

**MARINE PROTECTION FOR THE KAWHIA COASTAL AREA**

**This project has been written as  
partial fulfilment of the requirements  
for the degree of  
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## **Preface**

This research paper examines two sets of principles - the Treaty of Waitangi principles and legal coastal principles. The principles relevant to planning and resource use issues will be identified for each set and then applied to the practical situation of deciding whether to set up a marine reserve at Kawhia, along the West Coast of the North Island.

My interest in this area of coastal planning comes from a lifetime of vacationing on this West Coast, at Whale Bay, Raglan, just north of the research site. Having experienced life on the coast, I have come to appreciate how much we New Zealanders take it, and its resources, for granted. We just assume that they will always be available to us to use or consume and, that they will never cease to be so freely available.

However it is becoming increasingly obvious that this is not the case. The coast is being continually changed through natural and human activities. Its resources are being recognised as finite, as various individuals and groups abuse their right to these resources. Major factors in the depletion of marine resources include overfishing and pollution.

In the Kawhia area the problem has been identified by a concerned group, including the local Maori community, as a depletion of fish stock. This has resulted in a conflict over these resources. Such conflict necessitates the need for management and planning in the area.

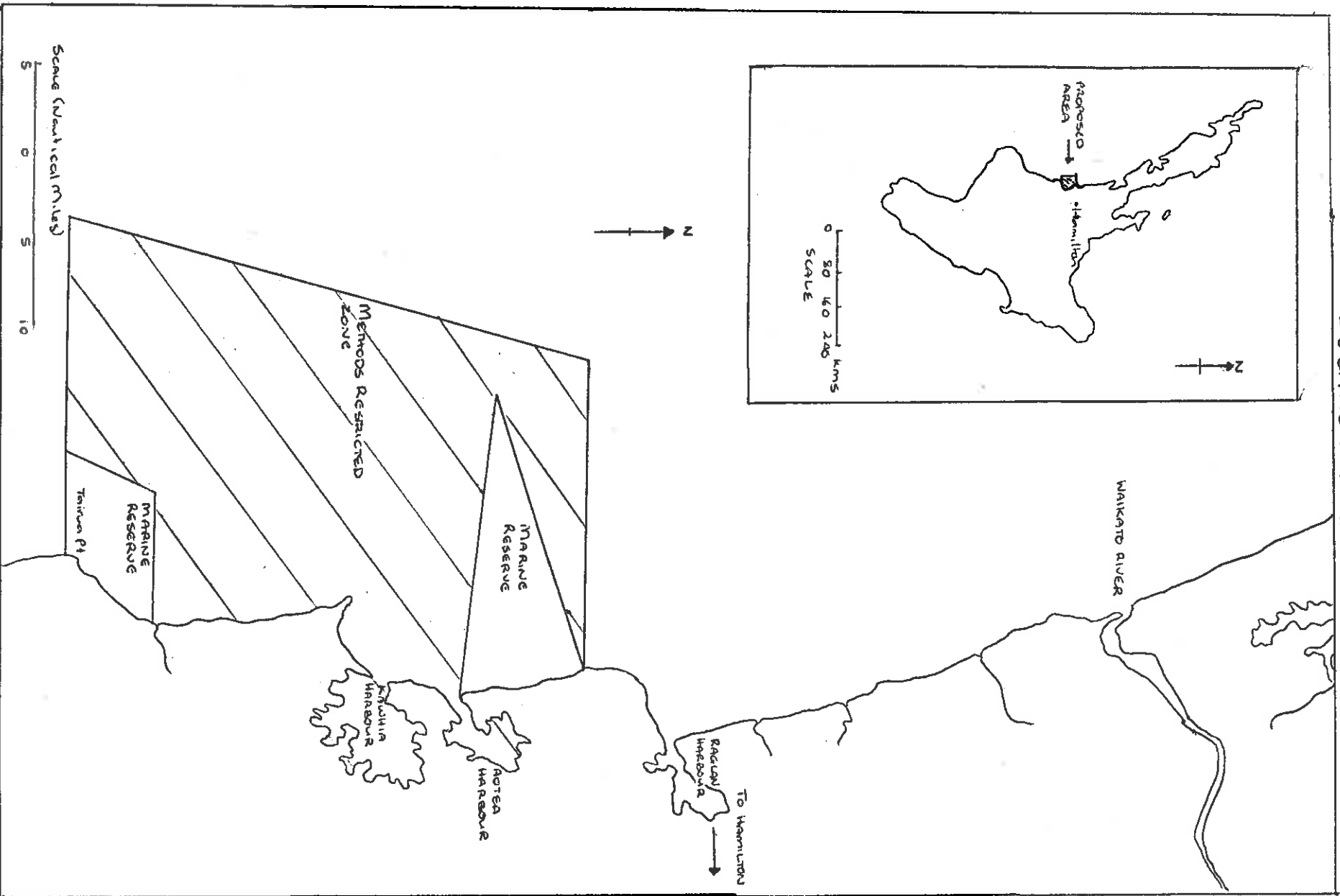
Management and planning of the coast is necessary for a number of reasons (in Hansen & McCombs, 1982, 7) :

- to utilise and control the use of the coastal environment for different activities.
- to make the coast more accessible to the public.
- to control development in the coastal environment (which can cause pollution and have other effects on the marine environment).
- to protect natural, historic and scenic features.
- to control human interference with marine and wild life, and coastal ecosystems which are fragile and vulnerable to abuse.

It is my intention to examine the various views on the issue. In doing so, I will decide what types of management and planning will be necessary for the Kawhia/Aotea area, and the possible options which would allow a satisfactory solution. This information will be used to decide whether a marine reserve (which has been announced, informally, as a possible solution) should be implemented in the Kawhia area.



(Greenwood, 1989) LOCATION MAP



**PART ONE : INTRODUCTION**

## **1 Introduction**

Kawhia, situated on the West Coast, is a holiday and retirement settlement. It is a small town with a population of approximately 456 (1986 figure). It is a small fishing harbour and also the base for the Taharoa Ironsands Project. A few kilometres north of Kawhia is the tiny settlement of Aotea, another holiday and retirement area.

This coastline is used by a number of groups - recreational and commercial. It has an abundance of fish and shellfish. This is where the problem begins. The Kawhia/Aotea area is an area which suffers from resource use conflict, and this conflict must be settled through the application of coastal and Treaty of Waitangi principles.

Coastal principles should be applied in order to ensure that access to, and distribution, of these resources is equitably shared. Fishery resources are also of significant importance to the Maori people. Traditional values provide another party to the resource conflict. This is where the Treaty principles must be applied. Through the application of these two sets of principles, conflict will be reduced, hopefully in such a way as to be satisfactory to all concerned.

The Kawhia/Aotea area is the possible site of a marine reserve or restricted fishing methods zone. The resource conflict is between various groups who are complaining about overfishing in the area by commercial fishermen and the commercial fishermen who deny this.

Thus the question that needs to be answered is - does the area need protection, and if so, in what form should this protection take?

### **1.1 Why Protect Marine Areas?**

Just as land is protected in areas such as National Parks, marine areas must also be protected. "Increasing pressure on the coastal marine environment and fisheries resources through increasing urbanisation, recreational use of marine areas and commercial fishing activity is now highlighting the need to protect marine areas identified as being of special significance", (MAF, 1985a, 4). The sea and its resources are being used increasingly, and this has, in many areas, reduced the abundance of the major fish and shellfish species.

Overfishing and increased effort in the commercial fishery are now being controlled by the Quota System, introduced in October, 1986. This is a system of Total Allowable Catches (TACs) and Individual Transferable Quotas (ITQs) which act as allocation mechanisms for major finfish species. However, these methods cannot do the job alone, as they do not address all management needs. "Other measures under the Fisheries Act 1983 are necessary to manage, for example, the biological component of the fishery", (MAF, 1985a, 4).

Overfishing has led to serious depletion of fish stocks and this indicates a need for better management. Technology is a major threat to stocks, as larger, more powerful ships are built and more effective gear is made available. "Future strategies for the responsible harvest of fisheries must provide for increasing restraint as harvest methods become more efficient", (Jillet, 1990, 17). "One must remember the needs of conservation and balance this with the utilisation of our coastal and marine resources", (Probert, 1990, 7).

Marine reserves are a measure which can provide protection. "Marine reserve planning is an integral part of the more

comprehensive fisheries management planning being done under the Fisheries Act 1983. The establishment of marine reserves and parks fulfills a variety of management needs including habitat stock protection and enhancement", (MAF, 1985a, 1). It is necessary to provide permanent protection to certain areas. "The use of separate marine reserves legislation to achieve this protection is seen as desirable to give the areas protected under such legislation special "status" as well as permanence", (MAF, 1985a, 1).

## **1.2 Purpose of Marine Reserves**

A Marine Reserve is set up for "the purpose of preserving as marine reserves for scientific study of marine life, areas of New Zealand that contain underwater scenery, natural features or marine life of such distinctive quality or so typical beautiful or unique that their continued preservation is in the national interest", (Marine Reserves Act reprinted 1988), see Appendix 1.

The purpose of a reserve is not to control fisheries, it is not to protect fish so that they can be exploited and it is not so that people can do recreational fishing within it. "It is important to emphasize that marine reserves are not intended to provide a means of allocating fishery resources, for example by excluding one group from an area so that fish may become more abundant for others to catch. This is a function exercised pursuant to the Fisheries Act, not the Marine Reserves Act. The purpose of marine reserves, is as stated above, to give protection to marine habitats and their associated marine life for scientific study", (MAF, 1989, 97).

Under the Marine Reserves Act (p4) "marine reserves shall be so administered and maintained under the provisions of this

Act that -

- a) They shall be preserved as far as possible in their natural state:
- b) The marine life of the reserves shall as far as possible be protected and preserved:
- c) The value of the marine reserves as the natural habitat of marine life shall as far as possible be maintained:
- d) Subject to the provisions of this Act and to the imposition of such conditions and restrictions as may be necessary for the preservation of the marine life or for the welfare in general of the reserves, the public shall have freedom of access and entry to the reserves, so that they may enjoy in full measure the opportunity to study, observe, and record marine life in its natural habitat.

Marine reserves may give protection to rare, endangered, exceptional or unique flora or fauna. "However, because so little is known about the sea compared with the land it may not always be possible to establish the "uniqueness" of an area or species association. In the long term, there is a need to reserve good representative examples of a full range of marine habitats throughout New Zealand. Since so few marine reserves and parks have been established in New Zealand waters, any initial proposals for marine reserves are likely to fulfill the need for representative areas to be protected", (MAF, 1985a, 5) .

Protection can also restrict the type of activities that go on in a particular area. These restrictions may aim at limiting methods which catch large quantities of fish, are wasteful or catch juveniles. They may also try to reduce competition between various users and enhance the quality of

the area and of recreational enjoyment by prohibiting certain commercial fishing activities.

Reserves can be set up for educational, historical and scientific purposes to name a few, and are usually a combination of reasons. Educational purposes include raising public awareness of the sea and its inhabitants. Historical purposes include anthropological (pa sites, shipwrecks, middens), palaeontological (fossils) or geological (special rock, strata, mineralised or volcanic areas) purposes.

"MAF anticipates that marine reserves will be established for several scientific purposes including:

- a. In areas that have outstanding and perhaps specific scientific value in their own right.
- b. Where an area is in close proximity to a scientific establishment and satisfies appropriate scientific criteria.
- c. High quality areas with special protection that can be used for advanced scientific training purposes.
- d. For long term fisheries or general "yardstick" monitoring purposes." (MAF, 1985a, 7).

### **1.3 Existing Marine Reserves in New Zealand**

The existing marine reserves in NZ show the value of protecting such areas from fishing pressure "and the potential for the enhancement of marine life in areas where it has been depleted through either amateur or commercial fishing activity", (MAF, 1985a, 7).

Cape Rodney to Okakari Point Marine Reserve - This reserve has had a dramatic increase in the abundance of many species, especially snapper, and plenty of reef fish and rock lobster

since the reserve was established in 1975. "In less than ten years a virtual marine desert, decimated by overfishing, has become a rich ecological area teeming with fish and other marine life", (Department of Conservation, 1990b).

The reserve runs along five kilometres of the coastline and 800m out to sea. Goat Island, within the reserve, is itself a scientific reserve. The bay is a popular site for recreation and diving and overlooking the bay is the University of Auckland's Leigh Marine Laboratory. Special features of the reserve include snapper (a fish once very rare) and rock lobster.

Poor Knights Island Marine Reserve - By establishing the reserve in 1981, this has maintained the outstanding character of this area in an almost unmodified state. The reserve, located 24km off Northland's east coast, was established to protect the marine life around the Poor Knights Islands, and also the Pinnacles and Sugar Loaf Rock to the south.

The boundaries of the reserve are from the low tide level to 800m from shore. The islands are located in a warm current thus giving divers the chance to see tropical fish and other species that are never seen elsewhere along New Zealand's coast. There are numerous animals in the water, rock lobsters, crabs, shellfish and fish, tropical and common.

All water and seabed within 800m of the main islands are in the reserve. "All species (other than snapper, trevally, shark, billfish, tuna, mackerel, kahawai, pink mao mao, barracouta, and kingfish) are protected", (Department of Conservation, 1990a).

The reserve has a high international standing in regard to



conservation, with "a high degree of endemism and absence of introduced animals", (Chaplin, 1986). It is refuge for absent or rare NZ species such as the giant weta, tuatara and the Poor Knights Lilly.

#### **1.4 National Policy for Marine Reserves**

In 1985 MAF proposed a national policy for marine reserves (MAF, 1985b) which would apply to all 6 Fishery Management Areas in NZ fisheries waters.

The goals of this policy were:

- to protect and maintain the quality of marine habitats and the biological health of marine ecosystems and balance this with the need to manage marine resources for a wide variety of uses.
- to establish a network of marine reserves and parks in NZ fishery waters to conserve and protect marine life, habitats and ecosystems.

The objectives were :

- to improve the environmental quality of areas given marine reserve or park status.
- to cater for the widest possible range of needs and activities.
- to establish a network of marine reserves/parks which recognises the high recreational value of many coastal areas and the impacts of recreational and commercial uses on these areas.
- to ensure the interests of all user groups are taken into account.
- to improve public awareness and enjoyment of the aquatic environment.
- to recognise the relationship between the land and sea in the establishment and management of marine

reserves and parks.

The policies were :

-in the selection of areas for the marine reserve programme, MAF will take particular account of :

- a) the need for the permanent protection of an area, habitat or ecosystem.
- b) the physical or biological attributes of an area.
- c) present use of the area and the likely impact of the proposed marine reserve or park on user groups.
- d) the impact of land use on adjacent marine areas.
- e) the level of protection provided for each marine reserve and park will be closely related to the purpose(s) of the reserve or park e.g. preservation
- f) no restrictions.
- g) marine parks will be established primarily to cater for the recreational needs and enhance public appreciation of the marine environment.
- h) marine reserves will be established where there is a need to protect an area in as close to a natural state as possible.
- i) marine habitat reserves will be established in the areas containing important examples of fishery or wildlife habitats in suitable areas.

#### **1.4.1 Marine Reserve and Park Proposals**

MAF Proposals for marine reserves and parks in the Auckland Fisheries Management Area were :

- 34 proposals
- 8 in West Coast
- 8 in the Northeast Coast
- 8 in the Hauraki Gulf

- 10 in the Bay of Plenty

Future Marine Reserves and Parks in the Auckland Fisheries Management Area were :

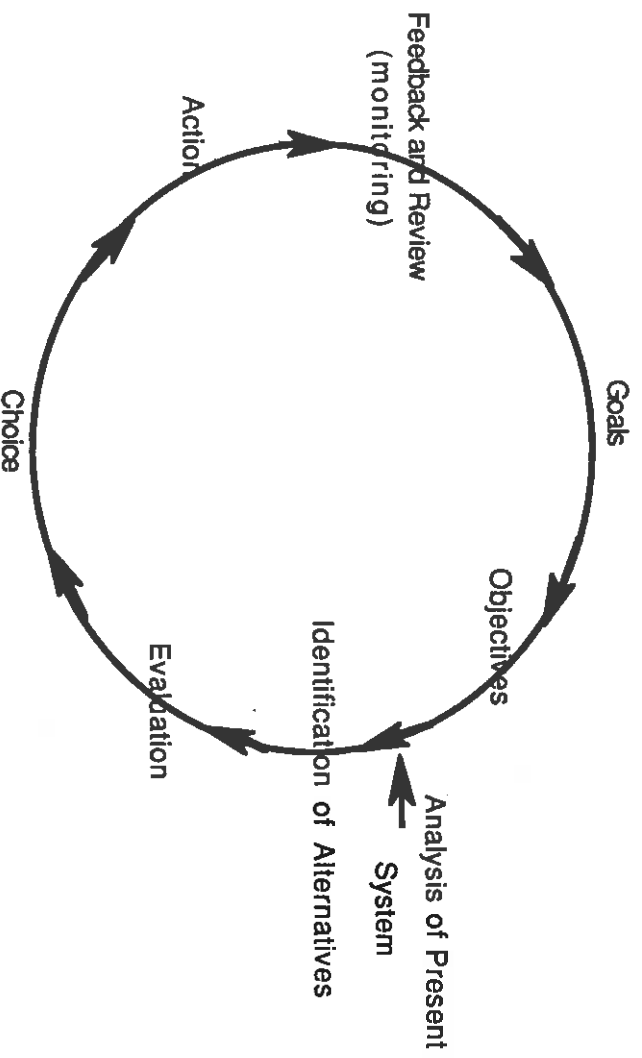
- 6 in the West Coast including Gannet Rock (near Raglan and Kawhia harbours) as a marine park with some restrictions on recreational fishing and no commercial fishing
- 2 in the Northeast Coast
- 3 in the Hauraki Gulf
- 1 in the Bay of Plenty

**PART TWO : PLANNING PROCESS**

## 2 Planning Process to Establish the Form of Marine Protection Needed in the Kawhia Area

It is necessary to create a planning process with which to implement a marine reserve or the chosen form of protection for the Kawhia area.

The process which may be followed in order to come to a decision as to which form of protection would be best for this area, is very similar to that of the Rational Planning Process. This process takes the following form:



First, goals are identified, and then objectives, which will be used to measure whether the goals are being achieved, are named. Through the analysis of the present system, a number of alternatives may be identified. With this list of alternatives, an evaluation is made in order to make a choice as to which is the best and most appropriate alternative for the situation in question.

Once an alternative is selected it must be implemented. After implementation, the process is not over. There is continuous monitoring and reviewing to do in order to ensure that the goals are being achieved. Through this monitoring, feedback is gathered in order to create new goals, as systems are constantly changing. Thus it is an on-going process of forming and achieving goals appropriate to each new situation.

PART THREE : THE KAWHIA / AOTEA  
FISHERIES ISSUE

### **3 The Kawhia/Aotea Fisheries Issue**

With this rational planning process as a basis, it is possible to decide on the appropriate form of protection for Kawhia, by inserting the necessary information into each step.

#### **3.1 Identification of Issue**

Before the actual process begins, it is necessary to identify the issue or problem in question. The basic issue in this case is that of resource conflict. The local Maori and Pakeha communities believe that the commercial fishing trawlers are causing severe depletion of fish stocks, through overfishing. The commercial fishermen, of course, deny this.

#### **3.2 Goals**

There is only one major goal which is hoped to be achieved. That goal is "to protect and maintain the marine ecosystems of the Kawhia/Aotea area".

#### **3.3 Objectives**

The objectives are set as follows:

- To determine what form of protection is appropriate for the area.
- To reduce or eliminate resource conflict.
- To ensure the interests of all user groups will be taken into account.
- To cater for as many uses as possible.
- To ensure equitable sharing of resources.



### **3.4 Analysis of Present System**

The next step is to examine all necessary information associated with the issue. This involves looking into the background of the issue, looking at the proposed area itself and the responsibilities and views of the bodies involved, examining the various principles related to the issue and looking at a number of key issues.

#### **3.4.1 Background**

The proposal began with the local Maori belief that the fisheries management process was falling. There had been a great reduction in fish stock in the Kawhia area. This led to local Maori concern over the loss of 'kaimoana - the food of the sea'.

As Greenwood states (1989) the changes in the fish stock are remarkable. Sixty years ago snapper, kingfish and flounder were easily caught in Kawhia and Aotea (Appendix 2). Twenty-five years ago one could usually catch a legally takeable snapper, or a kingfish if lucky. In 1989 it was unknown to catch takeable snapper, there was no kingfish and a limited number of flounder, (Greenwood, 1989). Greenwood and the local people believe the reasons for these reductions are Japanese longline fishing in the 1950's, single trawlers from the 1960's onwards, pair trawlers from the 1970's onwards and monofilament fill nets which are used by both commercial and recreational fishermen, (see Appendices 3 & 4 for fishing methods).

"As early as 1920, the locals predicted stock depletion", (Greenwood, 1989). They presented the Government of the day with a petition to stop commercial fishing activities, but no protection was given. MAFFish scientists have recently said that "90% of the fish stock must be left to allow the stock

to be replenished by natural spawn", (Greenwood, 1989). In Kawhia/Aotea, there is less than 10% of the original 1920-30 stock left.

There is another reason for the lack of fish in the harbours. They are shallow harbours and so when the tide goes out, the fish go with it and these fish get caught by trawlers waiting just outside the harbours. Thus few fish are left in the harbours. The fish that are caught are taken to Auckland, not sold in Kawhia.

This led to the idea that a marine reserve could be a solution. However, the locals view of a marine reserve was as a tool for restricting activity not as a tool for conservation. A second possible solution was the permanent establishment of a methods restricted fishing zone with no trawling and no monofilament nylon nets. Both ideas were supported by the Waikato Regional Conservancy of the Department of Conservation.

There are two possible proposals for marine reserves off the Kawhia coast (see Appendix 5). The northern area is the largest and it would go from Aotea Heads out to Gannet and up to Papanui Point, covering an area of approximately 150 square kilometres. Included in this area is the Aotea reef and Ruapuke Beach, both of which are popular with rock fishermen and other recreational users. The area includes the entrance of Aotea Harbour, but not the actual harbour itself. It is believed that Gannet Island should be included because it is the site of some special marine life, as will be shown below.

The smaller southern area would be from Marakopa to Tirua Head and would cover approximately 25 square kilometres.

The proposed reserves will be totally protected from any form of fishing or exploitation, i.e. 'no take' areas. But, "although fishing in the reserves won't be allowed, fishing around the reserve will be one hundred times better", (Rick Thorpe, 15 August, 1990).

Both areas include a range of shoreline, from rocky to sandy and are both representative of the West Coast characteristics of New Zealand. They "would be 'benchmarks' that marine biologists could use in the future for measuring the state of coastal marine life", (The Awamutu Courier, 14 December, 1989, 5). No formal system of policing the protected areas has been proposed as yet but it had been found that at the Cape Rodney to Okakari Point Marine Reserve, it was the local fishermen who guarded the protected area with great feeling.

The methods restricted fishing zone is a larger one which encompasses both these areas. It is an area of 20km by 40km, coming out 20km from Papanui Point to the north then south for 40km, and back to the coast to Tirua Point. In this area, the proposal is to prohibit the use of trawlers. The snapper nursery grounds, always known by Maori and Pakeha fishermen, are included in this area.

### **3.4.2 Proposed Area and its Special Features**

The Raglan-Kawhia Coast is highly valued in the Waikato-Coromandel-King Country Region for recreation and retirement purposes. It is under increasing pressure at weekends from the rapidly growing populations of Auckland, Hamilton, and Bay of Plenty, and for holiday and retirement purposes, from the population of the whole country (Ministry of Works, 1973, p111).

#### **3.4.2.1 GANNET ISLAND**

This island, also known as Karewa Island, is a very important island. It is located approximately 18 km from the shore and is Maori land which is protected by DOC. The island is situated on the edge of the continental shelf. Thus it has unique ocean currents, allowing it to be the home of both cold and warm water species.

The water around the island provides very good diving, with an abundance of shellfish. Gannet Island itself is the most northern seal rookery in New Zealand with around 300 seals.

Gannet Island is also the largest of New Zealand's gannet rookeries, hence its English name. Currently there are approximately 4000 Australasian Gannets on the island but by November, after the breeding season, this number will increase up to 20 000.

As the island is Maori land, the owners, one of whom is the Maori Queen, want it included in any fishing restriction zone that may be set up.

**Plate 1** :Gannet Island as seen from the Kawhia shoreline. It is located approximately 18km from the shore.



#### **3.4.2.2 HARBOURS**

The 3 harbours, Raglan, Aotea and Kawhia, are very important. They are the only sheltered water areas along the West Coast, offering safe and accessible recreational fishing. They provide traditional and recreational resources.

This coastline is the most important area for recreational angling for communities of the greater Waikato and King Country regions. The reason for this is that Kawhia and Raglan are the only gateways to the open west coast.

"The areas support valuable commercial and recreational fisheries for snapper, trevally, mullet, flatfishes and kahawai, plus hand-gathering of mussels, scallops, cockles, pipis, tuatua and kina", (King et al, 1985, 22).

They are major estuarine areas, the most valuable wildlife sites on the coast (Moynihan, 1986). Variable oystercatchers and NZ Dotterel are resident waders in Kawhia and Aotea harbours.

