fishery most and to make allocation decisions on that basis. As we have submitted in the context of shared fisheries policy, that the Government should create a framework that enables the sectors to make those trade-offs themselves, for instance by making short term (annual) trades where they wish to increase their access to the fishery at that time. The practicalities of this kind of model could usefully be explored in SNA1. Our submission on shared fisheries (dated February 2007) contains further information and is attached at Appendix 1.

53. We note that for the parties who commit to a collaborative approach to developing a management strategy for SNA1, the process used by the Land and Water Forum to develop proposals for the management of freshwater might provide a useful model.

Recommendations

54. Te Ohu supports the following steps to improve the management of the SNA1 fishery:

    a. Increase the TAC based on Option 2
    b. Take a proportional approach to sharing the increase, as at 1 October 2013. This would increase the current TACC to 4820 tonnes, the recreational allowance to 2730 tonnes, as well as establish a customary allowance of 50 tonnes.
    c. Support the proposed allocation of 50 tonnes to the customary sector as an interim step until such time as these rights are able to be fully exercised under the customary regulations, and the levels of need can be reliably determined.
    d. Make it a condition that if the commercial and recreational sectors are to retain this increase in the following year (starting October 2014), they need to demonstrate commitment to develop measures to manage their own harvesting and to work together in partnership with all stakeholders and MPI to develop a joint management strategy
    e. That the measures that should be explored include catch reporting, gathering of information on unwanted catch, measures to mitigate the harvest of unwanted catch, and move on rules where high numbers of juvenile fish are found.
    f. MPI should commission an independent review of the stock assessment model.

55. Please don't hesitate to contact Kirsty Woods (kirsty.woods@teohu.maori.nz) or John Willmer (john.willmer@teohu.maori.nz) if you wish to clarify anything in this submission.