Raglan Harbour (although it is not in the actual areas of concern, it shall be included as it has similar characteristics to the Kawhia/Aotea area) :

This harbour is part of Raglan County and also part of the Raglan Ecological District. It consists of an area of 24 km<sup>2</sup> made up of extensive tidal mudflats and rock platforms (tidal mudflats occupying at least 60% of the harbour).

Raglan Harbour has an abundance of shellfish including mussels, scallops, pipis, and cockles. The area is poor in waders (birds) but has a good population of Reef Herons. Its fish species include the giant kokopu (Galaxias argenteus), flounder, kahawai, mullet, rig and snapper.

The area is also the home of white and white-faced herons (there are only 50-200 white herons in NZ). Other bird species include the banded rail, bittern, fernbird and spotless crane which inhabit saltmarsh areas.

Many parts of the harbour are still pristine and unpolluted, though there are problems relating to the heavy exploitation of shellfish and sewerage discharge during holiday periods, (Raglan being a very popular holiday spot).

Existing Coastal Protected Natural Areas in the Raglan Harbour area, as stated in King et al (1985, 22) are the following :

- Motukokako Point Scenic Reserve
- Ngatoka A Warihi Scenic Reserve
- Hawea Scenic Reserve
- Pearts Finger Protected Private Land

Kawhia Harbour :

The Kawhia Harbour is located in Otorohanga County and is part of the Kawhia Coastal Ecological District (which is part of the Waikato Ecological Region). The size of the area is approximately 67 km<sup>2</sup>. It consists of an estuary with extensive tidal mudflats and sandflats. The tidal mudflats occupy at least 60% of the harbour.

The shorelines of the harbour provide some of the best exposures of Jurassic rocks in New Zealand (McLauchlan, 1986). These rocks are approximately 135 to 192 million years old and they contain a number of fossil layers including extinct seas snails and extinct squids. The Jurassic rocks continue up the coast as far as Port Waikato, including Aotea and Raglan Harbours.

**Plate 2:** Kawhia Harbour entrance.



**Plate 3:** Inside Kawhia Harbour - the emerging mudflats.





The area has outstanding value as a coastal and estuarine site of special wildlife interest. The harbour and its coast provide food resources for a large number of internal and international migratory waders, supporting more species and larger numbers of shore birds than Raglan (as does Aotea).

It is notable as a wintering ground for the endangered Black Stilt and South Island pied oystercatcher plus a wide range of Arctic breeding migrants and endemic migrant shore birds. International migrants include the Eastern Bar-tailed Godwit of which there are up to 3500 in the harbour.

The southern boundary of the Kawhia Ecological District approximates the southern limit of breeding New Zealand Dotterel (an endemic species of limited numbers) apart from those on Stewart Island. It is also the southern limit of the Northern Blue Penguins. The area is also inhabited by white herons.

Other bird species include the banded dotterel and pied stilt, reef herons and the wrybill which are all regularly observed at Kawhia. Fernbirds inhabit the low vegetation around the shores of this and Aotea harbours.

Fish species of the area include the giant kokopu, flatfish, mullet, juvenile fish, kahawai, flounder, shark, snapper, gurnard, trevally, kingfish and skipjack tuna. An abundance of shellfish is also a magnet for visitors. The different fishing methods used include set-net/gill-net, potting for rock lobsters, hand-line, long-line, trotline and trolling.

The Existing Coastal Protected Natural Areas in the Kawhia harbour area (King et al, 1985, 22) are :

- Puti Scenic Reserve

- Motu Tata Scenic Reserve
- Rakanni Scenic Reserve
- Te Umuroa Scenic Reserve
- Waiharakeke Scenic Reserve and
- Oteke Scenic Reserve

The harbour and its coastline is very important for Maori Traditional Fisheries. It is the resting place of the Tainui canoe which brought some of the first Maori to New Zealand and from this area began the outward spread of Tainui people (Baird & McKoy, 1988).

The Tainui tribe see the area as the "seafood basket" of the Tainui, providing them with a major source of 'kaimoana'. The harbour is also very important to the local Maori tribe because they have very high presence around the harbour with more than 80% of the harbour foreshore being Tainui-owned.

#### Aotea Harbour :

This area is part of Raglan County and consists of an area of 36 km<sup>2</sup>. It is an estuary which is shallow and has extensive tidal mudflats and sandflats, with tidal mudflats occupying 89% of the harbour.

The Aotea area is of high value as a coastal and estuarine site of special wildlife interest. Like Kawhia, it is a large food resource for wading birds and is used by a significant number of migratory waders. It is also home to the white-faced heron.

The fish species of the area which attract many fishermen include rig, flounder and kahawai and there is a large amount of shellfish. Fishing methods used in the area include set-net catch, hand-line catch, netting and lining and shellfish

collection.

The Existing Coastal Protected Natural Area in the Aotea harbour area is the Aotea Heads Scientific Reserve, (King et al, 1985, 22).

Aotea Harbour is also an important part of Maori Traditional Fisheries. It is the traditional source of seafood for local Maori communities and has great cultural significance for Tainui tribes.

**Plate 4:** The narrow entrance of Aotea Harbour.



**Plate 5:** The mudflats of the inner reaches of Kawhia Harbour.



**Plate 6:** The coastline which is representative of the West Coast of the North Island.



### **3.4.3 Responsibilities of the Bodies Involved**

DOC, the body responsible for the administration of marine reserves, believes it needs co-operation between Government agencies, the user groups and the community to ensure that the degradation of our coast and its resources does not continue. Thus the process of implementing a marine reserve must involve a variety of different individuals, groups and organisations.

#### **3.4.3.1 LOCAL PEOPLE**

##### Role

The local people should be consulted and given the opportunity to voice their opinions on the issue. In regard to marine reserves they are able to place objections after the proposal has been publicly notified.

##### Views on Issue

The whole issue and proposal for a restricted methods fishing zone, and the possibilities of a marine reserve, began when the local people became concerned that the fish stocks within Kawhia and Aotea Harbours had become depleted. This issue of depletion of the fish stocks at Kawhia is not primarily a Maori issue, but a community issue.

Kawhia Moana Trust (an organisation that represents 10 marae between Marakopa and Aotea) was nominated by the Tainui Maori Trust Board to represent it on the issue. The Trust has long been concerned at the depletion of 'kai moana'. They asked for protection for the fishery back in 1920 but did not get any. Their submission on the issue is in Appendix 6.

"The depletion of 'kaimoana' is now so advanced, it is difficult for our marae hui's. This is a real concern to our

people, as our mana is compromised if adequate fish and shellfish are not available. In recent times we have been forced to purchase kaimoana with difficulty", (Te Awamutu Courier, May 29, 1990, p18).

It is believed that trawlers working off the coast and outside the harbours are the cause of the problem of local depletion, extracting schooling and nursery fish. These are the biggest danger. The trawlers (both pair and single) fish all year round and as a result they catch the female fish at spawning time.

Rohe Takiari is the man who has been the major voice behind the issue. He is a Councillor of the Otorohanga District Council and lives near Kawhia. He wants the Minister of Fisheries to take the pressure off the fish stocks of the coastal area around Kawhia-Aotea, while the fisheries management plan is considered, amended as necessary and approved. His submission on the issue is in Appendix 7.

Mr. Takiari believes that local commercial fishing has caused the depletion, not pollution and recreational fishing which the fishing industry believes. "Pollution is an unlikely cause of depletion because of the absence of industrial development, minimal urban development and large areas of forest remaining in the catchments. Indeed Aotea Harbour is special because it is the most unspoiled of the West Coast harbours", (Takiari, 1990).

The problem is that too much of the fish are being taken by commercial fishermen, so that the fish stocks cannot recover and there are insufficient fish available to recreational and traditional fishermen. The West Coast recreational harvest is very small compared to the commercial harvest. However

no information is available on the size of the recreational anglers' catch because MAFFish do not survey anglers. Thus this is just an opinion of the locals and others, not a proven fact.

Mr. Takiari and the local people believe the quota system, which was introduced, has a weakness that when a radar/sonar report indicates a harvest, the net does not satisfactorily sort out the fish. Trawling causes wholesale wastage of species through the discarding of dead under-sized, non-edible or extra fish and thus should be banned. However, they do say that longlining would be acceptable as it takes only the species sought and does not waste any.

It has been noted by the local people that the Fishery Management Plan mentions that trawling, Danish seine netting and drag netting are already banned in Kawhia and Aotea Harbours and within about 1km radius of Aotea Harbour entrance. But it does not state that there has never been trawling there because the nature of the large areas of tidal mudflats and narrow channels do not lend themselves readily for this type of fishing.

Trawlers wait for the tide to empty from the Kawhia-Aotea Harbours before using high-powered electronic gear to locate and catch the fish. "The practice of pair trawling, where two trawlers move in unison up to 90ft apart towing large drag nets up to 1km in length between them catching every fish in their path, is severely depleting stocks of snapper, trevally and mullet in the area and must be stopped", (Waltomo News, February 22, 1990). Thus even though trawling does not occur within the harbours, the damage they do outside the harbours affects those recreational and traditional fishermen who wish to fish inside the harbours.

Another problem with the current quota management system is that there is nothing to stop fishermen swapping or selling their quotas to enable others to fish in the area so that larger quantities of particular species could be taken from an area than was intended by MAF's management plan. "At present this is permissible under the Total Allowable Catch system of issuing quotas for the Auckland Fisheries Management area", (Waikato Times, 19 July, 1990).

The Total Allowable Catch applies to the entire Auckland Fisheries Management area, thus any commercial fisher who holds a quota may fish in any part of the area. There is no legal restriction on either extra local people or persons from outside the area from fishing for fish in Kawhia Harbour, as long as they are quota holders.

Mr. Takiari agrees with the Regional Council that the proposed area for the restricted methods fishing zone is large but believes that to have any effect the area has to be this large so that trawlers would leave the area alone as it was a spawning ground. Trawlers take 80% of their allowable catch during the spawning season but they have to be banned from the area all of the time because out of season they would be catching small fish which are thrown overboard.

Rohe Takiari has set up a petition (see Appendix 8) that wants Parliament to "act urgently to protect the future of the recreational and traditional fishery of the Kawhia-Aotea area". The petition requested "the House ban trawling in the area from Papanui Point, south to Tairua Heads on the west coast and for 20km to sea westward from these points and a line joining these points" and also "the establishment of a Fisheries Management Committee to regulate these controls".



This petition has been well supported, having received over 9500 signatures (Waikato Times, 29 January, 1990). As well as these signatures, Mr. Takiari has the support of :

- Tainui Maori Trust Board
- Maniapoto Maori Trust Board
- Kawhia Moana Trust (representing 10 marae between Marakopa and North Aotea)
- Waitomo District Council
- Otorohanga District Council
- Kawhia Community Council
- Kawhia Fishing and Boat Club
- several other fishing, dive and boat clubs from Hamilton to Te Kuiti
- Rakaunui Marae
- Aotea Residents and Ratepayers
- Kawhia Residents and Ratepayers
- and individuals in the coastal areas and the surrounding towns of Otorohanga, Te Kuiti, Te Awamutu, Ngāruawahia and Hamilton City.

The local community and people from surrounding areas also request the setting up of a committee to manage the fishing resource. "I/we firmly believe that the establishment of a Multi Racial/Multi interest "Committee of Control" with power to restrict fishing by whatever means, is the best solution to the ongoing problem. It will also maintain race relations, which can become strained over this issue", (Takiari, 1990).

The committee should consist of:-

- One - MAF representative
- One - Otorohanga District Council representative
- One - Waitomo District Council representative
- One - Regional Council representative
- One - Local (Kawhia) Commercial fisherman

- One - representative from Kawhia
- One - representative from Taharoa
- One - representative from Marokopa
- One - representative from Rakauunui
- One - representative from Aotea

On reading the proposed National Policy for Marine Recreational Fisheries, Mr. Takiari made the following comments:

"The policy clearly 'recognises the huge number of recreational salt water anglers that utilise the coastal resource. The policy states that where there is conflict between recreational or traditional and commercial use, recreational/traditional use will have precedence'. This is a case where this policy should be implemented forthwith."

The local people have agreed with this statement, as has the Department of Conservation.

The local community now also recognises the possibility of establishing a 'talapure' rather than a reserve or restricted zone. "Because of the delay and apparent inactivity by MAF on our request (now over 12 months of my activities and since 1989 by Ex-Councillor Smith of the Waitomo District Council) the local Maori groups are now aware of the Maori Fisheries Act "Talapure" provisions and are considering this option as their next step", (Takiari, 1990).

The draft New Zealand Coastal Policy Statement also provides for the establishment of a 'talapure' - "an area of coastal water set aside under the Maori Fisheries Act 1989 as a local fishery because of its special significance to an iwi or

hapu, either as a source of food or for spiritual or cultural reasons", (Department of Conservation, 1990e, 3). Such a provision is included to allow for 'better provision for the recognition of rangatiratanga and of the rights of the Maori in Article Two of the Treaty of Waitangi'.

One of the policies in the draft also states that "different cultural values must be recognised and reconciled", (Department of Conservation, 1990e, 8). The 'taiapure' provisions are one way which Maori values will be acknowledged.

### **3.4.3.2 COMMERCIAL FISHERMEN**

#### **Role**

The local commercial fishermen should be consulted and their views on the issue should be taken into account. Like the local community they must be given the opportunity to voice their own opinions.

#### **Views on Issue**

Roydon Hartstone is a Raglan commercial fishermen who has operated in Raglan for at least 26 years. He has 3 trawlers and employs 22 people who are involved in catching and processing fish in this area. They have a quota to catch 400 tonnes of fish of all species per annum.

The views of Mr. Hartstone are that the quota system is doing its job and that a restricted methods zone is not necessary. The quota system will do the job of restricting fish takes. "In the past 12 months fish stocks have significantly improved, making more fish available to commercial and recreational fishermen". (Te Awamutu Courier, May 29, 1990, p18).

Under the quota system, Hartstone Raglan Ltd. have been able to catch their allocated tonnage with far less effort than they had in the past three to four years, with their boats only at sea for two thirds of the time they were in 1989. Thus fish stocks must have improved for them to catch more fish and with so much more ease.

The company had to have a cut in snapper catch of over 50% when Quota System was introduced in October, 1986. At the same time the major snapper catch boats in Raglan were both sold and moved out of this fishery. "This has been the pattern with at least half of the boats that were fishing on this coast several years ago. The result is we are now seeing good positive signs of recovery in our fishery", (Hartstone, 1990). With a reduction in the number of trawlers operating in the area, there has been less stress on the resources.

Mr. Hartstone also believes that an area of such large dimension as that which has been proposed, would cause undue stress on the fishery in adjacent areas. If people could not fish in 'no take' or restricted areas, then they would go elsewhere and deplete the resources there.

In conclusion Mr. Hartstone said that he believed that we have a Quota System which has to be the best conservation measure possible. "As commercial fishermen we recognise the need for it, and respect it accordingly. Our future depends on sound resource management which the Quota System provides", (Hartstone, 1990), Appendix 9.

Some of the Kawhia-Aotea area commercial fishermen have also expressed concern about the fishing rights issue and

uncertainty affecting local people. They object to some of the evidence that has been put forward by the local Maori and Pakeha community.

The commercial fishermen state that there are only 3 fishermen who work in Raglan Harbour, 1 in Aotea and 3 or 4 in Kawhia. Rohe Takiari said there were 46 but the local commercial fishermen say this number is throughout the whole Auckland Fishery Management Area - from Tiraupoint on the West Coast, around North Cape, then down to Coromandel to East Cape, north of Te Kaha. Thus they state that the pressure that Mr. Takiari says is being placed on fishery resources is not as great as he seems to believe.

Not all local commercial fishermen are in disagreement with the issue and the petition. There are actually many who agree with the petition, even being signatories. The biggest commercial fisherman for Kawhia, a Mr. Langdon, agreed on the proviso that if all others agree to a ban on trawling in the proposed areas, then he too agrees.

### 3.4.3.3 RECREATIONAL FISHERMEN AND OTHER GROUPS e.g. DIVING CLUBS ETC.

#### Role

These groups and individuals should also be consulted and their views on the issue be taken into account. They too must be given the opportunity to voice their opinions.

#### Views on Issue

They have supported both the restricted methods zone and the marine reserve proposals. Recreational fishermen realise that although there would be no fishing in the 'no take' areas, they will be able to fish in the harbours. With a

restriction against trawlers operating just outside the harbour entrances, this mean the fish will be there to enter again after low tide, not be taken up in nets as soon as they have left the harbours.

Divng and boating clubs, which have backed Mr. Takiari's petition, will be able to enjoy the resources without being disturbed by trawlers and other commercial fishermen. The resources will be able to increase in quantity for other generations to enjoy in the future.

#### 3.4.3.4 TAINUI MAORI TRUST BOARD (TMTB)

##### Role

The Tainui Maori Trust Board is the voice of the Tainui people. It can give advice and its own opinion on any relevant matter but these are not legally binding. Thus DOC does not have to agree or follow through with such advice. The Department of Conservation must consult fully with the tangata whenua when it is putting in an application for a marine reserve. However, in processing other applications, the Department cannot require the other organisations to consult with the tangata whenua. Thus if the applicants choose to ignore the tangata whenua, DOC cannot turn down these applications just because they have not done a thorough job or consulted with the tangata whenua.

At present there is no legal or formal role for the Trust Board in the establishment of any marine reserve. The Resource Management Law Reform Bill states that, in the future, government agencies may consult with Maori with respect to resource management. The Trust Board submission on the Bill asks that consultation with iwi authorities be

made mandatory.

Views on Issue

The Tainui Maori Trust Board feels that there are two important issues at the heart of discussions on Kawhia harbour :

1) the question of ownership

The Board has lodged a claim with the Waitangi Tribunal claiming ownership of the harbour. That claim is not likely to be heard until 1991. Unless government decides to recognise Tainui rights of ownership before the claim is heard, any formal or legal action with respect to establishing the harbour as a reserve must await the Tribunal's hearing of the claim. Commercial fishing has been restricted until the claim is heard.

2) the question of Tainui fishing rights

The harbour is a traditional fishing ground and has been in use for the past 500 years or more. Rohe Takiari has been seeking to ban commercial fishing during the spawning season because of the impact on the fish supply, and he has been calling for the establishment of a reserve for use only by Maori and the local community. Mr. Takiari brought these propositions to the Tainui Maori Trust Board and was supported by the Board.

Article 2 guaranteed *tino rangatiratanga* over all Maori fisheries. (See Appendix for outline of the Treaty). Tainui believes this covers all fisheries around their tribal territory out to the 25 mile limit (Centre for Maori Studies and Research, 1987, 46).

Once Treaty rights are recognised, then Tainui and MAF can form a partnership in the management of their fisheries and

agreement may be reached on an equitable sharing of use of the resources for non-commercial purposes.

Kawhia, Aotea and Whaingaroa (Raglan) Harbours are an integral part of the Tainui tribe's identity. The harbours are important food sources and Tainui are the traditional conservators of the fishing resources in them. Gannet Island also plays an important role in Tainui oral history and should therefore be recognised as culturally and spiritually significant to the tribe.

The TMTB suggested to the Minister of Fisheries that the Board manage, conserve and develop the marine resources of these harbours on a tribal basis (Douglas, 1987, 14). They wanted to ensure their ancestral rights to the marine resources of the harbours would not be denied them. MAF agreed the Tainui Maori Trust Board should be consulted and involved in the planning of the future use of these harbours.

### **3.4.3.5 OTOROHANGA DISTRICT COUNCIL**

#### **Role**

The District Planner, Fiona Illingsworth, does not have a role in terms of the proposal. The Council does have a responsibility for the coast up to 12 miles from the shore. Thus the planner would normally get involved with any resource conflict associated with this area. However, in this case, the planner has not been involved as she lacks the time and resources to do so.

District schemes "have a major role to play in coastal planning because access to most water activities is gained from land and land makes up half of the 'coastal zone'".



(Hansen & McCombs, 1982, 43). In regard to marine reserves, the District Council does not have a big role. If the reserve is in their jurisdiction then they are (as stated above) in charge of any area up to 12 miles from the shore. Thus they may have a say in whether such a proposal should go ahead, though their view is not legally binding.

#### Views on Issue

Although the Council does not play a major part in the implementation of a marine reserve, they can act as a force with which to gain support for a proposal. The Otorohanga District Council pledged support for the creation of a restricted fishing methods zone in the Kawhia Area and are agreeable with the idea of a marine reserve, (Appendix 10).

They also agreed to try to, and did, get the support of Waitomo and Waipa District Councils and Waikato Regional Councils. They also got the support of Maori Affairs Minister Koro Wetere and the local Waipa Member of Parliament Katherine O'Regan.

The Waitomo District Council gave its support and also gained the support of the Hon. Jim Bolger.

### 3.4.3.6 WAIKATO REGIONAL COUNCIL

#### Role

The responsibilities of the Waikato Regional Council include an advocacy role with regard to coastal and marine issues, those powers granted under the Town and Country Planning Act and permitting procedures under the Water and Soil Conservation Act. It has no direct fisheries management role.

The Council also does not have a statutory coastal role at this stage, other than that held by previous United Councils under the Town and Country Planning Act 1977, or those held by previous Catchment Boards under the Water and Soil Conservation Act, 1967.

The region does not contain any designated commercial ports and so the Council did not inherit any Harbour Board responsibilities through Local Government amalgamation. The Department of Conservation is not required to notify regional councils regarding proposed marine reserves, but it does have to notify harbour boards.

The future responsibilities of the Regional Council changes under the Resource Management Law Reform (RMLR) exercise. The Council will receive direct mandate and responsibility for coastal management in close partnership with the Department of Conservation. However it still will not have any direct responsibility for fisheries management.

Under RMLR the role will change in that the Regional Council will be responsible for preparing a regional coastal plan for the area from the MHWS to the edge of territorial sea. At this stage it is understood that the regional coastal plan will not be the vehicle for establishing either marine reserves or fishing restrictions.

However, the regional coastal plan will have to make provisions for marine reserves, and it may have a role in identifying potential marine reserves in some way both directly and through its direction of regional coastal plans.

#### Views on Issue

The Waikato Regional Council's current role regarding the

trawling ban (restricted methods fishing zone) and the marine reserve, is simply as a general advocacy role. "The committee (Planning and Environment Committee), at its recent meeting, decided to wait until a mandate is given by Government. While council potentially has a mandate under the Resource Management Law Reform, presently it only has an advocacy role in marine and coastal planning issues", (Waitomo News, 24 April, 1990), see Council's memorandum in Appendix 11.

The Council's response to the pledge for support by the Otorohanga District Council for a trawling ban was prepared by the Planning and Environment Committee in May 1990. The Council agreed to do the following :

- acknowledge local concerns expressed by Otorohanga District Council, Mr. Taklari and deputations in attendance regarding the depletion of local fish stocks off the Kawhia/Aotea Coast.
- support the assessment and implementation of appropriate measures necessary to preserve those fisheries resources.
- await the urgent analysis of West Auckland coastal fisheries research being undertaken by MAF.
- direct staff to continue direct liaison with MAF regarding this issue.
- reserve its right to reconsider its support or otherwise for trawling restrictions once MAF is able to advise council of the outcomes of the current West Auckland research and
- support the formation of a local Committee (including fishing industry representatives) to advise the Minister of Fisheries in appropriate measures required to preserve local fisheries stocks.

The Council , like others, believes the restricted trawling

zone is quite large and they would need to assess all the impacts of such a proposal, including impacts on the local fishing industry, before lending support to its implementation. Thus it has decided not to support the proposed restricted methods fishing zone (of 40km by 20km) until more is known about the impacts on the local fishing industry. "We support the concerns of local people but it is better to wait eight or nine months for full information about the fisheries problem and then have the right protection mechanism", (Waltomo News, 24 April, 1990).

"The decline of in-harbour catches is a genuine and legitimate concern of all those associated with the coast. However, it may be too simplistic to suggest that a single reason could explain this decline. ... I recommend that we await the urgent analysis of West Auckland coastal fisheries research being undertaken by MAF. In the meantime we would support the formation of a local committee (including fishing industry representatives) to advise the Minister of Fisheries on appropriate measures required to preserve local fisheries stock", (Alan Willcox, Divisional manager, Regional Services and Planning for the Waikato Regional Council, in the Te Awamutu Courier, May 29, 1990, p18). That is, commercial overfishing may not be the only reason for the decline in fish stocks.

Other factors that could be responsible for the decline of snapper include an overall historical decline in fish stocks, increasing recreational pressure in the form of direct fishing as well as high speed craft - water skiing, jetskis etc., modification of surrounding catchments affecting harbour water quality, and the demise of shellfish populations.

In regard to the possibility of marine reserves in the area, the Department of Conservation wrote to the Waikato Regional Council about its general marine reserves programme and the Council resolved to "support in principle the concept of marine reserves within the Waikato Region".

The Regional Council realises that there are several conflicting community views (and central government agency positions) regarding the need for an extensive trawling ban to be instituted at this stage. And it appreciates both the depth of feeling and complexity of the issues surrounding the question of local fisheries resource depletion. "These apparently conflicting decisions reflect council's awareness that fisheries resource allocation decisions will invariably prove beneficial to some groups and detrimental to others", (Te Awamutu Courier, 26 April, 1990). As such the Council feels the best thing to do is wait until more information is available from MAF on the area and its resources.

#### 3.4.3.7 DEPARTMENT OF CONSERVATION (DOC)

##### Role

The Minister of Conservation is the approving authority for marine reserves, for the investigation, establishment and management of marine protected areas. Thus DOC administers the Marine Reserves Act 1971.

DOC has two major roles, as the advocate for marine reserves and as the processor of other people's applications for marine reserves.

As the advocate for marine reserves DOC must consult fully with the tangata whenua. However, in processing other applications, DOC cannot require the other organisations to

consult with the tangata whenua. Thus the Department cannot turn down these applications just because the applicants have not done a thorough job or consulted with the tangata whenua.

DOC is responsible for a marine reserve if it is set up and this will not change under the RMLR. DOC has been committed to establishing marine reserves over a significant portion of our coastal waters, as we have with land-based reserves. If the Resource Management Bill is enacted, the Department will continue to propose marine reserves. Such proposals would be in line with the major objective of the Bill, sustainable management of resources.

The Conservation Act is administered by DOC also. One of the functions of the Act is to give effect to Treaty of Waitangi. Section 4 of the Act states "this Act shall so be interpreted and administered as to give effect to the principles of the Treaty of Waitangi". Thus the mandatory consultation with the tangata whenua is in accordance with this Section.

Section 6 of the Act, as shown below, outlines the functions of DOC.

Section 6 :

- a) to manage for conservation purposes, all land, and all other natural and historic resources, for the time being held under this Act . . .
- b) to advocate the conservation of natural and historic resources generally
- c) to promote the benefits to present and future generations of :-(i) the conservation of natural and historic resources generally and the natural and historic resources of NZ in particular.

Thus by establishing a marine reserve, the Department of Conservation is following these statutory requirements.

The Draft Coastal Policy Statement has a number of policies which reflect the views and responsibilities of DOC in terms of marine reserves. For example, the policy of 'protection of significant conservation values' would be achieved perfectly with the establishment of a marine reserve.

The Marine Reserves Act 1971 is "an Act to provide for the setting up and management of areas of the sea and foreshore as marine reserves for the purpose of preserving them in their natural state as the habitat of marine life for scientific study".

It is administered by DOC. As a marine reserve is established marine reserve management committees are set up. These committees comprise of a DOC officer (the chair), a qualified scientist, public interest representative, MAF officer, and 2 to 4 others.

Section 5(1)(a) of the Act sets out how a marine reserve proposal is made. It "can be made by any body administering coastal Reserves Act land, or any body engaged in ... scientific study to the Director General (Cons.)".

Once the legal process is entered into, there is no way that the proposal can be modified or changed. It can only be accepted or rejected.

#### DOC COASTAL INITIATIVES

It is becoming increasingly accepted within DOC that marine reserves set up under the Act are for protecting habitats and resources, with no fishing of any kind. DOC has a responsibility for the coast and thus has identified a need for coastal and marine conservation through a variety of mechanisms.

DOC has to communicate to the community that coastal areas are in desperate need of protection and sustainable management. In doing so they must consult with tangata whenua on coastal issues, work with MAFFish on fisheries issues and help conservation groups with their own initiatives for coastal conservation.

DOC has developed a marine reserve strategy. They are gathering an information base on the whole of our coastline. With this information DOC will create a Coastal Resource Inventory with which to help identify areas warranting special protection.

This Inventory will help with the completion of a National Coastal Policy Statement which DOC is required to produce for Regional Councils in the formation of their Regional Coastal Plans (in accordance with the RMLR).

DOC's strategy for establishing marine reserves will be advanced through consultation and negotiation with the community and with the other agencies involved in coastal management who have their own mechanisms. This national strategy is to establish the need for marine reserves and promote the concept. It will help with the establishment of a national network of marine reserves, based on biogeographic features.

DOC will be identifying, from the Coastal Resource Inventory, areas which are unique for a variety of reasons and considering reserves based on a geographic spread of representative features. DOC is looking for any representative habitats of New Zealand, not just areas with special or unique features.



With the creation of a Marine Reserves Task Force this will encourage the promotion of marine reserves. The task force will co-ordinate the work of regional teams working in 13 of DOC's conservancies and will liaise with relevant national agencies.

DOC's role nationally is to establish in the public mind that a marine reserve can be an asset as well as a necessity in your own backyard. DOC's regional staff are working to regionally-designed strategies, based on a process of community consultation. This process involves consultation at all stages of a proposal. The regional staff attend hui, carry out information and education programmes, talk to user groups and produce discussion papers.

#### Views on Issue

The Department's role in advocacy of the marine environment as it relates to this issue is that of the intrinsic value of the fish themselves and the recreational potential these provide. "The conservation of that natural resource is vital to ensure its values for recreation, traditional use and for commercial purposes is not downgraded or threatened by management policies and practice that are indiscriminate, wasteful and excessively exploitive", (Department of Conservation, 1990d, 1).

The Department has not really proposed these reserves at Kawhia - they are just possibilities for reserves on the West Coast. But DOC believes the Kawhia Harbour and that coastline is representative of the West Coast harbours of New Zealand and is therefore worth preserving. DOC is waiting until MAF has sorted out the problems regarding fisheries in that area and what measures are needed before making a formal proposal.

However, if the information that MAF is supposed to provide does not appear, then conservation will prevail. "In the absence of good quantitative information, we would advocate management policy and practices which are on the side of conservation and would therefore advocate Mr. Takiari's proposal" - John Greenwood, Manager Protection for Regional Conservator, DOC (Te Awamutu Courier, May 29, 1990, p18).

DOC believes that MAF's "Recreational Fisheries Policy" is a step in the right direction. "The Kawhia-Aotea area is suffering the consequences of the past and present systems of management and harvesting, with a resultant degradation of the intrinsic, recreational and traditional values of the fisheries resource. Greater emphasis on management for conservation is called for. Mr. Takiari's call for a restriction on the wasteful bulk methods of harvesting is consistent with this goal", (Department of Conservation, 1990d, 1). The policy states that when there is any conflict between commercial and recreational fishing, then recreational will win over commercial.

Like the local community, DOC states that the problem in the area is not due to pollution. Other harbours such as Waitemata, Whangarei, Manukau and Kaipara Harbours are far more polluted and very silty but still have a large quantity of good sized fish. "To argue therefore that it is the siltation and agricultural pollution of Kawhia and Aotea Harbours which has limited the fish in them is tenuous to the extreme", (Department of Conservation, 1990d, 1).

If DOC does formally propose the marine reserves in the Kawhia area, it is important that all users agree with the 'no take' areas (marine reserves) otherwise it will be impossible to police. At present, surveys have found

overwhelming support for at least some form of protected marine zones in the area, reserves or restricted methods zone.

If the marine reserve proposal is put forward then DOC will set up a committee to help it pass through Government. Groups such as commercial fishermen, divers and ratepayers will make up the committees and set boundaries for the reserves which will then need ministerial approval.

The submission of the Waikato Conservancy of the Department of Conservation is in Appendix 12.

### 3.4.3.8 MINISTRY OF AGRICULTURE AND FISHERIES (MAF)

#### Role

The Ministry of Agriculture and Fisheries is statutorily responsible for managing fishery stocks. Their mandate includes the conservation and enhancement of fish stocks. Under the RMLR, MAF will continue to manage fisheries under the Fisheries Act.

In regard to marine reserves, MAF must give their concurrence to any proposal. That is, they must formally agree. (The Ministry of Transport has the same power as MAF). Their objective is "to exercise the Ministry's statutory responsibility under the Marine Reserves Act 1971 to give concurrence to the establishment of marine reserves where such reserves are shown to satisfy the purposes of this Act to preserve areas of sea and foreshore in a natural state as the habitat of marine life for scientific study".

MAF will have ongoing liaison with DOC from the time they come up with the initial idea and are involved all the way

along the process. The Ministry would not allow a proposal to go as far as objections if they did not want it to go ahead.

MAF have begun to divide the country in to fishery management areas, (Appendix 13). It has developed the Auckland Fishery Management Plan and this should reduce conflict where there are so many community groups but finite fishery resources.

In regard to marine reserves, the plan "provides an outline of how MAF will interact with DOC (who administers the Marine Reserves Act) when there are proposals to establish marine reserves", (MAF, 1989, 7).

The Ministry have included marine reserves in the Fishery Management Plan because "their establishment is likely to affect and require controls on the fishing activities of all user groups. In terms of user groups, marine reserves particularly benefit recreational divers, scientists involved in marine research, and people who derive pleasure from being able to see marine areas in their natural state. Many who hold such interests desire that all fishing activities, including recreational and Maori, be excluded from some parts of the coastline in order to provide a truly natural marine habitat", (MAF, 1989, 97).

The following criteria (Appendix 14) are provided to indicate matters the Ministry believes should be addressed in any marine reserve proposal in the Auckland Fishery Management Area (MAF, 1989, 98-99) :

a. Proposals should be developed as far as possible as part of a regional or sub-regional strategy

*Explanation :* The number and extent of marine reserves likely to be established in particular areas is a matter of special concern to those whose

fishing activities could be affected by them. It is therefore desirable to identify, at least in general terms, the range of localities for which marine reserve status will be investigated within a particular region or sub-region (eg. Bay of Plenty, Coromandel Peninsula, Hauraki Gulf, Northland coast).

b. The particular qualities or features of marine areas for which protection is sought should be clearly identified at any early stage.

*Explanation :* Identification of the features (particularly biological) a marine reserve is intended to protect is directly relevant to the determination of the extent of the reserve. The possible extent of a proposed marine reserve is in turn especially relevant to the next stage of determining what (fishing) activities would be affected if the reserve was established.

c. The nature of activities occurring in proposed reserve areas needs to be clearly identified.

*Explanation :* The final decision on whether to confer marine reserve status on a particular area must be made on the basis that the benefits a marine reserve would bring will outweigh any disadvantages it would have. Disadvantages will particularly arise in terms of existing activities which could not continue in a marine reserve. It is therefore necessary to identify the nature of these existing activities.

d. Public consultation is necessary throughout the process of reserve establishment.

*Explanation* : This is perhaps an obvious requirement but its importance cannot be over-emphasised. It is difficult to conceive any part of the Auckland Fishery Management Area, which if proposed for marine reserve status, would not affect the interests or require the involvement of a number of groups and individuals. To be successful in providing adequate protection to special marine areas, marine reserves need to gain widespread acceptance by such groups and individuals. This acceptance is unlikely to be forthcoming without adequate consultation.

e. Any marine reserve proposal should clearly indicate the nature of the management regime and administrative structure which would operate once marine reserve status is conferred on a particular marine area.

The Kawhia-Aotea area is located in the West Auckland Fisheries Zone. (See Appendix 15).

Under the Auckland Fishery Management Plan (MAF, 1989) in Appendix 16, the aim is "to conserve, enhance, protect, allocate and manage fishery resources for present and future generations", (p4).

The goals are as follows.

- to conserve/protect marine and freshwater resources and habitats.
- equitable allocation and access of resources.
- to account for economic/social implications of management strategies.
- to maximise benefits from commercial harvesting of

fishery resources of the area.

- to maintain and improve recreational fisheries.
- to manage fisheries in ways which are responsive to the needs of Maori.
- to devise management systems in accord with principles for Crown action on the Treaty of Waitangi and which integrate traditional and modern management practices in ways prescribed by the Maori fisheries Bill (p80) .

MAF have also outlined a National policy for Marine Recreational Fisheries (MAFFish, 1989). This policy is to be an instrument to ensure the protection of our marine resources so that future generations will benefit as we do today.

The purpose of the policy is to establish the importance of marine recreational fisheries and encourage public participation in conserving and maintaining these resources.

The National Aim and Goals for Fisheries Management (MAFFish, 1989, 3) are outlined below.

AIM - to ensure that the fishery resources of New Zealand are conserved and managed for the maximum benefit of the nation.

GOALS - to conserve, protect and enhance living marine and freshwater resources and the habitats on which they depend.

- to maximise the economic and social benefits from fisheries.

The National Goal and Objectives for Marine Recreational Fisheries (MAFFish, 1989, 3-4) are :

GOAL - to maintain or improve Marine Recreational Fisheries

OBJECTIVES

- to ensure that recreational users have access to a reasonable share of fishery resources.
- to ensure that the recreational portion of the resources is shared as equitably as possible amongst recreational users.
- to improve, where possible, the quality of recreational fishing.
- to reduce conflict within and among fishery user groups.
- to increase participation by recreational users in the management of recreational fishing.
- to increase awareness and knowledge of the marine environment and the need for conservation of fishery resources.
- to improve management of recreational fisheries.
- to maintain current tourist fisheries and encourage the development of new operations where appropriate.
- to prevent depletion of resources in areas where local communities are dependent on the sea as food source.

Under the policy management techniques for Marine Recreational Fisheries (MAFFish, 1989, 8-9) will include :

- catch limits
- closed areas
- gear restrictions
- size limits
- closed seasons

Views on Issue

MAF believes that the quota system is working and a



restricted zone may not be necessary. In the Te Awamutu Courier, 9 November, 1989, it was written that :

" Fisheries Minister, the Honourable Colin Moyle, has said the quota system has been set in place to protect the fishery and a ban on trawling during the spawning season is not necessary. He says "most of the species caught by commercial operators off the Kawhia-Aotea coast are part of highly mobile stocks whose range extends over most of the North Island's west coast. While some spawning fish may be caught off the Kawhia coast, the overall limits placed on commercial catches (quotas) allows most of the west coast stock to spawn without disturbance. This allows a sufficient quantity of fish to repopulate areas which at times may become depleted as a result of heavy fishing pressure".

He did agree that management measures may be needed to reduce commercial fishing pressure in the area if it can show to be causing a lasting local depletion effect.

The Minister of Fisheries was entirely supportive of the concept of establishing a local fisheries management committee in the area. He has agreed to the setting up of a local Committee to look at the problem on the Kawhia coast and to advise the Minister of Fisheries on appropriate measures required to preserve local fisheries stock. This group includes locals and fishermen (both recreational and commercial). The role and jurisdictional powers of the committee have yet to be established.

The Minister is confident that the Fisheries Management Plan process will provide a suitable resolution to the conflict of interest which has obviously arisen in the Kawhia and Aotea

area. "The process of public consultation combined with scientific input should ultimately determine the management direction of the fishery", (Te Awamutu Courier, May 29, 1990, p18) .

He also stated that commercial fishermen would not be depleting the resources because that would do damage to their own business as well as the environment. "The lack of restriction on where flatfish quota holders may obtain their quotas is intended to ensure they have maximum flexibility to move around to fish, rather than concentrate on any one area. It is not in their interests to overfish any coastal or harbour area. If they do their fishing operation would quickly become uneconomic. If there were any signs of declining abundance (of fish stock) it was possible to reduce fishing effort by lowering the total allowable catch. This could be a matter on which the proposed local management committee could provide advice" (Waikato Times, 19 July, 1990) .

MAF is currently undertaking a snapper tag survey off the Kawhia coast, which will enable an assessment of the total fish stock to be made. They are also carrying out surveys in order to gather enough information to provide evidence as to whether commercial fishing was depleting the fishery resources in the Kawhia-Aotea area.

They did a survey at the end of 1989 (the Kaharoa Trawl Survey). The objective of this survey was to find out how many undersized snapper approaching the legal catch size there were, and also where these undersized fish tended to concentrate. The survey also took stock of other common fish species such as gurnard, that are caught in trawls.

The Cruise Programme of the Kaharoa (24 November - 17 December) was as follows :

## AIMS

- 1) to carry out a single phase random bottom trawl survey of the West Coast of the North Island from Ninety Mile Beach down to New Plymouth.
- 2) to sample areas of conflict between commercial and Maori fishers for concentrations of juvenile (year classes 0+, 1+, 2+) snapper.

This data will provide the information which will help determine what action is needed in the Kawhia area. Examples of the information that was gathered on the survey include:

- the amount of each species caught is measured on a special set of scales.
- for each tow the lengths of the fish caught are measured and a representative sample is also aged so the growth rate of the fish can be discovered.
- shed sampling
  - MAF staff visit a number of commercial fish-receiving sheds and measure the size of fish caught by commercial fishers.

MAF combines the shed sampling results with those of trawl surveys to increase our understanding of the effects of commercial fishing on the fish stocks. Both together assist in the assessment of the current status of the snapper stock.

The Auckland Region Marine Reserves Plan (MAF, 1985) outlines possible future marine parks and reserves for the Auckland Fisheries Management Area. In these possibilities are 6 parks or reserves on the West Coast. Included in this 6 is Gannet Rock (or Gannet Island) which , it is stated, is a possibility for a marine park.

### **3.4.4 Coastal Principles**

Until the Resource Management Act actually comes into force, it is uncertain what the effect will be on marine reserves. No definite changes have been made at present but it is important to examine the legal coastal principles which may have an effect on such a proposal.

#### **3.4.4.1 Resource Management Bill**

The Resource Management Bill will not affect marine reserves directly. It reforms the management of land, water, the coast, pollution control and mineral and energy resources (Summary of the Resource Management Bill, 1). The purpose of the Bill is to promote the sustainable management of natural and physical resources (Clause 4, p2).

Clause 5 outlines the principles of the Bill - "Without limiting subsection (1) or precluding the use or development of coastal marine areas where appropriate, all persons who exercise functions and powers under this Act in relation to coastal marine areas shall have particular regard to - (e) the maintenance and enhancement of the natural, physical, and cultural features which give New Zealand its character, and the protection of them from unnecessary subdivision, use, and development including - the preservation of the natural character of the coastal environment ..." (Pt. II, Clause 5 1(e)(1)), Appendix 17.

The Bill calls for the preparation of New Zealand coastal policy statements and regional coastal plans which will be approved by the Minister of Conservation. Regional coastal plans are mandatory and are prepared for the coastal marine area (defined as from the mean high water spring tide line to the twelve mile limit). The Minister of Conservation can also restrict coastal activity.

### 3.4.4.2 New Zealand Coastal Policy

When linked to the coastal inventory which is being developed by DOC, the New Zealand Coastal Policy will help identify areas needing protection. It will place development controls on schemes, marine reserves and other coastal issues. Currently coastal management is administered through 43 statutes by over 20 agencies. "As a result, comprehensive and effective planning has been impossible, and agencies have not been able to protect the values of the coast", (Department of Conservation, 1990e, ii).

The purpose of the policy statement (Clause 46 of the Resource Management Bill) is "... to state policies in order to achieve the purpose of this Act in relation to the coastal environment of New Zealand as a whole and to achieve the maintenance of the natural character of that environment, without precluding appropriate use and development." The statement will help to guide regional and local authorities in their day-to-day management of the coastal environment.

The principles for New Zealand coastal policy are :

- the natural character of the coastal environment shall be recognised and preserved.
- the human relationship with the coastal environment, as defined by both Maori and non-Maori New Zealand culture, shall be recognised and developed.
- the relative values of coastal resources to New Zealand society shall be recognised, and those resources sustained for the benefit of present and future generations.

Most of the coastal environment is Crown land and is an important taonga to the Maori. "It is considered therefore that for the coastal environment 'considering the Treaty'

requires giving effect to the principles of the Treaty of Waitangi", (Department of Conservation, 1990c, 5).

The policies are divided into 5 sections.

1. National Priorities

- protection of significant conservation values.
- maintenance and restoration of the essential character and functioning of each environment.
- preservation of estuaries, and of predominantly unmodified islands, coastal wetlands, lakes, ponds, and dunes.
- restoration of degraded water quality.
- prevention of any new discharges of untreated human waste into water.
- giving effect to the Treaty of Waitangi.
- maintenance and improvement of public access to and along the coast, and of opportunities for recreation which would neither modify the environment nor adversely affect the enjoyment of other users.
- prevention of the alienation of foreshore, seabed, and public lands immediately adjacent to the foreshore.

2. General Considerations (which includes the following)

- coastal ecosystems contain biological diversity of great value.
- ecological and physical connections within and between parts of the coastal environment must be maintained and taken into account in plans and decisions.
- the coastal environment makes an important contribution to the New Zealand economy.

- effective plans and decisions must be in keeping with the dynamic nature of the coastal environment.
- different cultural values must be recognised and reconciled.
- use of the coast carries with it responsibilities, including the duty to care for the environment and to be considerate of any present or future users.
- the available information on the coastal environment is limited, and this must be recognised and taken into account in plans and decisions.

### 3. Maintenance of Natural Character

#### 3a. Life-Supporting Capacity

- Matters to be considered include:
- spiritual relationships with the coast.
  - mauri (life principle, source of emotions, talisman protecting vitality, well-being of the people, lands, forests, coasts, waters, etc.).
  - wairua (spirit, essence of being).
  - the life-giving qualities of water.
  - the contributions of oceans and seas to the global environment.

#### 3b. Significant Conservation Values

- communities and ecosystems which are nationally, regionally or locally representative.
- populations and their habitats, communities and ecosystems which are unique, or threatened.
- areas which are critical for one or more stages in the life cycle of coastal species.
- conservation values of islands.
- Maori cultural/traditional values.

- scientific values.
  - heritage values.
  - values protected by other legislation, including marine reserves, esplanade reserves, wildlife refuges, nature reserves, and taiapure regulations.
  - significant landscape features.
- 3c. Coastal Processes
- 3d. Public Interest
4. Appropriate Activities (which includes the following)
- plans shall recognise and, where appropriate, provide for likely uses of the coastal marine area.
  - plans shall separate conflicting uses of coastal areas.
5. Duties (of planners and decision-makers)
- monitoring.
  - community awareness and participation.
  - Maori involvement in plans and decisions.
    - plans and decisions shall involve adequate consultation with Maori.
    - the Minister of Conservation shall consult with the tangata whenua when considering proposed regional coastal plans.
  - regional policy statements.
  - regional coastal plans.
  - joint plans.
  - environmental assessment.
  - restricted coastal activities.
  - review of consent conditions.
  - review of the New Zealand Coastal Policy



Statement.

-relationship with fisheries & iwi management plans.

The New Zealand Coastal Policy will play a major role in resolving conflicts. "These differences exist between people of different cultures, and between individuals who have a different view of their rights relative to those of others, or relative to those of future generations", (Department of Conservation, 1990e, v).

"The role of the new coastal management regime is to plan for the human use of the coast, both to protect the values and character of the coast, and to reconcile, conflicts. The New Zealand Coastal Policy Statement is the first step towards that goal", (Department of Conservation, 1990e, v). The statement will provide a means of resolving conflict through the development of policies and plans. In doing this, such conflicts as the Kawhia issue may be resolved.

#### **3.4.5 Treaty of Waitangi Principles**

In such an issue as this, Maori values are a major component in the resource conflict. Thus it is also necessary to look at the views of the Maori people and the principles of the Treaty of Waitangi.

Traditional Maori fishing values are very important to the local people. They are also a vital consideration for DOC when it is proposing a marine reserve itself. DOC must consult with the tangata whenua when making a proposal. In listening to their opinions, DOC may realise that these views may relate to their own conservation values, and thus be a major factor when deciding to formally propose a reserve.

The Department of Conservation is also bound by the principles of the Treaty of Waitangi under Section 4 of the Conservation Act. This states that "this Act shall so be interpreted and administered as to give effect to the principles of the Treaty of Waitangi".

The draft New Zealand Coastal Policy Statement holds Maori values in high regard. One of the National Priorities stated is "giving effect to the treaty of Waitangi". Thus the principles of the Treaty will be a significant influence on any decision-making in regards to the coastal environment.

The General Considerations section includes the statement that "different cultural values must be recognised and reconciled". Under Section 3, the Maintenance of Natural Character, matters to be considered include - spiritual relationships with the coast, mauri, wairua, and Maori cultural and traditional values. And incorporated into the list of duties for planners and decision-makers, is the need to include Maori people in consultation when making plans or decisions.

The recognition of Maori values can be found in nearly all the policy sections in the Statement. This can therefore be taken to mean that the draft New Zealand Coastal Policy Statement deems Maori values to be a very important consideration in plan and decision making.

On the following page is a summary of the principles of the Treaty of Waitangi. There are two sets of principles - one as defined by the Waitangi Tribunal and one defined by the Court of Appeal.

Summary of Principles of the Treaty of Waitangi Defined By the Waitangi Tribunal and the Court of Appeal (Harford, 1988, 19).

**Waitangi Tribunal**

**Court of Appeal**

### **THE ESSENTIAL BARGAIN**

The exchange of the right to make laws for the obligation to protect Maori interests.

The acquisition of sovereignty in exchange for the protection of *rangatiratanga*.

### **PARTNERSHIP**

The Treaty implies a partnership, exercised with utmost good faith.

The Treaty requires a partnership and the duty to act reasonably and in good faith.

The Treaty is an agreement that can be adapted to meet new circumstances.

The freedom of the Crown to govern for the whole community without unreasonable restriction.

The needs of both Maori and the wider community must be met, which will require compromises on both sides.

Maori duty of loyalty to the Queen, full acceptance of her Government through her Ministers, and reasonable cooperation.

The courtesy of early consultation.

The principle of choice : Maori, Pakeha, and bicultural options.

### **ACTIVE PROTECTION**

The Maori interest should be actively protected by the Crown.

The duty of the Crown is not merely passive. but extends to active protection of the Maori people in the use of their lands, and other guaranteed *taonga* to the fullest extent practicable.

The granting of the right of pre-emption to the Crown implies a reciprocal duty for the Crown to ensure that the tangata whenua retain sufficient endowment for their foreseen needs.

The obligation to grant at least some form of redress for grievances where these are established.

The Crown cannot evade its obligations under Treaty by conferring its authority on some other body.

The '*taonga*' to be protected includes all valued resources and intangible cultural assets.

### **TRIBAL RANGATIRATANGA**

The Crown obligation to legally recognise tribal *rangatiratanga*.

Maori to retain chieftanship (*rangatiratanga*) over their resources and

*Tino rangatiratanga* includes management of resources and other *taonga* according to Maori cultural preferences.

*taonga* and to have all the rights and privileges of citizenship.

The principles of the Treaty of Waitangi can be applied to the Kawhia situation. If we look at the principles defined by the Waitangi Tribunal, the underlying theme of the whole Treaty is stated to be "the exchange of the right to make laws for the obligation to protect Maori interests". In the Kawhia situation, one of the major complaints is over the way commercial fishing is depleting fish stocks and reducing the local Maori population's source of 'kaimoana'. Kaimoana (food of the sea) is vital to their culture as food for themselves or as an offering when hosting important guests or tribes.

Thus if the theme was applied to Kawhia, it would be understood that the fish stocks and breeding grounds in the area are a Maori interest and hence should be protected.

One of the principles under the First Article of the Treaty, (Appendix 18), is that "the needs of both Maori and the wider community must be met, which will require compromises on both sides". This principle can be applied to the Kawhia issue. The issue is basically one of resource conflict between the local tangata whenua and the commercial fishermen. This conflict must be resolved in such a way as to satisfy all users of the resource. Thus "the needs of both Maori and the wider community must be met".

It may mean that part of the waters and resources will be protected for the Maori people, while other parts will be left for all to use. Though the tangata whenua or the commercial fishermen may not get exactly what they sought, they will both get something out of it. Thus it will be a situation which will require compromise on both sides.

Article 11 relates to active protection and the guarantee

that the Tribes of New Zealand will get the 'full exclusive and undisturbed possession of their Lands and Estates, Forests, Fisheries ...'. As stated under the principles defined by the Court of Appeal, "the duty is not merely passive but extends to active protection of the Maori people in the use of their lands, and other guaranteed taonga to the fullest extent practicable".

Both of these are saying that the Maori interest should be actively protected by the Crown. Included in this Article is the fisheries of the Chiefs and Tribes of New Zealand. Kawhia's fish stocks come under this and should therefore be the full exclusive and undisturbed possession of the Tainui tribe.

Another principle identified by the Waitangi Tribunal was one which recognised tribal rangatiratanga, ("the unqualified exercise of Maori chieftainship over their lands, villages, and all their treasures, (Orange, 1989, 30))

This meant that the Maori would be able to manage their resources and other taonga (treasures) as they wanted. Thus the local tangata whenua of Kawhia should be given the opportunity to manage the Kawhia fisheries, and to try to restore it back to its original state.

The rights of the tangata whenua under the Treaty of Waitangi were examined in the Muriwhenua Report. The Tribunal observed that:-

*The cession of sovereignty or kawanatanga gives power to the Crown to legislate for all matters relating to 'peace and good order', and that includes the right to make laws for conservation control. Resource protection is in the interests*

*of all persons. Those laws may need to apply to all persons alike. The right so given is not an authority to disregard or diminish the principles in article the second, or the authority of the tribes to exercise control (Boast, 1990, 3).*

The Tribunal found that in ceding kawanatanga to the Crown, this does not give the Crown the right to exercise legislative powers over resources which are protected by the Treaty. "... and in this regard at least the Treaty should operate as a brake on parliamentary sovereignty", (Boast, 1990, 3).

The Tribes have the right to manage their own resources and this also applies to fisheries. "As long as the Tribes 'regulate and enforce their own standards' the Crown has no right to intervene", (Boast, 1990, 4).

In the Muriwhenua Report it was stated that:-

*Unless absolutely necessary, the Crown shall not restrict the treaty rights of the tribes to counter over-fishing not caused by them even if it is necessary to restrict the general public fishing, commercial or otherwise.*

This statement may be applied to the Kawhia fisheries issue. The issue is concerned about overfishing and how it is affecting fish stocks. The local Maori want to stop this overfishing but they do not want any restriction to affect their own ability to catch fish for cultural purposes.

Thus, in asking for protection from the Crown, the above statement means that if the Crown finds that concerns for overfishing in the Kawhia area are grounded, then when

restricting various groups from fishing, the local Maori will not be affected. "The tribes have the right to manage their resources in their own way. . . . If the resource is imperilled the Crown has the right, the duty even, to make conservation laws, but the very last persons to be affected by the operations of these laws should be those with a treaty-based interest", (Boast, 1990, 4). This will have an effect on the selection of a form of marine protection for Kawhia.

It can therefore be seen that traditional Maori values, including fishing values, are very important. They can play a major part in the preparation of plans, and in decision-making, and should thus be given the recognition they deserve.

### 3.4.6 Key Issues

There are a number of key issues which must also be examined in regard to this debate. Such information will help make it clearer and easier to come to a final decision on the type of protection needed.

#### 3.4.6.1 LOCAL BELIEF THAT DEPLETION OF FISH STOCK IS RELATED TO REDUCED FISH STOCK IN THE THREE MAJOR HARBOURS - RAGLAN, KAWHIA, AOTEA -

The local people got their evidence from Baird and McKoy's (1988, 261).

Fishing season	% over 10 years	% over 19 years
1974-75	67.9	47.3
1975-76	80.8	57.0
1978-79	56.6	48.7
1979-80	46.2	38.3
1985-86	37.7	26.7
1986-87	14.5	7.5

"The change to pair trawling in the 1970s increased the vulnerability of large fish to capture and increased effective fishing effort. The major effect on this stock over the last 12 years appears to have been a decline in the abundance of large fish and a reduction in total biomass, reflected by the decrease in catch rates", (Baird & McKoy, 1988, 261).

#### 3.4.6.2 COMPETING INTERESTS - COMMERCIAL VS RECREATIONAL / MAORI VS PAKEHA -

Some fishermen (commercial and recreational) believe that the fishing ban will not only be for commercial fishermen but will also end up being all Pakeha fishermen including recreational and that only Maori people will be able to fish there.

Rohe Takiari denies this, stating that "under the present law, certain tribes have the right to ask the Waitangi



Tribunal to recommend to the Government that their fishing rights in Kawhia Harbour and along the coast be protected and this we have done. . . . The size and number of fish in Kawhia Harbour have decreased dramatically over the last ten years", (Waikato News, 5 July, 1988). However, the ban is not for the benefit of Maori people alone, it is for the benefit of all New Zealanders, whatever race or culture. "Rohe Takiari's moves to have pair trawlers and other commercial fishing methods banned outside Kawhia Harbour is for the good of all, not just Maori people", (Waikato News, 10 October 1989). Mr. Takiari has the interests of all recreational fishermen at heart, not just Maori people.

At the beginning of the campaign, a Maori committee made a claim through the Waitangi Tribunal, stating that the granting of fishing licences in that area was inconsistent with the principles of the Treaty of Waitangi. Commercial fishermen were strongly against the ban.

Now commercial fishermen are not so strongly against it, seeing it as ultimately benefitting them when the snapper stocks, in particular, rise to a higher level.

The proposals have had support from many groups except for Roydon Hartstone, the Raglan-based trawler fisherman. Now the campaigners are awaiting MAF and the information that it is gathering. "Minister of Agriculture and Fish, Colin Moyle, states in his national fisheries policy that in cases where there is insufficient resources for catches by both commercial and non-commercial interests, commercial fishing will be excluded in favour of recreational interests", (Waikato News, 10 October, 1989). MAF has to do surveys in order to prove whether or not commercial fishing is affecting fish stocks in the Kawhia area.

### **3.4.6.3 ARE CONTROLS NEEDED? -**

Yes. The coast is "an area of considerable ecological value for birds and marine life", (Harbours and Foreshores Section, 1980, 7). There is always conflict between development and recreational use, various water activities, and the preservation of the coast.

In this issue, the need for control is evident through the resource conflict which is going on. Where there is conflict there must be some sort of control which will reduce or eliminate it. Thus in the Kawhia/Aotea case, control is a necessity in order to create a solution which will satisfy all parties concerned.

### **3.4.6.4 IS THE QUOTA SYSTEM WORKING? -**

The Quota System was introduced in 1982 to help re-establish fishing populations. The initial quota was the average catch over the previous 3 years, and fishermen were not allowed to exceed their quota if they were fishing within the management zone. New fishermen have to buy or lease quotas. "The quota system has meant the last couple of years have seen significant increases in the fish available", (Waltomo News, 26 July, 1988). A list of fish species subject to the system can be seen in Appendix 19.

However, the Quota system has shown a weakness. As the individual quota is transferable, fishermen may trade their quotas with others in order to be able to fish for other species than those specified. For example, a fisherman's quota may be 50 000 tonnes of snapper. He may trade 25 000 of this quota with another fisherman for 25 000 tonnes of, for example, flounder. Thus the first fisherman would then have a quota of 25 000 tonnes of snapper and 25 000 tonnes of flounder, while the second fisherman would have 25 000 tonnes

less of flounder but an extra 25 000 tonnes of snapper.

Many environmental groups believe that the system is not working, and that there are serious defects in fisheries management and research. These groups, including the Royal Forest and Bird Protection Society, and the Environment and Conservation Organisations (ECO) of New Zealand, are greatly concerned over fisheries management in New Zealand.

The groups sent a submission to the Minister of Fisheries on his proposed Fisheries Total Allowable Commercial Catch (TACC) reductions (ECO, 1990). In this submission the groups named a number of systematic problems in fisheries research.

The first of these problems is insufficient research funding. In order for adequate information to be gathered through trawl surveys and data analysis, sufficient funds must be made available. At present without this funding, MAF and other organisations must rely on dated information to make decisions, rather than current data which can provide for more efficient and effective decision-making. This lack of current statistical information represents another problem with fisheries management and research.

A third problem in fisheries management is that there are not enough observers to gather this information. Observers are vital to the monitoring of fish stock. What is needed is to have an observer on every fishing boat to note what fish are caught, if they are of legal size, together with information on any catch of marine mammals or birds, and more. "This data is crucial to the monitoring of fisheries on an ecosystem basis", (ECO, 1990, 3). It would be impossible to have an observer on every boat, but there should be more than there are at present.

With the possibility of the Resource Management Bill being enacted within the next year, sustainable management will be a top priority. Such management will cover all resources, including fisheries. The Fisheries Act does not fulfill this objective of sustainable management of marine ecosystems. The environmental groups believe that the Act makes it too easy for quotas to be increased rather than reduced. "The legislation has a built-in ratchet effect", (ECO, 1990, 4). That is, it is easy to go forward in terms of increasing catches, but not back again.

The groups listed additional problems, including the following:

- poor interaction between the fisheries management planning system and the quota management system;
- failure to consider no-catch options;
- failure to consider impacts on the intrinsic values;
- failure of the quota management system to adopt an ecosystem approach; and
- failure to allow in-season management under the quota management system.

**3.4.6.5 IF THE AREA WAS RESTRICTED, HOW WILL OTHER AREAS BE AFFECTED?** -

Fishermen believe that restrictions on the Kawhia-Aotea area will put more pressure on the northern harbours and fish stocks as trawlers will have to go up further to catch other fish stocks.

### 3.4.6.6 WHO DETERMINES WHICH VALUES ARE PREDOMINANT? -

This is a problem for those responsible for the fisheries and marine reserves, MAF and DOC. These two bodies have the duty of weighing up the various views and data to come to a decision. DOC must look at the information that MAF presents - information on fish quotas in the area, volumes of fish, actual catch numbers etc. MAF will come up with an opinion based on this information and voice its view to DOC.

If MAF believes that a marine reserve, or a restricted methods fishing zone, will not be necessary, then DOC must go along with this. As stated earlier, MAF must give their concurrence to any marine reserve proposal. They play a major part in any proposal, having ongoing liaison with DOC throughout the process.

If MAF does not come up with enough relevant information, then DOC may make a decision based on conservation values and policies and thus go on with the proposals for marine reserves.

### **3.5 Identification of Alternatives**

The next step in the process is to outline the various options which may be taken in regard to this issue.

#### **3.5.1 Alternatives**

1. Leave it as it is.
2. Marine Reserve.
3. Marine Park.
4. Marine Habitat Reserve.
5. Taiapure - Local Fishery.
6. More Restrictive Quotas.

### **3.6 Evaluation**

After examining all the relevant information, it is now time to evaluate the different alternatives to decide which is most appropriate for this situation.

#### **3.6.1 LEAVE IT AS IT IS**

The first alternative is to leave the area as it is, without any further protection or controls. Although this is a viable option, with no cost or implementation problems, it would not get anywhere in regard to resolving the resource conflict which exists in the Kawhia/Aotea area. It would just be taking the easy way out and ignoring the situation altogether.

Thus this alternative is not appropriate for the situation at Kawhia at all.

#### **3.6.2 MARINE RESERVE**

Marine reserves are the responsibility of the Department of Conservation. The purpose of a marine reserve is for

preserving, for the scientific study of marine life, areas with distinctive quality, or typical, beautiful or unique ... preservation in the national interest.

They are established where there is a need to protect an area in as close to a natural state as possible.

They can be proposed by any body administering coastal Reserves Act land, or any body engaged in ... scientific study, to the Director-General (Conservation). Grounds for declining a proposal are if it interferes unduly with: any adjoining estate or land interest; existing navigation, commercial fishing or recreational usage; otherwise contrary to the public interest.

As stated above, marine reserves are established where the natural state of an area should be maintained as much as possible. The purposes of marine reserves include scientific study, education and historical purposes. It is not, as the local community may believe, to control fisheries or protect areas so people can only recreationally fish in it. As stated earlier, "... marine reserves are not intended to provide a means of allocating fishery resources, for example by excluding one group from an area so that fish may become more abundant for others to catch.", (MAF, 1989, 97).

The local community is concerned that they are unable to catch any fish because of overfishing by trawlers. Thus they want to restrict this activity. However they do not want to preserve the resources because then they would not be able to use them. If this is the major worry of the people, then a marine reserve would not be the right solution for them because it would restrict their use as well. It would also restrict other users, including commercial and recreational

fishermen.

Thus by implementing a marine reserve, this would not be fulfilling all of the objectives set in Section 3.3. It would eliminate resource conflict but it would not be ensuring equitable sharing of resources as the only ones that would benefit would be divers and recreational users, not fishermen or Maori people.

Therefore in the case of the Kawhia coastal area, a protection measure such as a marine reserve is probably nearing the extreme end of the preservation scale.

However, a marine reserve in the area could be a viable option for the future. DOC wants to establish a network of marine reserves and this could be a possible site for a marine reserve.

At present, not a lot is known about the sea and the coast. It will not always be possible to establish the 'uniqueness' of an area or species association because of this lack of knowledge. Thus DOC wants to establish a network which will also show areas which are representative examples of a full range of marine habitats throughout New Zealand. If DOC proposes the Kawhia coastal area for such a reserve, it will be given full consideration because, with such a lack of marine reserves or parks in New Zealand, any initial proposal will probably fulfill the requirements of a representative area of our marine environment.

It can therefore be said that although a marine reserve for Kawhia may not be the right solution for the problem at hand, it is a definite possibility for the future.



### **3.6.3 MARINE PARK**

A marine park is established primarily to cater for recreational needs. It is also created to enhance the public's appreciation of the marine environment.

Such an area would protect the species which inhabit it and provide the public with the opportunity to observe these species in their natural environment.

It was mentioned in the Auckland Fishery Management Plan that a possibility for a marine park could be Gannet Rock (Island). There would be some restrictions placed on recreational fishing but absolutely no commercial fishing.

This suggestion is most appropriate. Although not connected to the issue of overfishing, Gannet Island still deserves recognition and protection. It is a very special area with some unique features, including being the site of gannet and seal rookeries.

Its location on the edge of the continental shelf provides it with unique ocean currents, both warm and cold, allowing it to be the home of a variety of species.

Thus it is recommended that a marine park should be established around Gannet Island to protect it and allow the public to enjoy its special features. It could be a site for observation of these species, and provide for some spectacular diving. It should only be a small marine park, close to the island, and therefore it would not put any extra pressure on other fisheries.

### 3.6.4 MARINE HABITAT RESERVE

A marine habitat reserve can be established in areas containing important examples of fishery or wildlife habitats.

Although this type of protection would probably be appropriate for Kawhia, it is not recommended because its major purpose is to protect and maintain habitats. Thus it would place great restrictions on any users in order to ensure they do not disturb the habitats.

### 3.6.5 TALAPURE OR LOCAL FISHERIES

What the local Maori may be looking for is the concept of a *talapure* - where commercial fishing is the only thing that is excluded automatically, not a marine reserve where many types of activity are excluded (Maori Fisheries Act), Appendix 20.

These are managed under the Fisheries Act (1983) and the Maori Fisheries Act (1989) and can co-exist with marine reserves in a continuum which can include everything from a 'no take' reserve to a properly managed commercial fishery.

The purpose of a *talapure* is "to make better provision for the recognition of *rangatiratanga* and Article 2 of the Treaty, in relation to areas of NZ fisheries waters of special significance to any *iwi* or *hapu* for food, spiritual or cultural reasons".

Article 2 of the Treaty states "Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates, Forests, Fisheries and other

properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession ...".

A taiapure may be in 'estuarine or littoral waters'. Littoral means 'close to the shore'.

They can be proposed by any person, to the Director-General (MAF) and must be declared by the Governor General by Order in Council. The Governor General makes this recommendation on the advice of the Minister of Fisheries. Grounds for declining a proposal must be that the making of the order does not fulfill the objective of the legislation or is not appropriate having regard to: size of area; impacts on local community, person with special interest and fisheries management.

This concept, administered by the Maori Fisheries Act 1989, is very suitable for the Kawhia issue. The major concern in the area has been expressed by the local Maori people, more so than the concern of any others. However, a taiapure may be applied for by anyone, not just Maori (though they would really need the backing of the local hapu or iwi), so the other locals may also apply.

In such an area, the local people get to manage a locally-agreed resource, and are given the authority to prevent others from extracting or disturbing that resource.

In a taiapure, commercial fishing is completely restricted. As the commercial fishermen seem to be the major cause for concern in Kawhia, then such an option would be ideal.

The local Maori believe that the principles of the Treaty of

Wai tangi are being ignored and they want this breach to stop. They also have a very strong connection with the area, both as a food source, and spiritually and culturally (the area being the settling place of the Tainui canoe and thus the birthplace of the Tainui tribe that spread though the North Island).

Such reasons are valid in stating why a taiapure should be established and thus if the local people applied for a taiapure to be established, it would certainly be given great consideration. An application must have the approval of the Minister of Maori Affairs, as well as the Minister of Fisheries. In this case the approval of the Minister of Maori Affairs, Koro Wetere, for some form of protection in the area, has already been given, (See Appendix 21).

Therefore it is recommended that the best solution for the issue in Kawhia would be to establish a taiapure. It would solve the problems stated by the local people and fulfill all the objectives of the planning process.

### 3.6.6 METHODS RESTRICTED FISHING ZONE

In a methods restricted fishing zone, various methods are excluded, limited to a certain time of year or limited to a certain quota.

Although this option was the one proposed by the local community, at the time they had not heard of the taiapure provision. Since then they have reconsidered their first idea, believing a taiapure would fulfill all their requirements and dismiss any of their complaints.

### **3.6.7 MORE RESTRICTIVE QUOTAS**

The Quota Management System has only been in operation for four years and thus has not really been given enough time to make a difference to stock numbers, if it is going to.

At present there are conflicting views on the success of the quota system. MAF and commercial fishermen believe that it is working and that it does influence fish stock numbers. But others such as ECO and the Maori people believe it is not making any effect on fish stocks and that it has serious weaknesses.

More time must be given, and more information gathered, before condemning, or praising the system, and deciding whether quotas should be reduced or not.

### **3.7 Selection of the Best Alternative**

It is recommended that the most appropriate forms of protection for the Kawhia area are as follows:

1. *A marine park to be established around Gannet Island.*  
The area has special features which warrant the need for protection and maintenance. A marine park will fulfill these functions and provide an area which will be enjoyed by all the public. There would be no commercial fishing and certain restrictions on recreational fishing to protect those species which are vulnerable.
2. *A taiapure to be established along an area as defined by the local Maori tribe.*  
These areas are of great significance to the local Maori people, those living in that particular area, and the Tainui tribe as a whole. Such a proposal would have the backing of the Tainui Maori Trust Board and the Maori Queen. The area would be managed and conserved by the local people, with a management committee chosen by the local Maori tribe.
3. *A marine reserve to be a possibility for the future.*  
The coast near Kawhia is very representative of the West Coast of the North Island, and thus warrants protection in this respect.

A special management committee (as suggested by Rohe Takiari and the local people) should be set up for the whole area, as well as the taiapure committee, to monitor and review all of

the chosen forms of protection. The committee should consist of the following (as listed by Rohe Taklari):

- One - MAF representative
- One - Otorohanga District Council representative
- One - Waitomo District Council representative
- One - Regional Council representative
- One - Local (Kawhia) Commercial fisherman
- One - representative from Kawhia
- One - representative from Taharoa
- One - representative from Marokopa
- One - representative from Rakauunui
- One - representative from Aotea

### **3.7.1 Reasons for Selecting the 3 Forms of Protection**

The three options that were selected were each chosen for different reasons.

The marine park would be established solely to protect Gannet Island and it's surrounding waters. There would be absolutely no commercial fishing in this area, and recreational fishing would be restricted to those species with the volume to be able to withstand it.

The marine park would be protecting the area's important species, including the seals and gannets, and their habitats, but it would not be preventing the public from studying and learning about these species.

The talapure should be established to a size defined by the local tangata whenua. It will depend on how large an area they wish to include, and what part(s) of the Kawhia coast and harbours is of such importance to them as to warrant the establishment of a talapure, or local fishery.

The purpose of a taiapure is to increase the recognition of rangatiratanga and Article Two of the Treaty, especially in regard to areas which are significant to the tangata whenua for food, spiritual or cultural reasons.

The Kawhia tangata whenua expressed great concern over the issue, especially the loss of their 'kaimoana'. Without this, their 'mana' (power) would be compromised if they had nothing to provide for marae hui's. Thus in this sense, they may apply for a taiapure on the grounds of the area being important for food reasons.

They may also apply given that the area is significant culturally. The Kawhia harbour is a traditional fishing ground and the resting place of the great Tainui canoe which brought some of the first Maori to New Zealand. It is the birthplace of the Tainui Tribe which spread out from this point to other parts of the North Island.

Thus the establishment of a taiapure in the Kawhia area is justifiable on cultural and spiritual grounds.

Protection in the form of a taiapure would also be valid if one takes into account the Muriwhenua Report. As stated in Section 3.4.5, in creating restrictions to prevent further overfishing, the last group that the Crown shall restrict is the tangata whenua. A taiapure would thus be appropriate because it leaves the local Maori to manage the resource themselves, and it restricts other groups, while protecting the fisheries from overfishing.

The marine reserve option should be established in order to provide a representative example of the West Coast. In regards to this issue, it does not resolve the conflict, but



it is a definite possibility for the future.

### **3.7.2 How Do the Choices Relate to the Objectives?**

It is necessary to relate the three choices back to the objectives that were set in Section 3.3. These were as follows:

- to determine what form of protection is appropriate for the area.
- to reduce or eliminate resource conflict.
- to ensure the interests of all user groups will be taken into account.
- to cater for as many uses as possible.
- to ensure equitable sharing of resources.

A marine park fulfils a number of these objectives. It would reduce resource conflict by prohibiting commercial fishing and restricting certain recreational fishing activities. This means people won't be disputing about who should fish there and whether or not someone is taking more than their fair share.

A marine park proposal does take account of all interests but it may decide that recreation should prevail over commercial needs. Thus a variety of recreational uses will be satisfied but the commercial fishermen may not be. However, the proposal *will* try to cater for as many uses as possible. In the same sense it will try to ensure equitable sharing of resources.

A taiapure, though established to satisfy the Maori community, also ensures that interests of all user groups will be taken into account.

As stated in the procedure for establishing a taiapure,

(Section 3.8.2), there are a number of criteria which must be considered before agreeing or disagreeing with a proposal. Included in this list is the 'impact of the proposal on the general welfare of the local community', and the impact of the proposal on people with a special interest in the area'. Thus all interests will be taken into account. If the impact on a user should be too detrimental, then the proposal would probably not go through. Therefore the procedure for establishing a taiapure will try to cater for as many uses as possible.

The taiapure for Kawhia could be an area that includes the two harbours, Kawhia and Aotea, and which goes out a certain distance from the coast. However as this is only my own suggestion, it would have to be discussed with the Local people and Tainui Maori Trust Board first as it is up to them to determine the scope of the area. Thus commercial fishermen will not be able to fish within this area, but they can still fish, only they must fish further out from the coast.

A proposal for a talapure in the Kawhia area would help reduce resource conflict. The resource would be managed by the tangata whenua and their role would not be disputed.

Thus a taiapure also fulfils the objectives.

A marine reserve proposal will fulfil the objectives in the same way as the other two selections. It would eliminate conflict by restricting all fishing and extraction activities.

People are given the opportunity to object against any application made for the establishment of a marine reserve.

A proposal will only be accepted if all user groups and others support it, otherwise it will be impossible to police. Thus a marine reserve would ensure all interests are taken into account and would cater for as many uses as possible.

Therefore it can be seen that the selected forms of protection for the Kawhia/Aotea area do comply with the objectives set in the planning process.

At this point it is necessary to enforce the fact that these are my own recommendations. These recommendations have been made on the basis that they meet the objectives which I set in Section 3.3. Support for these suggestions must be received from the community and other participants in the conflict before implementing any of them.

I am simply providing a framework (as set out in Section 4) and recommendations which may, or may not, be used to make a final decision regarding the most appropriate form of marine protection for the Kawhia/Aotea coastal area.

TABLE RELATING THE CHOICES TO THE OBJECTIVES

OBJECTIVES	CHOICES		
	Marine Park	Taiapure	Marine Reserve
1. To determine what form of protection is appropriate for the area	Yes	Yes	Yes
2. To reduce or eliminate resource conflict	Yes	Yes	Yes
3. To ensure the interests of all user groups will be taken into account	Yes	Yes	Yes
4. To cater for as many uses as possible	Yes	Yes	Yes
5. To ensure equitable sharing of resources	Yes	No	No

### **3.8 Action**

For each separate form of protection which was chosen there is a different method of implementation.

#### **3.8.1 Marine Park**

This form of protection is administered under the Fisheries Act 1983 and the Harbours Act 1950.

Under the Fisheries Act, a marine park can be included in Section 30, which relates to controlled fisheries.

S.30(1) "On the recommendation of the Minister, after consultation with the New Zealand Fishing Industry Board, or, as the case requires, the Minister of Conservation, the Governor-General may, from time to time, by Order-in-Council, constitute and declare any part of New Zealand fisheries waters (including any fisheries management area or part thereof) to be a controlled fishery under this Act for the purposes of the management or conservation of the fishery in that part or the economic stability of the fishing industry".

Therefore Step 1 of the implementation of a marine park is - the declaration of a controlled fishery by the Minister of Fisheries.

S.30(2) "The Minister may, following the declaration of a controlled fishery, by notice in the Gazette,

a) Define the controlled fishery by reference to such matters as he thinks fit, including the species or class of fish, aquatic life or seaweed that may be taken from the fishery,

the areas that may be fished, and the persons who may be engaged in the fishery ...".

Step 2 is - the definition of the controlled fishery with conditions set by the Minister.

The Harbours Act defines the area of a Harbour and its surrounding waters in Section 3, and gives the grant of control for the seabed and its waters (Section 8). It also manages activities and resources which the Fisheries Act does not pick up.

S.8 "The Governor-General may declare territorial authority to have powers of Harbour Board".

This occurs when the Territorial Authority governs a district which borders on "any navigable river, estuary, or arm of the sea, not under the control or management of any Harbour Board...".

In the case of Kawhia Harbour, Otorohanga District Council had the powers of a Harbour Board up until 1956. After that year, the powers were dissolved and the waters became the responsibility of the Ministry of Transport. The Council was given the grant of control for the seabed and its waters but this expired approximately 4 to 6 years ago.

Thus if a Marine Park (or controlled fishery) is to established in the Kawhia area, the Ministry of Transport must agree to the proposal first.

**3.8.2 Taiapure - PROCEDURE (from Maori Fisheries Act 1989)**

Application by anyone to the Director General (DG MAF)

Proposal to contain:

- location, area, boundaries of site
  - description of Maori, traditional, recreational, commercial and other interests in the proposed taiapure
  - description of species which are of particular importance or interest in the proposed taiapure
  - an explanation of why the area has customarily been of special significance to an Iwi or hapu either as a source of food or for spiritual or cultural reasons
  - description of the policies and objectives
- DG may request other details, as appropriate.

Proposal referred to the Minister of Fisheries.

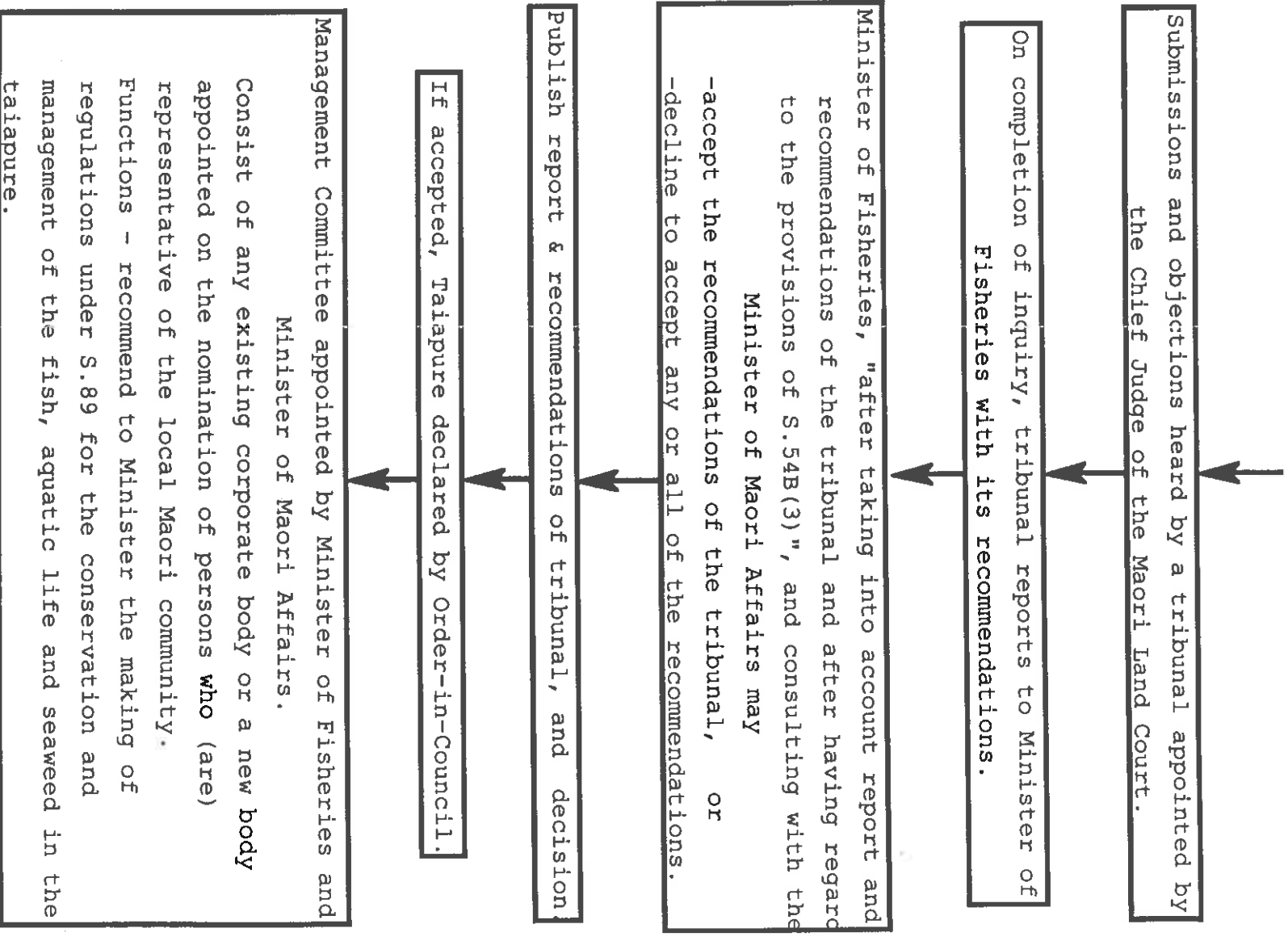
Minister of Fisheries consults Minister of Maori Affairs.

Decides whether or not to 'agree in principle' with the proposal, using the following criteria:

- objective of legislation
- size of proposed taiapure
- impact of proposal on the general welfare of the local community
- impact of proposal on people with a special interest in the area, and
- impact of proposal on fisheries management

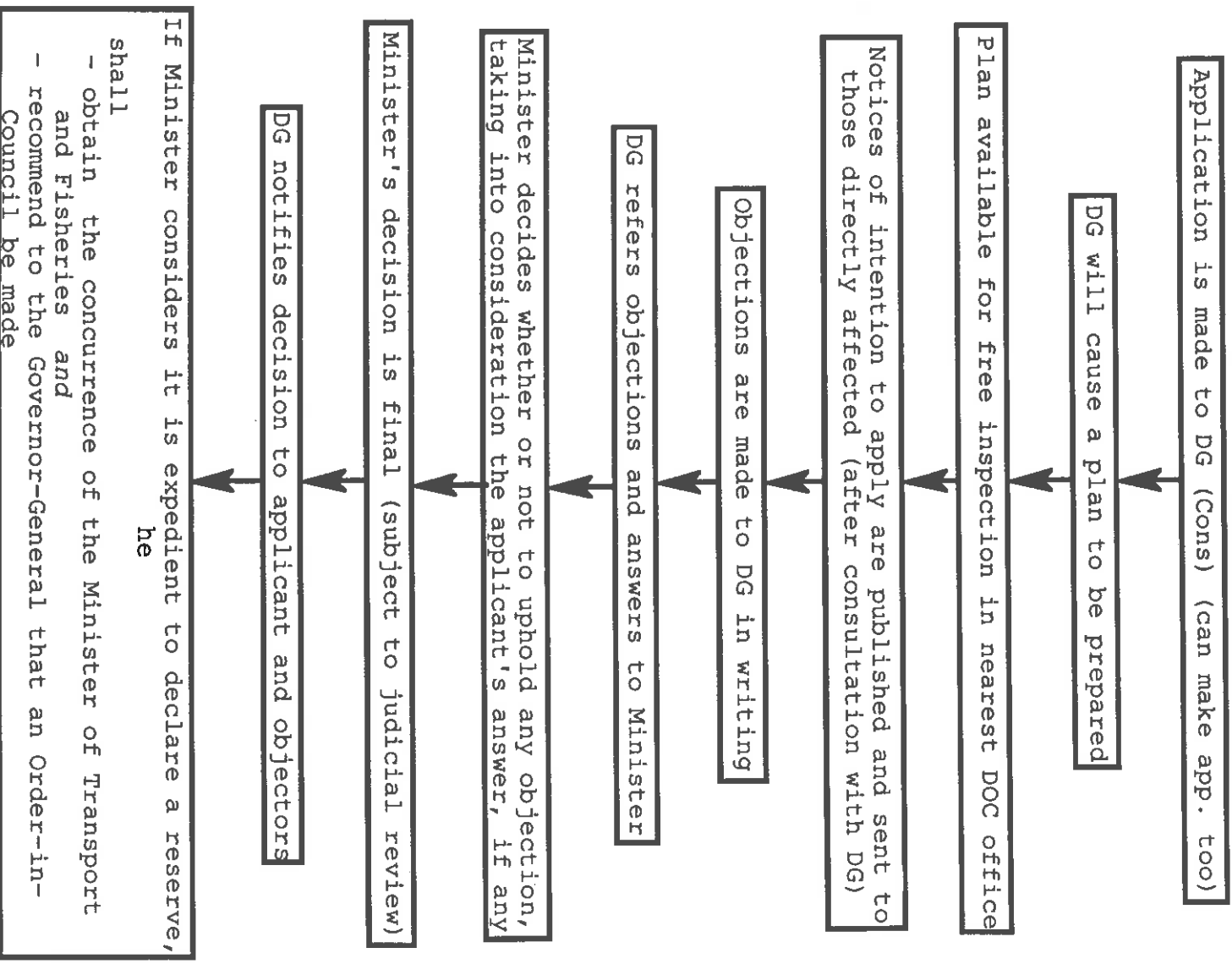
If Minister agrees, notice of proposal is published and 2 months is allowed for submissions and objections.

If does not agree, the person who made the proposal is informed that no further action will be taken.





**3.8.3 Marine Reserve - PROCEDURE (from Marine Reserves Act)**



### **3.9 Feedback and Review**

The establishment of management committees for the talapure, and for the whole area in general, enables feedback to be gathered in order to discover how well the forms of protection are working. If the problem is still not solved, further controls may be placed on the area.

PART FOUR : SUMMARY OF THE  
PLANNING PROCESS

#### 4 Summary of the Planning Process for the Implementation of Marine Protection at Kawhia

In the Kawhia/Aotea fisheries situation, the planning process can be summarised as follows:

IDENTIFY ISSUE/PROBLEM - The local Maori and Pakeha community believe that the commercial fishing trawlers are causing severe depletion of fish stocks. Commercial fishermen deny this. A case of resource conflict.

GOAL -To protect and maintain the marine ecosystems of the area.

#### OBJECTIVES

- To determine what form of protection is appropriate.
- To reduce or eliminate resource conflict.
- To cater for as many uses as possible.
- To ensure the interest of all user groups will be taken into account.
- To ensure equitable sharing of resources.

Public Participation

#### ANALYSIS OF PRESENT SYSTEM

- Background information on the Kawhia area.
- Responsibilities and views of bodies involved.
- Coastal principles - Resource Management Bill and New Zealand Coastal Policy Statement.
- Principles of the Treaty of Waitangi.

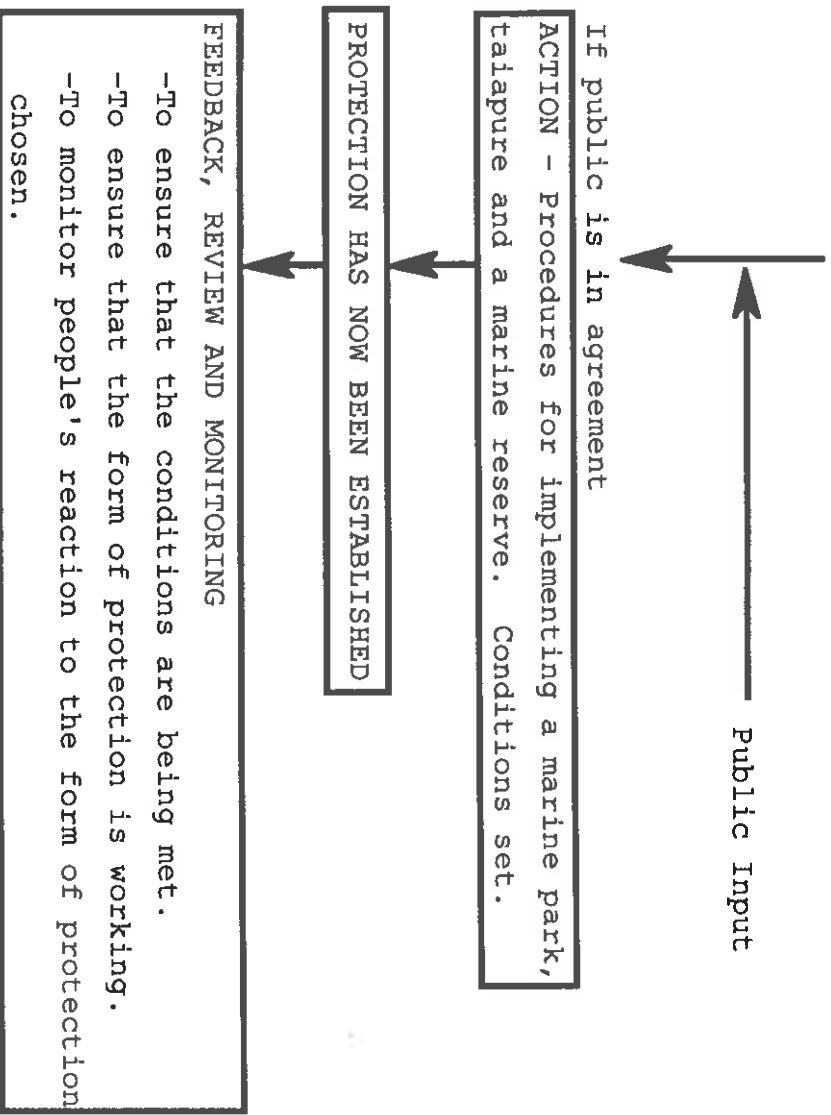
-Local belief that depletion is related to reduced fish stock in harbours.  
-Competing interests.  
-Necessity of controls.  
-Quota System.  
-Effect on other areas.  
-What values should predominate?

IDENTIFICATION OF ALTERNATIVES  
-Leave it as it is.  
-Marine reserve  
-Marine park.  
-Marine habitat reserve.  
-Taiapure - local fishery.  
-Restricted methods fishing zone.  
-More Restrictive Quotas.

Public Input & Review  
of Alternatives.

EVALUATION - In relation to the information on the situation, which alternative would be most appropriate?

SELECTION OF THE MOST APPROPRIATE ALTERNATIVE  
(based on my own opinion)  
- Marine park - Gannet Island.  
- Taiapure.  
- Marine reserve for future possibility.



**PART FIVE : CONCLUSION**

## **5 Conclusion**

The Kawhia/Aotea fisheries issue can be identified as one of resource conflict. This conflict exists between commercial and recreational fishermen, and between Maori and Pakeha.

A clash such as this must be resolved before the resource suffers anymore, and it must be resolved fairly and equitably.

### **5.1 What I Learnt From This Project**

I first began this research project when I heard there was a conflict over the fisheries resource at Kawhia and that a marine reserve might be established.

Having a great interest in conservation and the environment, I decided to use this issue as my project topic in order to increase my knowledge in marine reserves and marine protection, and to apply my existing planning skills to a practical situation.

When I began the project, my opinion was that a marine reserve was the best and only solution to the resource conflict in Kawhia. I had not looked at, or even considered, any other possibilities.

However, as I gathered more and more information on the topic, I realised that there are a number of forms of marine protection available, many of which I had never heard of previously. Thus I had the task of examining the various alternatives and relating them to the issue and information involved, in order to decide on the best practical form of protection for Kawhia.

I believe that I have learnt a great deal from this research



project. As a full year task, it was quite a daunting thought that I would have to tackle this issue alone. However, as the year progressed, I discovered it was not so bad. By working to deadlines throughout the year, this enabled me to keep up with the work, and as I got further into study, the more interesting it became.

This was also the first major research task that I had undertaken alone, without the aid of fellow class members. Thus it gave me the opportunity to gather information independently and come up with my own goals, objectives and recommendations.

The project also provided me with a chance to learn to work with people outside of the university. It forced me to contact people from various organisations and discuss the issue with them. Therefore it gave me the confidence to speak out about the issue and provided me with contacts from the 'outside' world. It made me go out and search for information from other sources and then analyse this information to come up with my own conclusions.

Thus I believe that this project has been a tremendous learning instrument which has allowed me to expand my existing skills and interests, and gain new ones.

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 - letter, 15 August, 1990.
- JOHN GREENWOOD - Department of Conservation  
 - interview, 12 December, 1989 and 15 February, 1990; letter, 3 July, 1990.
- PAUL IRVING - Department of Conservation  
 - telephone call, 10 July, 1990.
- RICHARD FARNSELOW - Ministry of Agriculture and Fisheries  
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- RICK THORPE - Department of Conservation  
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- ROBERT MAHUTA - Tainui Maori Trust Board  
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APPENDICES



REPRINTED ACT

[WITH AMENDMENTS INCORPORATED]

MARINE RESERVES

REPRINTED AS ON 1 AUGUST 1988

NOTE: Except where otherwise indicated, the word "Director-General", wherever it appears in square brackets, was substituted for the words "Secretary for Marine" by s. 6 (1) of the Ministry of Agriculture and Fisheries Amendment Act 1972, but s. 65 (1) of the Conservation Act 1987 substituted a new definition of that term in s. 2 (1) of the principal Act.

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*In this index "(n)" after a page number indicates that the enactment is referred to in a note on that page.*

ANALYSIS

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1. Short Title	12. Particular powers of management committees
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3. Marine reserves to be maintained in natural state, and public to have right of entry	14. Procedure for making bylaws
4. Governor-General may declare an area to be a marine reserve	15. Proof of bylaws
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6. Marine reserves to be under control of management committees	17. Rangers
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9. Fees and travelling allowances	20. Time within which information may be laid
10. Functions of management committees	21. Penalties
11. Appointment of secretary to a management committee	22. Boundaries of marine reserves to be marked
	23. Rights of access and navigation
	24. Regulations
	25. <i>Repealed</i>

attempt at taking; and “to take” has a corresponding meaning:

“Use” includes any attempt to use or assistance given or attempted to be given in using.

“Area”: In para. (a) (i) of the definition of this term words were omitted by s. 33 (1) of the Territorial Sea and Exclusive Economic Zone Act 1977, and in para. (a) (ii) the words in square brackets were substituted for the words “that Act” by s. 33 (1) of that Act.

“Department” and “Director-General”: The definitions of these terms were substituted for the definitions of those terms (as inserted by s. 6 (1) of the Ministry of Agriculture and Fisheries Amendment Act 1972) by s. 65 (1) of the Conservation Act 1987.

“Mining interest”: In para. (a) of the definition of this term the Coal Mines Act 1979, being the corresponding enactment in force at the date of this reprint, has been substituted for the repealed Coal Mines Act 1925. In para. (c) the reference to the Minister of Energy was substituted for a reference to the Minister of Mines by s. 16 (2) (a) of the Ministry of Energy Act 1977.

“Minister”: The definition of this term was substituted for the former definition (as substituted by s. 6 (1) of the Ministry of Agriculture and Fisheries Amendment Act 1972) by s. 65 (1) of the Conservation Act 1987.

“Secretary for Marine”: A definition of this term was repealed by s. 6 (1) of the Ministry of Agriculture and Fisheries Amendment Act 1972.

**3. Marine reserves to be maintained in natural state, and public to have right of entry—**(1) It is hereby declared that the provisions of this Act shall have effect for the purpose of preserving, as marine reserves for the scientific study of marine life, areas of New Zealand that contain underwater scenery, natural features, or marine life, of such distinctive quality, or so typical, or beautiful, or unique, that their continued preservation is in the national interest.

(2) It is hereby further declared that, having regard to the general purpose specified in subsection (1) of this section, marine reserves shall be so administered and maintained under the provisions of this Act that—

- (a) They shall be preserved as far as possible in their natural state:
- (b) The marine life of the reserves shall as far as possible be protected and preserved:
- (c) The value of the marine reserves as the natural habitat of marine life shall as far as possible be maintained:
- (d) Subject to the provisions of this Act and to the imposition of such conditions and restrictions as may be necessary for the preservation of the marine life or for the welfare in general of the reserves, the public shall have freedom of access and entry to the reserves, so that they may enjoy in full measure the opportunity to study, observe, and record marine life in its natural habitat.

[(3) For the purposes of this section but subject to any authorisation given under section 12 (1)(c) of this Act, no person shall fish in a marine reserve except—

(a) Persons (not being persons holding a permit issued under [[Part III of the Fisheries Act 1983]]) authorised by notice in the *Gazette* given by the Minister after consultation with the management committee of the reserve; and

(b) In accordance with such conditions as to time, place, species of fish, methods, and gear to be used in fishing, as may be specified in the notice; and

(c) Where not inconsistent with any conditions imposed under paragraph (b) of this subsection, in compliance with restrictions imposed on fishing by [[the Fisheries Act 1983]] and any regulations made under it,—

and any notice given under paragraph (a) of this subsection shall be deemed to be a bylaw made under section 14 of this Act.]

[[4] Nothing in this section shall apply to prohibit any person from fishing in the reserve in accordance with any conditions imposed by any Order in Council made under section 5 of this Act.]

*Subs.* (3) was added by s. 2 of the Marine Reserves Amendment Act 1977.

*In subs.* (3) (a), Part III of the Fisheries Act 1983, being the corresponding enactment in force at the date of this reprint, has been substituted for Part I of the repealed Fisheries Act 1908.

*In subs.* (3) (c) the Fisheries Act 1983, being the corresponding enactment in force at the date of this reprint, has been substituted for the repealed Fisheries Act 1908.

*Subs.* (4) was added by s. 2 of the Marine Reserves Amendment Act 1980.

**4. Governor-General may declare an area to be a marine reserve**—(1) Subject to section 5 of this Act, the Governor-General may from time to time, by Order in Council, declare that any area described in the Order shall be a marine reserve subject to this Act, and to such conditions as may be recommended to him by the Minister under subsection (9) of section 5 of this Act; but no area in respect of which any lease or licence under the Marine Farming Act 1971 is for the time being in force shall be declared a marine reserve.

(2) No area within the jurisdiction of any harbour board shall be declared a marine reserve without the consent of the harbour board.

(3) Notwithstanding anything in [the Public Works Act 1981] or any other Act, no public work, other than a work authorised by this Act, may be undertaken or constructed on any area

included in a marine reserve except with the consent of the [Minister . . .], and the Minister in charge of the department in control of the work, and subject to such conditions as those Ministers may jointly impose.

(4) Subject to subsection (5) of this section, and to section 25 of this Act, nothing in this Act or in any bylaws or regulations made under this Act shall affect [the Coal Mines Act 1979], the Mining Act 1926, the Mining Act 1971, the Petroleum Act 1937, the Iron and Steel Industry Act 1959, or the Continental Shelf Act 1964.

(5) The right to do anything in a marine reserve by virtue of a mining interest (whether in force at, or after, the commencement of this Act) may, notwithstanding anything in the interest or in any of the Acts mentioned in subsection (4) of this section, be made subject to this Act or to any provision of it by [the Minister of Energy], with the concurrence of the [Minister . . .], so notifying in writing the holder of the interest.

(6) If the right to do anything in a marine reserve by virtue of a mining interest is made subject to this Act or to any provision of this Act, it may continue to be exercised in the marine reserve only to the extent that it can be exercised in accordance with this Act or with the provision, as the case may be; and if it cannot be exercised in accordance with this Act or with the particular provision of this Act, it shall not be exercised at all.

In subs. (3), the Public Works Act 1981, being the corresponding enactment in force at the date of this reprint, has been substituted for the repealed Public Works Act 1928.

In subs. (3) and (5) the word "Minister . . ." was substituted for the words "Minister of Marine" by s. 6 (1) of the Ministry of Agriculture and Fisheries Amendment Act 1972, the words "of Agriculture and Fisheries" having been omitted subsequently by s. 11 (1) and (2) of the State-Owned Enterprises Amendment Act 1987.

In subs. (4) the Coal Mines Act 1979, being the corresponding enactment in force at the date of this reprint, has been substituted for the repealed Coal Mines Act 1925.

In subs. (5) the reference to the Minister of Energy was substituted for a reference to the Minister of Mines by s. 16 (2) (a) of the Ministry of Energy Act 1977.

**5. Procedure for declaring a marine reserve—(1)** No Order in Council shall be made under section 4 of this Act unless—

(a) Application for the Order in Council is made to the [Director-General] by any university within the meaning of the Universities Act 1961, . . . or any body appointed to administer land subject to [the Reserves Act 1977] where such land has frontage to the sea-coast, or any incorporated society or other body corporate engaged in or having as one of its objects

the scientific study of marine life or natural history [ , or the Director-General]:

(b) Notice of intention to apply for an Order in Council declaring the area a marine reserve has, after consultation with the [Director-General], been published by the applicant for the Order at least twice, with an interval of not less than 5 nor more than 10 days between each publication, in some newspaper circulating at or nearest to the place where the area is situated, and at least once in each of 4 daily newspapers, one of which shall be published in Auckland, one in Wellington, one in Christchurch, and one in Dunedin:

(c) Every notice published pursuant to paragraph (b) of this subsection—

(i) States the date of first publication of that notice:

(ii) States the place where the plan referred to in subsection (2) of this section may be inspected:

(iii) Gives a general description of the area proposed to be declared a marine reserve:

(iv) Gives an address for service:

(v) Calls upon all persons wishing to object to the making of the Order to send their objections in writing, specifying the grounds thereof, to the [Director-General] within 2 months from the date of first publication of the notice and to serve a copy of the objections, specifying the grounds thereof, on the applicant within the same time:

(d) Notice in writing of the proposed marine reserve is given by the applicant to—

(i) All persons owning any estate or interest in land in or adjoining the proposed reserve. For the purposes of this subparagraph, land shall be deemed to adjoin a proposed marine reserve notwithstanding that it is separated from it by the foreshore or by any road, or that is at a distance of not more than [100 metres] from the proposed marine reserve if separated from it by any other reserve of any kind whatsoever [or any marginal strip within the meaning of the Conservation Act 1987]:

(ii) Any harbour board if the area or any part of the area proposed as a marine reserve is within the jurisdiction of that harbour board:

(iii) Any local authority or public body in which the foreshore or the control of the foreshore is vested if that foreshore or any part of it is within the area proposed as a marine reserve:

[(iv) The Secretary for Transport:]

[(v) The Director-General of Agriculture and Fisheries].

(2) The [Director-General] shall cause a plan to be prepared on a suitable scale showing all tidal waters coloured blue, and the boundaries and extent of the area sought to be declared a marine reserve. The plan shall be open for inspection free of charge during ordinary office hours by any person at the office of the [Department] nearest to the proposed reserve.

(3) All persons wishing to object to the making of the Order shall, within 2 months from the date of first publication of the notice published pursuant to paragraph (b) of subsection (1) of this section, send their objections in writing, specifying the grounds thereof, to the [Director-General] and shall serve a copy of their objections, specifying the grounds thereof, on the applicant within the same time.

(4) The applicant may, on receiving any copy of objections under subsection (3) of this section, answer those objections in writing to the [Director-General] within 3 months from the date of first publication of the notice published pursuant to paragraph (b) of subsection (1) of this section, and the [Director-General] shall send any such answer he may receive within that time to the Minister for consideration.

(5) The [Director-General] shall refer to the Minister all such objections received within the said period of 2 months, and any answer received within the said period of 3 months.

(6) Where any objection has been made in accordance with subsection (3) of this section, the Minister shall, before considering the application, decide whether or not the objection should be upheld and, in doing so, shall take into consideration any answer made to the objection by the applicant [and, if the applicant is the Director-General, any report on the objection and the application the Minister may have obtained from an independent source]. If the objection is upheld the area shall not be declared a marine reserve. In making any such decision, the Minister shall not be bound to follow any formal procedure, but shall have regard to all submissions made by or on behalf of the objector, and to any answer made by the applicant, and shall uphold the objection if he is satisfied that declaring the area a marine reserve would—

- (a) Interfere unduly with any estate or interest in land in or adjoining the proposed reserve:
- (b) Interfere unduly with any existing right of navigation:
- (c) Interfere unduly with commercial fishing:
- (d) Interfere unduly with or adversely affect any existing usage of the area for recreational purposes:
- (e) Otherwise be contrary to the public interest.
- (7) The decision of the Minister shall be final.
- (8) The [Director-General] shall cause the Minister's decision, together with the grounds therefor, to be notified in writing to the objector and to the applicant.
- (9) If, after consideration of all objections, the Minister is of the opinion that no objection should be upheld and that to declare the area a marine reserve will be in the best interests of scientific study and will be for the benefit of the public, and it is expedient that the area should be declared a marine reserve, either unconditionally or subject to any conditions (including any condition as to providing the cost of marking the boundaries of the marine reserve under section 22 of this Act [ , and any condition permitting fishing within the reserve by persons not holding a permit issued under [[Part III of the Fisheries Act 1983]] until such time as a management committee for the reserve is appointed and is working and has been consulted as to whether a notice under section 3 (3) of this Act should be given or not]), [he shall, if the [[Ministers of Transport and Fisheries concur]], recommend]] to the Governor-General the making of an Order in Council accordingly.
- (10) If notice is required by this section to be given to any person, it shall be deemed to be given to all the owners of any Maori land within the meaning of the Maori Affairs Act 1953, when it is given to such owners as have been nominated for the purpose by the Registrar of the Maori Land Court at the request of the person required to give the notice. On receiving any such request the Registrar shall nominate all owners whose current addresses are known to him.
- (11) For the purposes of this section the expression "estate or interest in land" shall include any mining interest.
- [(12) This section shall bind the Crown].

In subs. (1)(a) the words "or the Director-General of Lands" (as substituted for the words "National Parks Authority" by s. 80 (1) of the National Parks Act 1980) were omitted by s. 65 (1) of the Conservation Act 1987 and s. 11 (1) and (2) of the State-Owned Enterprises Amendment Act 1987; the Reserves Act 1977, being the corresponding enactment in force at the date of this reprint, has been substituted for the repealed Reserves and Domains Act 1953; and the words ", or the Director-General" were added by s. 3 (1) of the Marine Reserves Amendment Act 1977

## PART III

## AMENDMENTS TO MARINE RESERVES ACT 1971

73. This Part to be read with Marine Reserves Act 1971—This Part of this Act shall be read together with and deemed part of the Marine Reserves Act 1971\* (in this Part of this Act referred to as the principal Act).

74. Interpretation—Section 2 of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“Board’ means a Conservation Board established under section 6i of the Conservation Act 1987: 10

“Conservation Authority’ means the New Zealand Conservation Authority established under section 6a of the Conservation Act 1987: 15

“Conservation management plan’ means a conservation management plan approved under section 8 of this Act: 15

“Regional management strategy’ means a regional management strategy approved under section 17e of the Conservation Act 1987:” 20

75. Marine reserves to be maintained in natural state, and public to have right of entry—Section 3 (3) of the principal Act (as added by section 2 of the Marine Reserves Amendment Act 1977) is hereby amended by repealing paragraph (a), and substituting the following paragraph: 25

“(a) Persons (not being persons holding a permit issued under Part IV of the Fisheries Act 1983) authorised by notice in the *Gazette* given by the Minister after having regard to the purpose specified in subsection (1) of this section; and ” 30

76. Procedure for declaring marine reserve—Section 5 (9) of the principal Act (as amended by section 3 (3) of the Marine Reserves Amendment Act 1977) is hereby amended by omitting the words “until such time as a management committee for the reserve is appointed and is working and has been consulted as to whether a notice under section 3 (3) of this Act should be given or not” 35

77. New sections relating to management substituted in principal Act—The principal Act is hereby amended by

\*R.S. Vol 22, p. 751



repealing sections 6 to 16, and substituting the following sections:

5 “6. **General policy**—(1) The Minister may approve statements of general policy for the implementation of this Act in any area or areas; and may from time to time amend any such statement in the light of changing circumstances or increased knowledge.

10 “(2) Nothing in any such general policy shall derogate from any provision in this Act or any other Act.

15 “(3) For the purposes of this section, sections 17a (except subsections (1), (2), and (5j) and 17k of the Conservation Act 1987 shall, with any necessary modifications, apply with respect to such general policies, subject to the following provisions:

20 “(a) In addition to the consultation required by section 17a (3) of that Act, the Director-General shall also consult the Director-General of Agriculture and Fisheries, the Secretary for Transport, and the Secretary for the Environment before preparing any such policy:

25 “(b) As soon as practicable after a draft policy is prepared under section 17a (3) of that Act, the Director-General shall send a copy of it to each of the persons referred to in paragraph (a) of this subsection:

30 “(c) Before sending a draft policy to the Conservation Authority, the Director-General shall consider any comments made by the persons referred to in paragraph (a) of this subsection.

35 “7. **Regional management strategies**—(1) Every regional management strategy shall establish objectives for the integrated management of marine reserves under this Act.

40 “(2) For the purposes of this section, the following provisions shall apply in addition to those in section 17f (1) of the Conservation Act 1987:

45 “(a) The Director-General shall consult the Director-General of Agriculture and Fisheries before notifying a draft strategy under section 17f (1) (a) of that Act:

50 “(b) As soon as practicable after the draft strategy has been prepared, the Director-General shall send a copy of the draft strategy to the Director-General of Agriculture and Fisheries, the Secretary for Transport, and all affected regional councils constituted under the Local Government Act 1974:

55 “(c) Before sending the draft strategy to the Conservation Boards affected, the Director-General shall consider any comments made by the Director-General of

Agriculture and Fisheries, the Secretary for Transport, and such regional councils.

“8. **Conservation management plans**—(1) The purpose of a conservation management plan under this section is to establish objectives for the management of a marine reserve or reserves.

“(2) For the purposes of this section, sections 17e, 17f, and 17k of the Conservation Act 1987 shall, with any necessary modifications, apply with respect to conservation management plans under this section, subject to the following provisions: 10

“(a) In addition to the consultation required by section 17e (1) (a) of that Act, the Director-General shall also consult the Director-General of Agriculture and Fisheries, the Secretary for Transport, and all affected regional councils constituted under the Local Government Act 1974: 15

“(b) In addition to the notification required by section 17f (1) (a) of that Act, the Director-General shall also send a copy of the draft plan to the Director-General of Agriculture and Fisheries, the Secretary for Transport, and all such affected regional councils: 20

“(c) Before sending the draft plan to the Boards affected, the Director-General shall consider any comments made by the Director-General of Agriculture and Fisheries, the Secretary for Transport, and all such affected regional councils. 25

“9. **Control and management of reserves**—Subject to this Act, the Director-General shall administer, manage, and control marine reserves in accordance with approved general policies, regional management strategies, and conservation management plans. 30

“10. **Particular functions of Director-General in relation to marine reserves**—The Director-General shall—

“(a) Inquire into and report to the Minister on any matter arising out of or relating to marine reserves or marine life within or outside reserves that the Minister may refer to the Director-General for report: 35

5 “(b) Advise the Minister on matters relating to the  
administration, management, control, protection, and  
regulation of marine reserves and to make  
recommendations on those matters as the Director-  
General thinks fit.

10 “11. Particular powers of Director-General in relation  
to marine reserves—Without limiting the generality of section  
9 of this Act, the Director-General may do all or any of the  
following:

15 “(a) Manage reserves in the interests of the conservation,  
propagation, and preservation of species, and ensure  
the protection and wellbeing of marine life of  
reserves:

20 “(b) Authorise the taking for scientific purposes of any  
specimens of marine life or material in any reserve,  
and prescribe the conditions of such taking and  
retention or disposal of those specimens or for their  
return to any reserve:

25 “(c) Take such steps as may be necessary to ensure the  
continued welfare of any reserve in the interests of  
scientific study of marine life and for the enjoyment  
of the reserve by the public.

30 “12. Conservation objectives to be considered by  
Director-General—In the exercise of any of the powers  
conferred on the Director-General by this Act, the Director-  
General shall have regard to the desirability of preserving the  
natural features and marine life of reserves, and, in particular,  
shall ensure that—

“(a) Reserves are maintained so far as possible in a state of  
nature; and

“(b) Reserves are available for the purposes of scientific  
research.

35 “13. Conservation function of New Zealand  
Conservation Authority—The New Zealand Conservation  
Authority shall bring to the attention of the Director-General  
such matters concerning the welfare of marine reserves as it  
considers necessary to promote the continued welfare of  
marine reserves.”

40 78. Rangers—Section 17 of the principal Act is hereby  
amended by repealing subsection (7), and substituting the  
following subsection:

“(7) Every member of the police, every person appointed as a  
Fishery Officer under subsection (1) or deemed to have been

appointed as a Fishery Officer by subsection (4) of section 76 of the Fisheries Act 1983, and every person appointed as a warranted officer under subsection (1) or deemed to have been appointed as a warranted officer by subsection (9) of section 59 of the Conservation Act 1987, shall by virtue of that person's office be deemed to be a ranger appointed by the Director-General to exercise the duties of a ranger under this Act generally in marine reserves throughout New Zealand."

**79. Powers of rangers**—Section 13 (1) (f) of the principal Act is hereby amended by omitting the words "has reason to suspect", and substituting the words "reasonably believes".

**80. Offences within reserve**—Section 19 (3) of the principal Act is hereby amended by omitting the words "management committee", and substituting the words "Director-General".

**81. Boundaries of marine reserves to be marked**—The principal Act is hereby amended by repealing section 22, and substituting the following section:

"22. (1) Subject to subsection (2) of this section, the Director-General shall cause to be marked and at all times to be kept marked, by means of such beacons, lights, buoys, or marks as may be necessary, the boundaries of the marine reserve.

"(2) The Director-General shall act under this section only with the concurrence of the Secretary for Transport."

**82. Regulations**—Section 24 of the principal Act is hereby amended by adding the following subsection:

"(2) Without limiting the generality of subsection (1) of this section, any such regulations may—

"(a) Provide for the management, safety, and preservation of reserves, the conduct and control of scientific study within reserves, and the safety and preservation of the marine life in reserves:

"(b) Provide for the keeping of order in any reserve:

"(c) Authorise the Director-General to exclude the public from any specified part or parts of any reserve: 35

"(d) Prescribe the condition on which persons shall have access to or be excluded from any reserve or part of any reserve:

"(e) Prescribe the conditions on which persons may remain within any reserve." 40

## Appendix 2 :

### Kawhia Fishery Protection Issues

(Greenwood, 1989)

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#### KAWHIA FISHERY PROTECTION ISSUES

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##### HISTORY

60 YEARS AGO: Fish - snapper, kingfish, flounder could be caught in Kawhia and Aotea Harbours easily. "My grandfather would walk out into the harbour with a manuka pole and 'spear' a kingfish to feed our marae."

25 YEARS AGO: Any person fishing in these harbours had a reasonable expectation of catching a legally takeable snapper, or if lucky, catch a kingfish.

1989: Today it is almost unknown for takeable snapper to be caught in the harbours of Kawhia and Aotea. Kingfish are not caught at all. Limited flounder are caught.

##### REASONS FOR CATCH DECLINE

1. Extensive Japanese longline fishing during the 1950s.
2. Single trawlers - 1960s onwards.
3. Pair trawlers - 1970's to today.
4. Use of monofilament gill nets both commercial and recreational.

There are only two commercial boats working permanently out of Kawhia, plus an occasional Auckland or New Plymouth boat that domiciles temporarily in the harbour while targeting the Kawhia/Aotea fishing grounds. The coastal zone, north and south of Kawhia, is fished regularly throughout the year and intensively during October to December by many more boats from Raglan, Auckland and New Plymouth. Both single and pair trawling is the main use, but set net fishing using monofilament nylon nets is common.

##### PROTECTION NEEDED

As long ago as 1920-30 the degradation of the fishery was predicted by the residents of Kawhia and Aotea.

About 1930 the tangata whenua of Kawhia and Aotea, presented a petition to the Government of the day asking for a stop to the commercial fishing activities that were even then, reducing the fish population of the harbours, to the detriment of the local people. The ultimate fate of that petition is not at present known. What is known is that no protection was given. On several occasions since then the tangata whenua have expressed similar concerns and similar results have been achieved "NOIHING".

An outline of the values of the Kawhia and Aotea Harbours is attached as Appendix 2. This information was provided by DOC Hamilton staff ex MAFFish sources.

Today, the fish stocks of the area are a miniscule proportion of what they once were. MAFFish scientists claim, "that 90% of the fish stock needs to be left, in order that the stock will be replenished by natural spawn". The problem is that there is far less than 10% of the original fish stocks of the 1920-30's left, so maybe less than 9% of the fish stock is now left to spawn, following current fishing activities.

For example, Dr Bill Ballantine of the Leigh Marine Laboratory claims that "90% of snapper spawning is by the large fish of 8-9 kilo fish and larger". These size fish are now a rarity in the Kawhia/Aotea area. They also tend to be sedentary and do not move far. Therefore they and their potential spawning activity can easily be destroyed by trawling and monofilament gill net fishing in a particular area.

MAFFish scientists and planners also claim that one area cannot be taken in isolation from another, that the fish population is highly mobile and that the whole West Coast from Cape Egmont to North Cape needs to be treated as one unit for the purposes of calculating an ITQ. This argument does not stand up when the statement of Dr Bill Ballantine is considered. Information given in papers from the workshop to review fish stock assessments 1987/88 is attached as Appendix I and supports Dr Ballantine's point of view.

The perception of the people of Kawhia and Aotea, both Maori and European is that "their fishery" is being destroyed by methods and timing of fishing that ensure that fish, schooling up for spawning, are caught before they have time to carry out their reproductive activity.

In addition, Kawhia and Aotea Harbours are shallow harbours that largely empty out during low tide periods and the fish evacuate with the water. These fish are then caught by trawlers operating in the area immediately outside the harbours. They are tracked, using sophisticated electronic equipment and large schools have very little chance of escape.

Last month my sister was fishing off the Kawhia Coast and having caught nothing watched as a pair of trawlers came past. The net was pulled up full of snapper. She watched as a man using a spike, threw back a large number of dead and squashed snapper, gurnet and other species. The amount thrown away - wasted, was more than she would catch in a lifetime. She commented - "I have seen four pairs of trawlers at any one time, plus singles working between my boat and the shore, trawling right along the beaches cleaning all the fish out."

The end result of all these things together means there are no fish left in Kawhla and Aotea Harbours, for either recreational or traditional fishery purposes. When a trawler does come into Kawhla to land fish, it is offloaded into refrigerated trucks and transported to Auckland. Kawhla residents are not even able to buy a fish off the wharf.

### THE REMEDY

Protection and restoration of the fishery in Kawhla/Aotea area can only be achieved by decisive action - NOW - to prevent overfishing from further destroying our Kai moana heritage and recreational fishing opportunities.

The Department of Conservation in Hamilton is investigating the establishment of a major marine reserve from Aotea Heads out to Gannett Island and back to Papanui Point. While this is a start to the process of protecting the marine environment on our coast, it is only part of the solution.

**THE PROPOSAL:** *The establishment of a methods restricted fishing zone from Tairua Head in the south to Papanui Point in the north, 20 km out to sea.*

This will be proposed in a submission to the Auckland fisheries management plan soon to be released for public comment.

This proposal will also meet all criteria of the recently released recreational fishery policy. Recent consultation with your departmental staff by DOC staff lead me to believe that submissions to this policy will be considered in conjunction with the Auckland fisheries management plan.

### THE RESTRICTION

We propose that:

- A local Committee be formed to advise the Minister on the methods of fishing acceptable in the area and the number of operators that should be allowed at any one time.
- Trawling - single or pair would be totally prohibited.
- Within the harbours - flounder netting would be permitted using cotton nets only (no monofilament nylon nets)

***The proposal is that this restriction would be a permanent one - subject only to periodic review of its size and effectiveness by the local committee.***

However the process under the fisheries management plan process is far too slow. If the plan was released now, the public participation process of three months takes it right through the critical period of October to December, when the commercial trawlers from Auckland and Raglan have the greatest effect on snapper schooling for their spawning. Thus allowing a further season to go by - further depleting the fishery.

I therefore, respectfully request that you exercise your prerogative under Section 11 of the Fisheries Act 1983 and "~~make an emergency decision to amend the Auckland fishery management plan and impose this restriction as from 1 October 1989~~" for the allowed 90 days, thus allowing the area protection, while I submit with my fellow citizens and other interested parties, a proposal under the Auckland Regional Fisheries Management Plan.

## **PUBLIC SUPPORT**

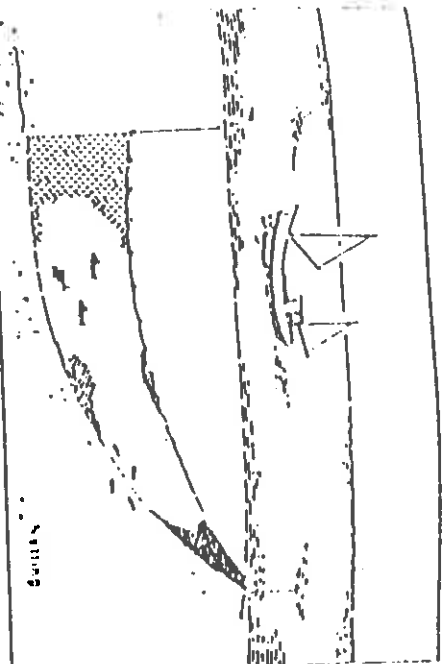
All the following groups support this proposal and the Department of Conservation's marine reserve proposal:

Rakauunui Marae  
 Tainui Maori Trust Board  
 Kawhia Moana (a confederation of all marae from Marokopa to Aotea)  
 Aotea Residents and Ratepayers  
 Kawhia Residents and Ratepayers  
 Kawhia Fishing and Boat Club

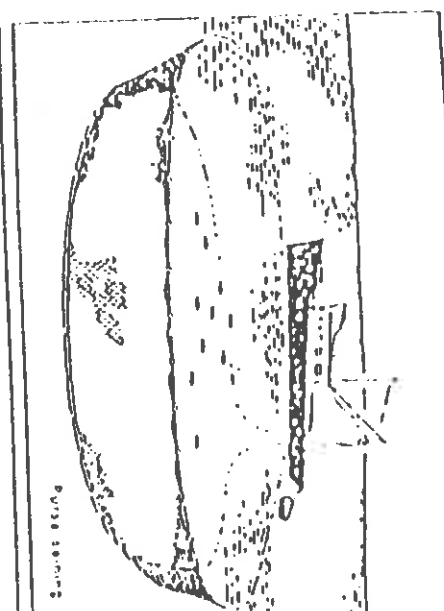
Numerous individuals in the coastal area and the surrounding towns Otorohanga, Te Kuiti, Te Awamutu, Ngaruawahia and Hamilton City, have also expressed support for this proposal.



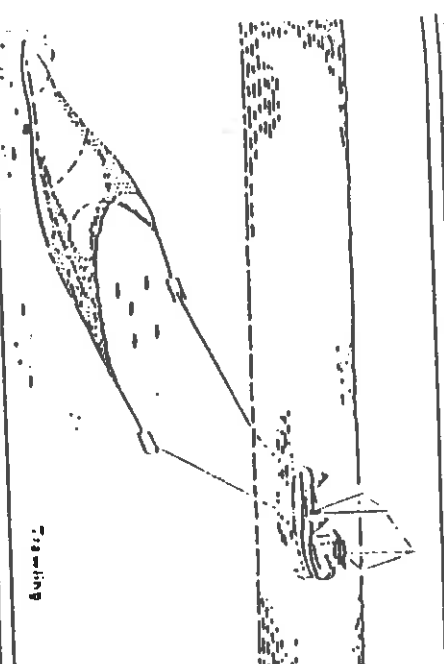
# Common Commercial Fishing Methods



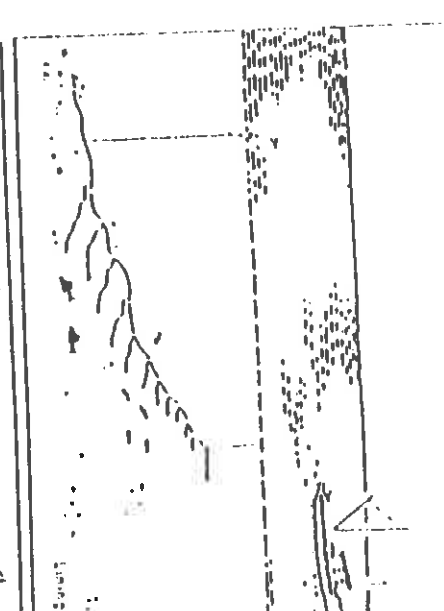
Netting



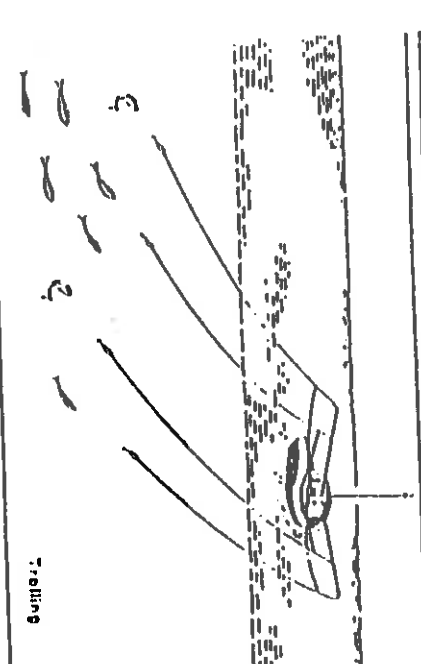
Purse seining



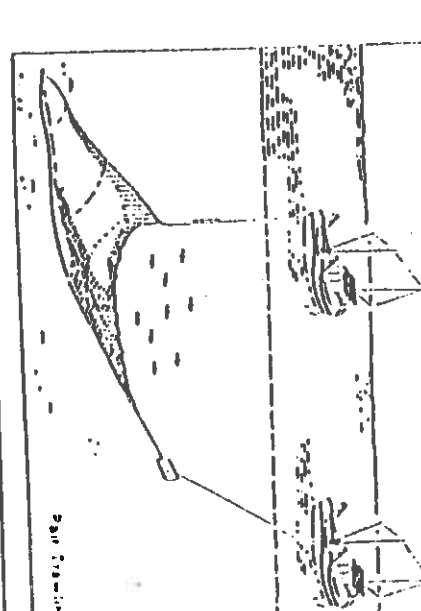
Trawling



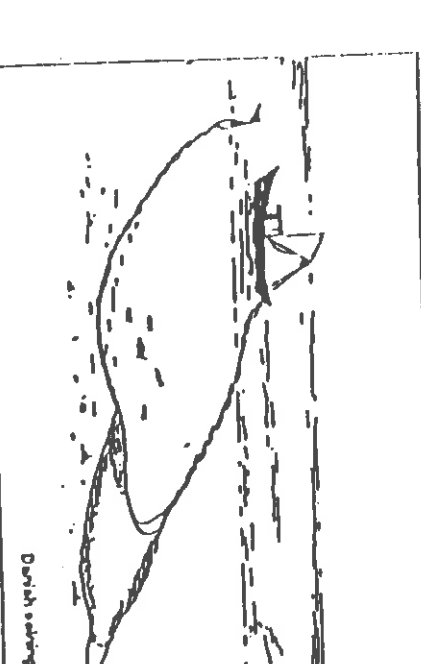
Longline



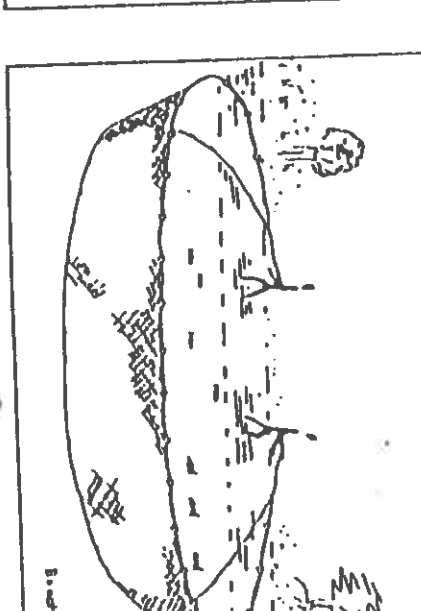
Trotling



Spin fishing



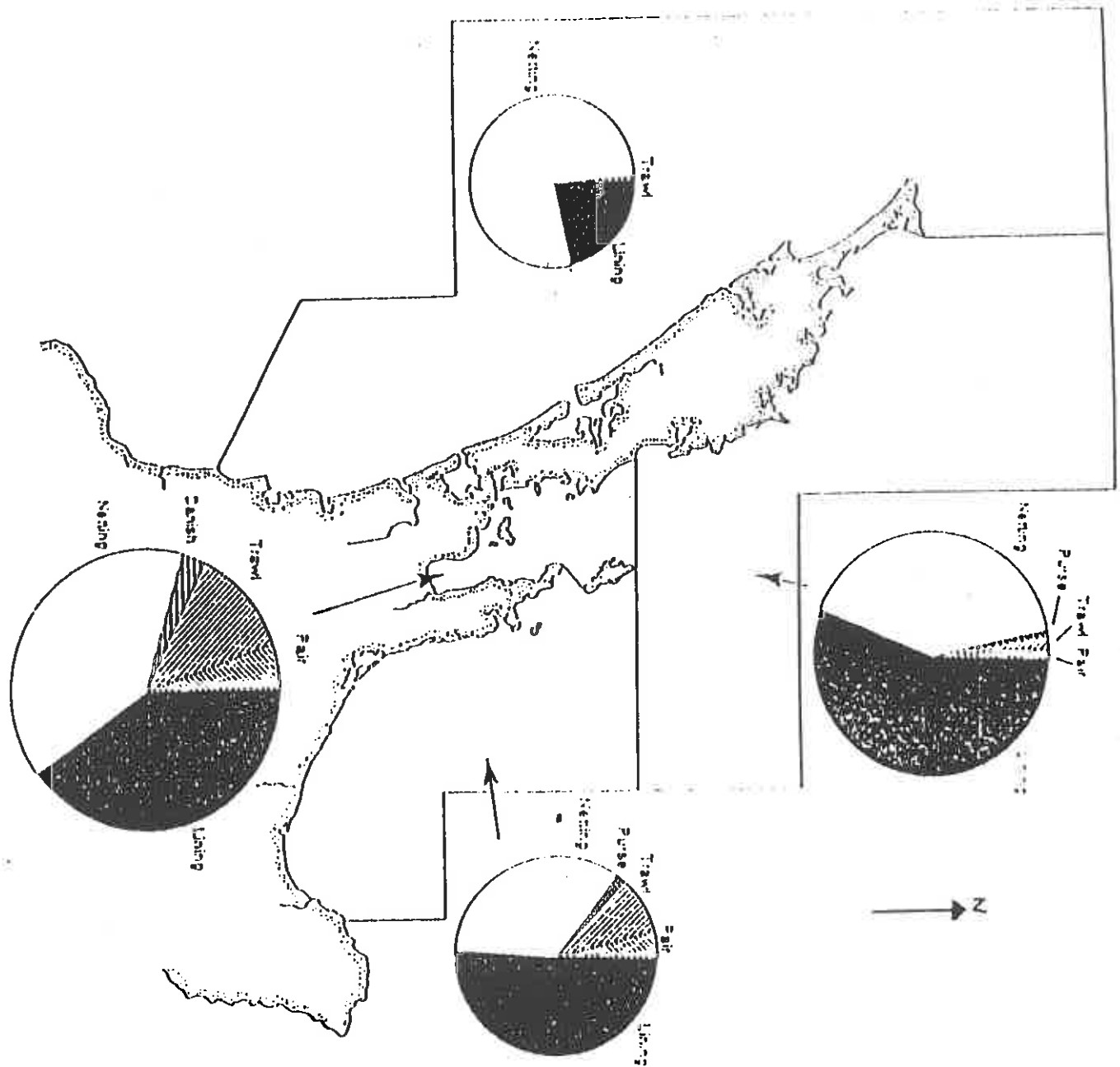
Dutch sailing



Boat

7  
102  
05002

# Appendix 4 : Proportion of Fishing Methods Used in Each Fishery Zone in Auckland

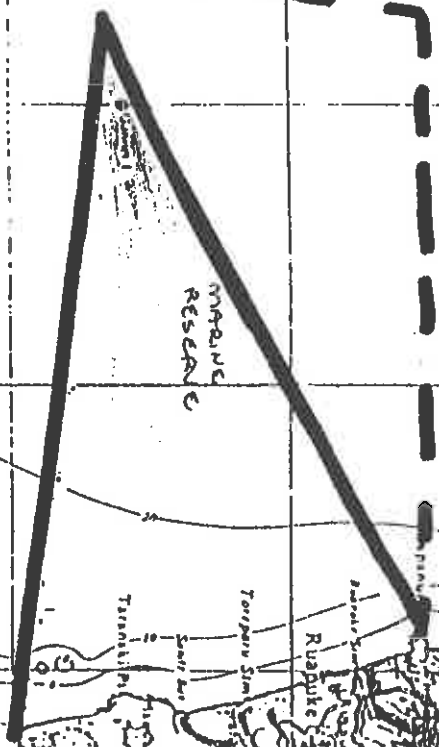


(MAF, 1989, 21)

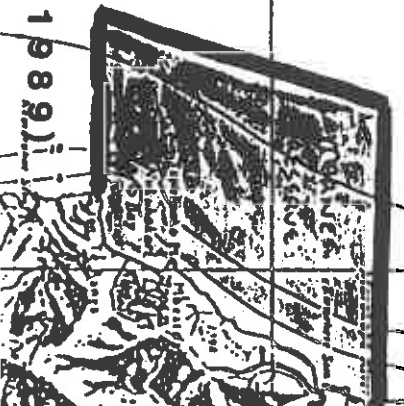
# Appendix 5 : Map of Proposals

--- PROPOSED FISHERIES MANAGEMENT ZONE

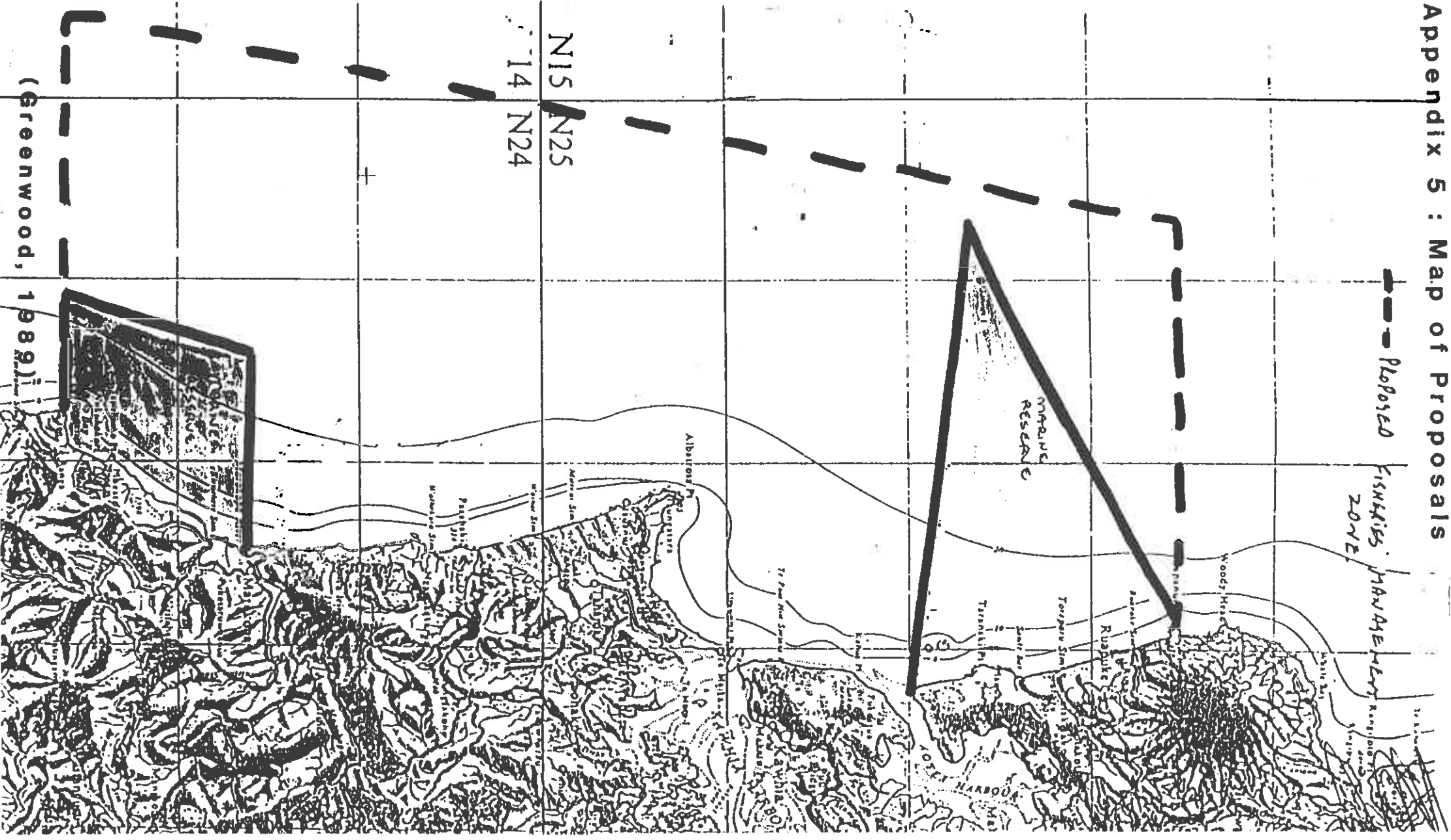
MARINE RESERVE



N15 N25  
N14 N24



(Greenwood, 1989)



## Submission of Kawhia Moana Trust

KAWHIA MOANA TRUST

### SUBMISSION ON THE PROPOSED TRAWLING RESTRICTION ZONE - KAWHIA/AOTEA

Kawhia Moana Trust, has been nominated by the Tainui Trust Board, to represent it on the issue under consideration.

The Trust is an organisation that represents 10 Marae between Marakopa and Aotea. These are:

Marakopa, Rakanui, Matpapa, Maketu, Okapu, Mokaikaitinga, Te Koraha, Aruka, Omokoroa, Toko Piko.

Kawhia Moana Trust have long been concerned at the depletion of our "Kai moana" particularly since the trawlers started scooping up the schooling snapper off the Kawhia/Aotea area. This depletion is now so advanced, that it is difficult to provide Kai Moana, for our Marae Hui's. This is of real concern to our people, as our mana is compromised if adequate fish and shellfish are not available. In recent times we have been forced to purchase Kai Moana with difficulty.

Because our Marae are right on the water, it is imperative that Kai Moana is available as the esteem of the people locally is at stake.

The Minister of Fisheries has produced a Recreational Fisheries Policy document, the Introduction to that states:

"Government position is clear, where a species of fish is not sufficiently abundant to support both commercial and non commercial fishing, preference will be given to non-commercial fishing." (Minister of Fisheries Hon Colin Moyle, June 1989).

This is clearly a case where this policy should be implemented forthwith.

I therefore, on behalf of the tangata whenua, the people of the area, support strongly Rohe Takiarl's proposed restriction on trawling in the area between Tirua Point and Papanui Point, and 20 kilometres to the west.

I want to reiterate that this proposal has the support of Tainui Trust Board and the Maniapoto Trust Board, as well as 9,500 signatures of people of all races.

Kia Ora Tatau



Bert Apiti  
Chairman  
KAWHIA MOANA TRUST

(Kawhia Moana Trust, 1990)

## WEST COAST FISHERIES CONSERVATION

(Takiaru, 1990)

The Kawhia-Aotea-Raglan coast is the most important area for recreational angling for communities of the greater Halkato and King Country regions. This is because Kawhia and Raglan are the only gateways to the open west coast and the three harbours offer safe and accessible recreational fishing. The problem is that recreational fishermen can no longer have a reasonable expectation of catching fish, because of the extent to which stocks are depleted. This is serious because New Zealanders feel they have a fundamental right of freedom to visit and enjoy the coast and many of them want to go fishing and want to catch fish. Over a million New Zealanders go fishing, which makes fishing a more important pastime even than rugby!

As a young man, I could always catch fish at Rakaunui, or any other part of Kawhia or Aotea Harbours. Today, it is almost impossible to catch a "legal" snapper in the Kawhia or Aotea Harbours. In the recent Kawhia Fishing Contest - only one snapper over 1 kg in weight was caught, and that by a commercial fisherman.

I believe local commercial fishing has caused the depletion although the fishing industry is inclined to seek other causes, such as pollution or even recreational fishing. Pollution is an unlikely cause of depletion because of the absence of industrial development, minimal urban development and large areas of forest remaining in the catchments. Indeed Aotea Harbour is special because it is the most unspoiled of the West Coast harbours. However, it no longer offers good fishing. There is no information on the size of the recreational anglers' catch, because HAFfish do not survey anglers as is done for freshwater anglers on important lakes like Taupo, Rotorua or Halkaremoana. However, they believe that the West Coast recreational harvest is very small compared with the commercial harvest. In the Matemata and Whangarei Harbours, there is extensive industrial and urban development and associated pollution as well as considerable recreational fishing activity. But there is no trawling nearby and the recreational fishing is not too bad, and can be quite good.

HAFfish have collected data on the commercial catch for many years. Their data show that 96% of the West Coast catch is taken by trawling and related bulk fishing methods (pair trawling, danish seining, purse seining). Their data shows that the percentage of snapper over 10 years

old has declined from 68% in 1974-5 to only 14.5% in 1986-87. The percentage over 19 years old has declined from 47.3% to only 7.5%. This is a clear demonstration of serious overfishing. The quantity of fish taken remains high by historical standards. The technology and effort applied to take this catch continue to increase, despite implementation of the ITQ system. Perhaps if MAFFish did not depend on resource rentals based on the size of the Total Allowable Catch (TAC) then MAFFish would be in a better position to set lower TAC's to provide for more rapid stock recovery.

Today, the fish stocks of the area are a tiny proportion of what they once were. MAFFish scientists claim that "90% of the fish stock needs to be left in order that the stock will be replenished by natural spawn". There is probably now less than 10% of the original fish stocks of the 1920-30's left.

Trawling is a destructive, wasteful and indiscriminate method of catching huge quantities of fish. Last spring my sister was fishing off the Kawhia Coast and having caught nothing, watched as a pair of trawlers came past. The net was pulled up full of snapper. She watched as a man using a spike, threw back a large number of dead and squashed snapper, gurnard and other species. The amount thrown away - wasted - was more than she would catch in a lifetime. This is an unfortunate consequence of the ITQ system. I do not believe the gravity of the problem has been acknowledged.

How much is known about the bycatch? There is no incentive for fishermen to keep good records of the species they must throw out. MAFFish appear to dismiss the bycatch problem because they don't have good data on it.

What is the effect of dragging a trawl net and its tickler chain over the bottom? It is hard to believe that the damage caused to the populations of little worms and animals which live on the bottom would not have lasting effects on the food available to fish. What information have MAFFish collected on the effects of trawling on the ecology of the sea floor. They cannot prove that the bycatch and damage to the sea floor do not have a depleting effect.

The problem is that too much of the fish are being taken by commercial fishermen, so that the fish stocks cannot recover and there are insufficient fish available to recreational fishermen. Most of the catch is taken by trawlers, which is a particularly wasteful and destructive fishing method. This is why I am supported by so many other New Zealanders in seeking a trawl ban off the Kawhia Coast. They recognise that the problem I seek to redress at Kawhia is widespread, affecting much of New Zealand's coast and fish stocks.

Mr Hartstone will claim, that the "ITQs" or "TACs" have already put in place the necessary controls to correct this imbalance. My observation and experience (and those of many supporters) is that this is not so. The snapper are still being taken by an indiscriminate, wasteful fishing method, to the disadvantage of recreational and traditional fishermen and women.

In 1981 Councillor Smith of Maitomo District Council asked the Maitomo District Council to stop the trawling, due to the depletion of fish stocks. The response from the MAF officers at the time left Councillor Smith in no doubt that MAF's main task was to encourage the extraction of as much fish from our seas as possible. Today we are the beneficiaries of their disastrous policies.

This is not an attempt to put the commercial fishermen out of business. If they want to continue trawling, they should go a long way offshore where they will not decimate inshore fish stocks (20 km out). Alternatively, they could use selective, non-destructive methods such as longlines. Longline caught snapper are much more valuable than trawl caught fish. Commercial fishermen can catch few fish and still retain their incomes.

In seeking your support to my proposed trawling restriction, I come to you with the support of:

9,500 signatories to my petition

The Tainui Trust Board

The Mainapoto Maori Trust Board

The Kawhia Moana (representing ten Marae between Marakopa and North Aotea)

The Maitomo District Council

The Otorohanga District Council  
Kawhia Community Council  
Kawhia Boat Club  
and several other fishing, dive and boat clubs from Hamilton to Te Kuiti.

I desire only the good of the fishery for future generations of New Zealanders. If my granddaughter can go to the foreshore at Rakauunui and catch a fish - I will know common sense has at last prevailed over greed.

*Rohé Pakiari*  
2 May 1990





# HARTSTONE RAGLAN LTD

P.O. Box 4, Raglan

Phone 25-8601 Hamilton

29 March 1990

RECEIVED  
- 3 APR 1990

The Secretary  
Select Committee  
Ministry of Agriculture and Fisheries  
Parliament Buildings  
WELLINGTON.

Dear Sir

I would like the opportunity to appear before the committee regarding the total trawl ban proposed by Mr Takiari.

The following views that I make are based on my involvement with our family fishing firm, established in Raglan for at least 26 years. We operate three trawlers and employ 22 people involved in catching and processing fish in this area. We hold Quota to catch 400 tonnes of fish of all species per annum.

It is my opinion that an area of such large dimension as proposed would cause undue stress on the fishery in adjacent areas. This year we are catching the tonnage allocated to us under the Quota System with far less effort than it has taken in the past three to four years, in fact our boats are only at sea two thirds of the time they were last year.

When the Quota System was introduced 3½ years ago, October 1986, we had to accept more than a 50% reduction in our Snapper catch, at the same time the major snapper catch boats in Raglan, the 'Westerner' and the 'Sandra Kaye' were both sold and moved out of this fishery. This has been the pattern with at least half of the boats that were fishing on this coast several years ago. The result is we are now seeing good positive signs of recovery in our fishery.

# HARTSTONE RAGLAN LTD

P.O. Box 4, Raglan

Phone 25-8601 Hamilton

2.

I will enclose recent newspaper articles that make reference to the MAF Snapper tagging program from Kapiti to North Cape. By updating the figures which concern us, some 6000 snapper were tagged in the area that we fish. In the 17 days since the end of that tagging program, we have caught just over 6000 snapper ourselves. Only 3 of the fish we have caught have been tagged which indicates we have caught less than 1% of the tagged fish.

The facts above can not be ignored, also I am doubtful if the majority of the Trawl Ban Signatory's are aware that we have a Quota System in place which has to be the best conservation measure possible. As commercial fishermen we recognise the need for it, and respect it accordingly. Our future depends on sound resource management which the Quota System provides. Also enclosed is a copy of our submission to the new Management Plan for your information.

There are many other factors regarding our disagreement with the petition further to which I look forward to your communication on this matter.

Yours faithfully



R.G. Hartstone  
DIRECTOR.



**Memorandum**

**WAIKATO REGIONAL COUNCIL**  
**Memorandum**

File: 22 04 03

DATE: 23 April 1990

TO: Chief Executive Officer

FROM: Divisional Manager, Regional Services and Planning

SUBJECT: Kawhia Fisheries,

**1 BACKGROUND**

Over the past three months, Council has considered a request from the Otorohanga District Council for Regional Council support for the imposition of a restricted methods fishing zone (a trawling ban extending 40 km by 20 km) off the Kawhia coast.

This committee resolved at it's 9 March meeting to, amongst other things:

"Support local concerns regarding the depletion of fisheries resources off the Kawhia/Aotea coast and express strong support for a fishing ban."

This decision was revisited at the full Council Meeting on 23 March following representations to several Councillors' from concerned members of the local commercial fishery industry.

Council resolved:

"That the responsibilities of the Waikato Regional Council in respect of west coast fisheries issues be referred to the next meeting of the Planning and Environment Committee for consideration, and that submissions be invited from interested and affected parties."

The following meeting of this Committee on 12 April 1990 saw a report on Marine Planning Issues. This report detailed Councils current responsibilities namely:

- i) An advocacy role with regard to coastal and marine issues.
- ii) Those powers granted under the Town and Country Planning Act.

2

- iii) Permitting procedures under the Water and Soil Conservation Act.
- iv) No direct Fisheries management role.

Additionally Councils future role was advanced, namely:

- i) Direct mandate and responsibility for coastal management in close partnership with the Department of Conservation.
- ii) No direct responsibility for fisheries management.

That meeting carried the following recommendation:

"That staff be requested to report on coastal issues within the framework identified in this report"

Accordingly, this report attempts to clarify the Kawhia fishery issue and makes recommendations in accord with last meetings resolution principally; the deferral of entrenched positions on coastal issues until the council has:

- i) a clear legislative mandate for coastal planning.
- ii) the factual evidence on which to develop coastal policy.
- iii) considered Council policy can be developed in the form of a regional policy statement or plans.

It in no way attempts to preempt the presentations of those groups requested to appear before the committee with regard to this issue.

2

### THE REQUEST

The request by the Otorohanga District Council (ODC), stemmed from a concern of local people that fish stocks within Kawhia and Aotea Harbours had become depleted. The action sought by ODC, that of a trawl ban around the harbour mouths extending north and south along the coast is based upon the assumption that the trawl fishery on the coast is responsible for the decline of in-harbour catches. No evidence of this accompanies the request from ODC, from Mr Robe Takiarari's group or from the Department of Conservation supporting this request.

3

### THE UNKNOWNNS

The decline of in-harbour catches is a genuine and legitimate concern of all those associated with the coast. More so for those coastal communities around harbour margins such as Kawhia and Aotea. However, it may be too simplistic to suggest that a single reason such as over fishing could explain this decline. If this were so, commercial fishers would find it harder to fill their allowable quotas. This apparently has not been the case over recent years.

### 3.1 Gear Restriction

The ban requested involves a restriction on fishing gear, namely trawl nets. Prior to the 1986 imposition of a Total Allowable Catch (TAC) and Individual Transferrable Quotas (ITQ), gear restrictions were one of the main management mechanisms for a fishery. This was because some types of gear are more efficient than others and the actual amount of fish caught could be regulated in this way. The imposition of the Quota system has effectively regulated the amount of fish that can be caught by commercial fishers, thus rendering gear restrictions unnecessary.

It is therefore unclear as to why a gear restriction is requested given there is a maximum amount of fish that can be commercially taken from the west coast snapper fishery in any one year under the existing Quota system.

### 3.2 Fish Movements

It is unknown whether snapper populations are restricted in their movements along the west coast. This will be tested by results from a tagging programme undertaken by MAF last summer. Should snapper be found to move up and down the coast, neither a gear restriction nor a closed area would necessarily achieve the assumed objective of allowing large fish to return to the inner harbour areas.

### 3.3 Effectiveness of Current Management Practices

The Quota Management System was introduced in 1986 and resulted in the immediate halving of the commercial snapper catch on the west Auckland Coast. Given that there was probably some settling in period, it is realistic to say that the system has been in effect for less than four years. With a relatively long lived species such as snapper it is possible that evidence relating to the effectiveness of the 1986 management mechanisms may only just be emerging. This too will be known from analysis of returns from the recent tagging programme.

### 3.4 Effects of Harbour charges

The recreational use of west coast harbours is increasing annually with harbours such as Kawhia supporting increased numbers of trailer boats, fishing, waterskiing, jetskis etc. The effects of these activities on in-harbour catch rates are unknown. The two harbours have relatively little urban development compared to similar sized harbours elsewhere in the region. They are both, however, modified in their catchments. Run-off from agricultural catchments increases the sediment content of harbour waters with a concomitant decrease in water clarity. This directly affects harbour biota that requires light (phytoplankton) and the animals that filter phytoplankton from the water column such as mussels and cockles. These latter animals are also required to expend energy removing silt from their gills and as a consequence do not grow very well in such areas. They form the diet of benthic feeding fish such as snapper.

The effects of the agricultural run off and the disappearance of mussel beds from Kawhia harbour upon in-harbour catch rates are unknown.

Tagging

# 1 4 ROLE OF MINISTRY OF AGRICULTURE AND FISHERIES

The Ministry of Agriculture and Fisheries are statutorily responsible under the Fisheries Act 1983 for managing fishery stocks. Their mandate includes the conservation and enhancement of fish stocks. To facilitate this MAF are currently undertaking a snapper tag survey off the Kawhia coast, which will enable an assessment of the total fish stock to be made.

Additionally MAF are currently reviewing submissions (over 800) received from interested parties on the Management Plan for the Auckland Fisheries Region. This includes the west coast to Tiraupoint. It is this process of public consultation combined with scientific input which should ultimately determine the management direction of the fishery.

## 5 SUMMARY

Many factors could be responsible for the decline of in-harbour catches of snapper.

These include:

- i) An overall historical decline in fish stocks.
- ii) Increasing recreational pressure in the form of direct fishing as well as high speed craft - water skiing, jetskis etc.
- iii) Modification of surrounding catchments affecting harbour water quality.
- iv) The demise of shellfish populations.

In 1986 a new management strategy the "Quota" system was introduced and the total allowable catch for snapper on the West Auckland coast was reduced by 54%. This had the effect of rendering further gear restrictions redundant.

Snapper are thought to range up and down the west coast with surface spawning noted at a number of locations. This will be known upon analysis of data from the recent MAF tagging exercise. Such information should be used to determine the location and size of any new exclusion areas.

## 6 RECOMMENDATIONS

That the Waikato Regional Council:

- i) Acknowledge the local concerns expressed by the Otorohanga District Council and Mr Takitari regarding the depletion of local fish stocks off the Kawhia/Aotea Coast;
- ii) Decline to support the restricted methods fishing zone advocated by Mr Takitari at this stage due to its unknown impacts on the local fishing industry;



- iii) Await the urgent analysis of West Auckland coastal fisheries research being undertaken by MAF;
- iv) Direct staff to continue close liaison with MAF regarding this issue;
- v) Reserve its right to reconsider its support or otherwise for trawling restrictions once MAF are able to advise Council of the outcomes of the current West Auckland fisheries research;
- vi) Support the formation of a local Committee (including fishing industry representatives) to advise the Minister of Fisheries on appropriate measures required to preserve local fisheries stocks.

AE Wilcox  
Divisional Manager Regional Services and Planning

EPPB2008



## Waikato Conservancy of the Doc

(Doc, 1990d)



## CONSERVATION

SUBMISSION OF WAIKATO CONSERVANCY ON  
CONSERVATION OF THE MARINE ECOSYSTEMS OF THE  
KAWHIA - AOTEA AREA

The Department of Conservation has statutory responsibility in the coastal marine area for the investigation, establishment and management of marine protected areas and also for the advocating of general conservation principles of the coastal zone. "We speak for the fish, the sea bed, the reefs, the plankton and the creepy crawlies." One of our functions also is to promote the recreational appreciation of natural resources including the coastal zone and its fisheries.

The Waikato Conservancy is investigating potential sites for marine protected areas on the coasts of the Coromandel, the Firth of Thames and the West Coast.

It was in the course of these investigations that we became aware of Mr Takiarī's concerns over the depletion of the fish stocks of the Kawhia/Aotea area.

The Department's role in advocacy of the marine environment as it relates to the issue Mr Takiarī is attempting to address is that of the intrinsic value of the fish themselves and the recreational potential these provide. The conservation of that natural resource is vital to ensure its values for recreation, traditional use and for commercial purposes is not downgraded or threatened by management policies and practice that are indiscriminate, wasteful and excessively exploitive.

While there is a reasonable amount of usable data on the commercial catch of fish on the West Coast, there is no comparable data on the recreational or traditional catch. This is unfortunate, because we must rely on anecdotal evidence (such as Mr Takiarī's) in assessing changes in the availability of fish to recreational anglers. In the absence of good quantitative information, we would advocate management policy and practices which err on the side of conservation.

To this end, the Ministry of Agriculture and Fisheries "Recreational Fisheries Policy" is commended as a step in the right direction.

This clearly recognises the huge number of recreational salt water anglers that utilise the coastal resource. The policy states that where there is conflict between recreational and commercial use, recreational use will have precedence. This is a sound acknowledgement of the relative number of New Zealanders engaged in recreational compared with commercial use of the marine resource. We would be pleased to see management action now, in the Kawhia-Aotea area to implement this policy.

The Kawhia-Aotea area is suffering the consequences of the past and present systems of management and harvesting, with a resultant degradation of the intrinsic, recreational and traditional values of the fisheries resource. Greater emphasis on management for conservation is called for. Mr Taklari's call for a restriction on the wasteful bulk methods of harvesting is consistent with this goal.

There have been suggestions made that Kawhia and Aotea Harbours have no fish in them due to pollution and sedimentation.

Matemata Harbour is far more polluted, by gross industrial pollution, insecticides and heavy metals as well as being very silty.

Kaipara Harbour is perhaps the most silt laden of all the west coast harbours and yet these harbours all contain snapper of good size and quantity, though no doubt local recreational fishermen would like to see more.

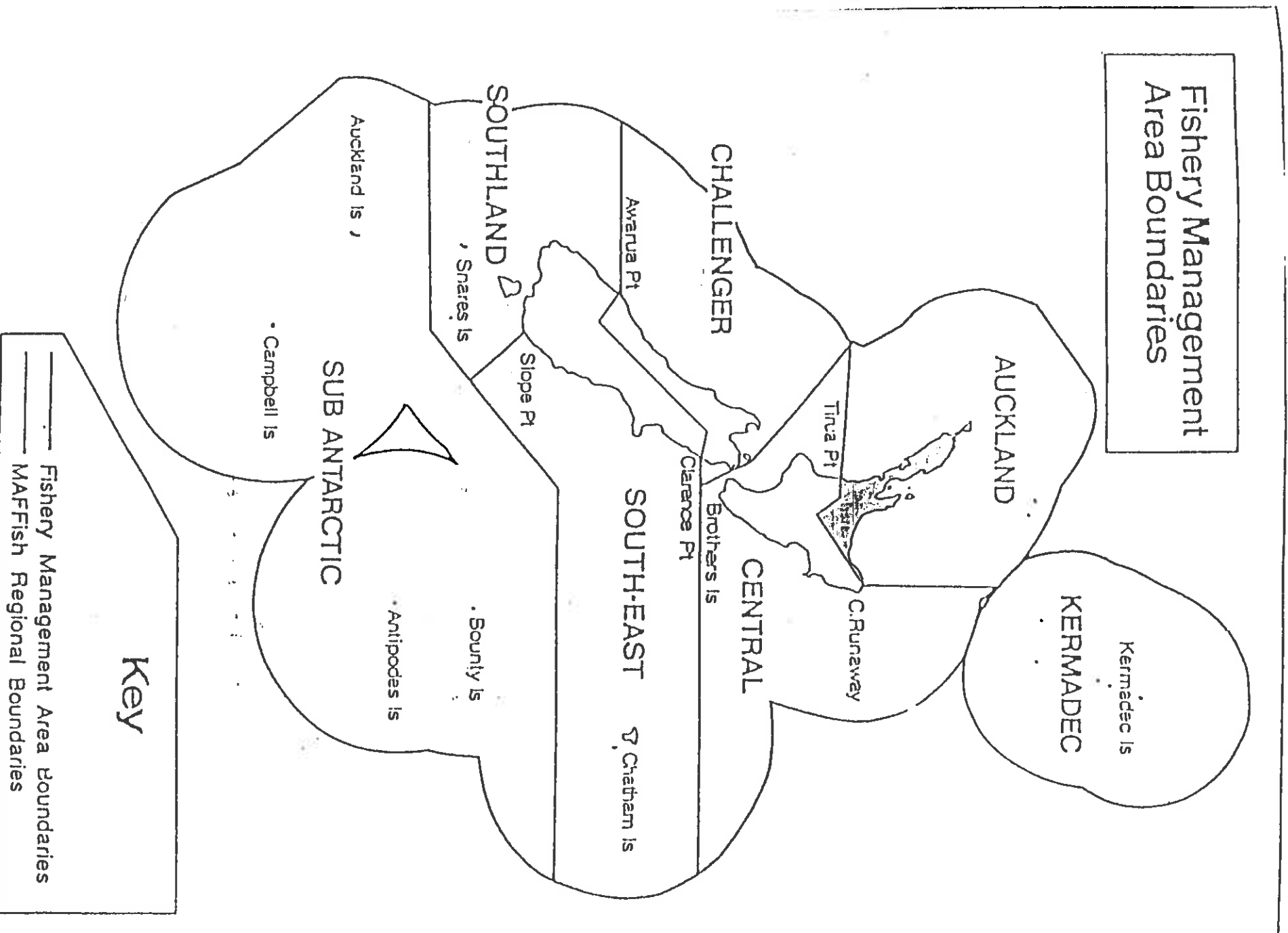
Whangarei and Manukau Harbours are similar examples. Matemata is protected by extensive fishing restrictions. The Kaipara by its sheer size and Whangarei Harbour by the ~~great~~ Bay trawling restriction. To argue therefore that it is the siltation and agricultural pollution of Kawhia and Aotea Harbours which has limited the fish in them is tenuous in the extreme.

We would therefore advocate that the Council support Mr Taklari's proposal.



J C Greenwood  
MANAGER PROTECTION  
FOR REGIONAL CONSERVATOR

Theo Stephens  
CONSERVANCY ADVISORY SCIENTIST



### Objective

TO EXERCISE THE MINISTRY'S STATUTORY RESPONSIBILITY UNDER THE MARINE RESERVES ACT 1971 TO GIVE CONCURRENCE TO THE ESTABLISHMENT OF MARINE RESERVES WHERE SUCH RESERVES ARE SHOWN TO SATISFY THE PURPOSES OF THIS ACT TO PRESERVE AREAS OF SEA AND FORESHORE IN A NATURAL STATE AS THE HABITAT OF MARINE LIFE FOR SCIENTIFIC STUDY.

### Situation

The Marine Reserves Act 1971 provides for ".... the setting up and management of areas of the sea, seabed and foreshore for the purpose of preserving them in their natural state as the habitat of marine life for scientific study". The administration of the Marine Reserves Act is the responsibility of the Department of Conservation. However the concurrence of the Minister Fisheries is required in order to establish a marine reserve. This means that the Ministry will be involved in assessing the merits of particular marine reserve proposals.

It is important to emphasise that marine reserves are not intended to provide a means of allocating fishery resources, for example by excluding one group from an area so that fish may become more abundant for others to catch. This is a function exercised pursuant to the Fisheries Act, not the Marine Reserves Act. The purpose of marine reserves, as stated above, to give protection to marine habitats and their associated marine life for scientific study.

The separate issue of setting aside some marine areas to benefit a particular user group, as is often suggested when marine reserves are proposed, is discussed in Section 6.2 of this plan.

There are at present two marine reserves in the Auckland Fishery Management Area.

1. At Leigh, north of Auckland.
2. At the Poor Knights Islands off the coast near Whangarei.

The Department of Conservation is currently investigating other marine reserve proposals in several parts of the Auckland Fishery Management Area.

Marine reserves are included in this part of the plan on interactions, because their establishment is likely to affect and require controls on the fishing activities of all user groups. They also relate to the conflict which exists between extractive and non-extractive users of marine resources. In terms of user groups, marine reserves particularly benefit recreational divers, scientists involved in marine research, and people who derive pleasure from being able to see marine areas in their natural state. Many who hold such interests desire that all fishing activities, including recreational and Maori, be

## Appendix 14 :

### Marine Reserves Section of the Auckland Fishery Management Plan

(MAF, 1989, 97-99)

excluded from some parts of the coastline in order to provide a truly natural marine habitat.

### Strategy 1

The marine reserve proposals in the Auckland Fishery Management Area are in varying stages of development. In most cases decisions on the exact location of reserves have not yet been made. Accordingly it is not possible in this plan to identify those parts of the Auckland Fishery Management Area which are being considered as future marine reserves. As a general indication of the Ministry of Agriculture and Fisheries views on siting of reserves it is considered that investigations should include the areas identified in the document entitled "Auckland Region Marine Reserves Plan: A Discussion Paper", produced by the Ministry in 1985.

In addition the following criteria are provided to indicate matters the Ministry believes should be addressed in any marine reserve proposal in the Auckland Fishery Management Area.

- a. Proposals should be developed as far as possible as part of a regional or sub-regional strategy.

*Explanation:* The number and extent of marine reserves likely to be established in particular areas is a matter of special concern to those whose fishing activities could be affected by them. It is therefore desirable to identify, at least in general terms, the range of localities for which marine reserve status will be investigated within a particular region or sub-region (eg. Bay of Plenty, Coromandel Peninsula, Hauraki Gulf, Northland coast).

- b. The particular qualities or features of marine areas for which protection is sought should be clearly identified at any early stage.

*Explanation:* Identification of the features (particularly biological) a marine reserve is intended to protect is directly relevant to the determination of the extent of the reserve. The possible extent of a proposed marine reserve is in turn especially relevant to the next stage of determining what (fishing) activities would be affected if the reserve was established.

- c. The nature of activities occurring in proposed reserve areas needs to be clearly identified.

*Explanation:* The final decision on whether to confer marine reserve status on a particular area must be made on the basis that the benefits a marine reserve would bring will outweigh any disadvantages it would have. Disadvantages will particularly arise in terms of existing activities which could not continue in a marine reserve. It is therefore necessary to identify the nature of these existing activities.

Information on existing activities can also be used to determine the extent of reserves. It may be possible to establish boundaries in ways which have no impact on established fishing users.

- d. Public consultation is necessary throughout the process of reserve establishment.

*Explanation:* This is perhaps an obvious requirement but its importance cannot be over-emphasised. It is difficult to conceive of any part of the Auckland Fishery Management Area, which if proposed for marine reserve status, would not affect the interests or require the involvement of a number of groups and individuals. To be successful in providing adequate protection to special marine areas, marine reserves need to gain widespread acceptance by such groups and individuals. This acceptance is unlikely to be forthcoming without adequate consultation.

- e. Any marine reserve proposal should clearly indicate the nature of the management regime and administrative structure which would operate once marine reserve status is conferred on a particular marine area.

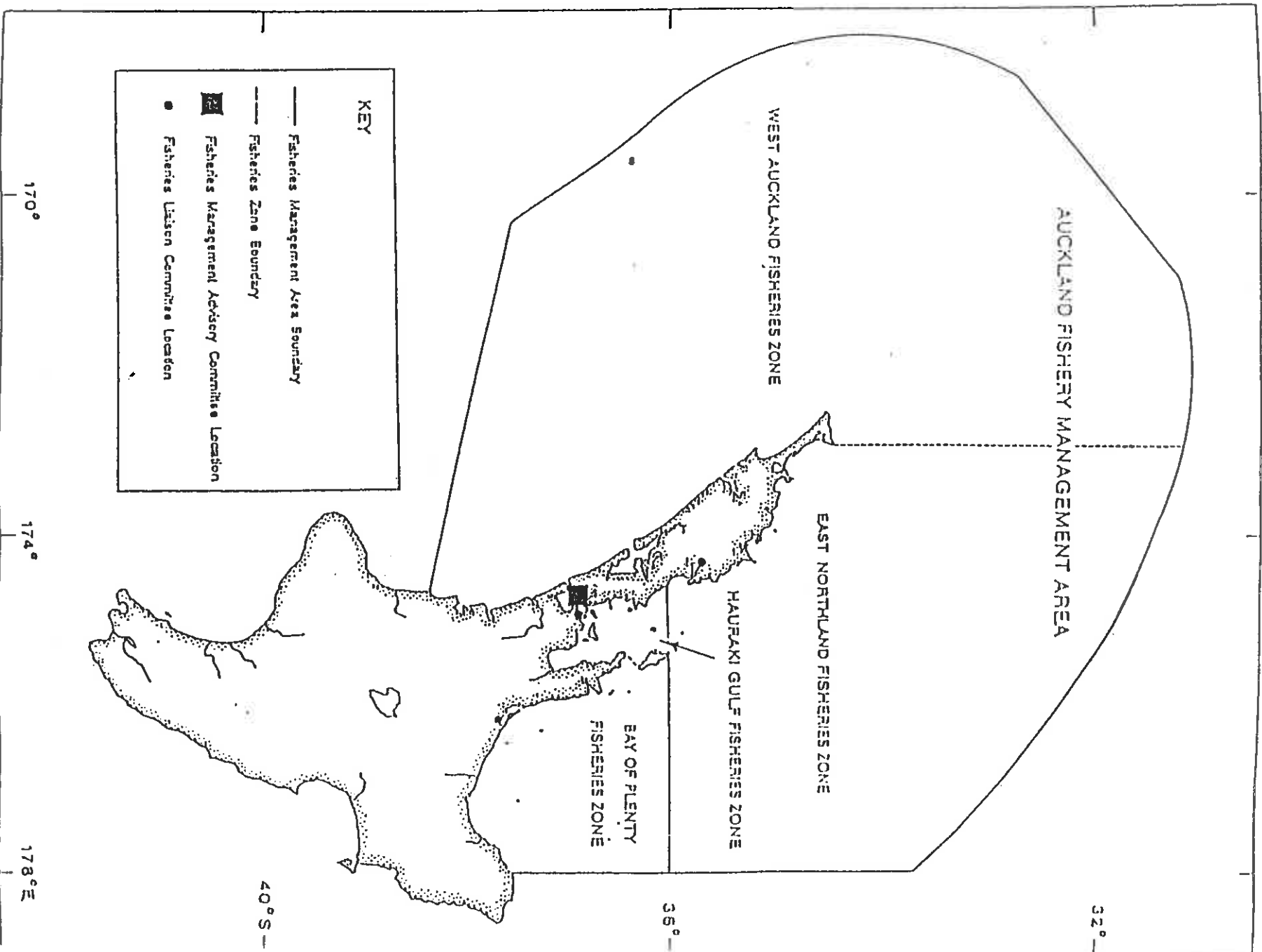


Figure 1.1 The Auckland Fishery Management Area.



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**PROPOSED  
AUCKLAND FISHERY  
MANAGEMENT PLAN**

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**SUMMARY**

MINISTRY OF AGRICULTURE AND FISHERIES  
TE MANATU AHUWHENUA AHUMOAANA



## Introduction

The Ministry of Agriculture and Fisheries (MAF) has prepared a plan for the management of fisheries within the Auckland region. A map showing the extent of this region (the Auckland Fishery Management Area) is on the next page.

Everyone who fishes or has an interest in fishery resources in this region will be affected in some way by the provisions of the Fishery Management Plan. If this includes you, it is desirable that you become at least generally familiar with the management proposals the plan contains.

The plan is a lengthy and in places technical document. This summary has been produced to help you gain an understanding of the management plan and to assist you in identifying which parts of it may be most relevant to your particular fishing activities or interests.

The summary provides an outline of:

- The purpose of the Fishery Management Plan
- The kinds of things dealt with in the plan
- How you can comment on management proposals.

### Purpose of the Fishery Management Plan

The basic purpose of the Auckland Fishery Management Plan is to indicate the ways in which the Ministry of Agriculture and Fisheries intends to conserve and manage fishery resources in the Auckland Fishery Management Area. The Fisheries Act 1983 further defines the purpose of the plan as being a way of providing for the conservation, enhancement, protection, allocation and management of fishery resources in this area.

It is a proposed plan only. This is because it also serves the important function of providing a focus for public comment on MAF's management of fisheries. It is expected that changes to the plan will eventually be needed in response to public objections and submissions.

The need for a plan of this kind has come about mainly because there are now so many groups in the community with interests in, or a demand for, finite fishery resources. There are commercial fishers seeking to maximise their economic return from fishing, recreational fishers who generally desire to catch a reasonable number of fish as part of an enjoyable recreational experience, people who fish for subsistence purposes, and Maori for whom fishing has an added spiritual and cultural dimensions.

All of these various interest groups are in effect competing both amongst themselves, and with other groups for a share of the available fishery resources. All therefore must be managed together to ensure that their legitimate needs are satisfied as far as possible, while most importantly ensuring that the long-term sustainability of fish stocks is maintained. The Fishery Management Plan sets out in a single document a variety of management proposals which are intended to achieve this balancing of needs and fish stock conservation.

## Overall Aim

The overall aim of the Fishery Management Plan is:

TO ENSURE THAT THE FISHERY RESOURCES OF THE AUCKLAND FISHERY MANAGEMENT AREA ARE CONSERVED, ENHANCED, PROTECTED, ALLOCATED AND MANAGED FOR THE MAXIMUM BENEFIT OF PRESENT AND FUTURE GENERATIONS.

In order to achieve this aim, and to indicate what the management measures are intended to achieve in the long term, the following goals are proposed for management in the Auckland Fishery Management Area.

### Biological

TO CONSERVE, PROTECT AND ENHANCE LIVING MARINE AND FRESHWATER RESOURCES AND THE HABITATS ON WHICH THEY DEPEND.

### Allocation

TO ENSURE THE EQUITABLE ALLOCATION OF AND ACCESS TO THE FISHERY RESOURCES OF THE AUCKLAND FISHERY MANAGEMENT AREA.

### Social and Economic

TO TAKE INTO ACCOUNT THE ECONOMIC AND SOCIAL IMPLICATIONS OF MANAGEMENT STRATEGIES FOR FISHERIES IN THE AUCKLAND FISHERY MANAGEMENT AREA.

### Commercial Fisheries

TO MAXIMISE THE BENEFITS TO THE NATION FROM THE COMMERCIAL HARVESTING OF FISHERY RESOURCES IN THE AUCKLAND FISHERY MANAGEMENT AREA.

### Recreational Fisheries

TO MAINTAIN OR IMPROVE RECREATIONAL FISHERIES IN THE AUCKLAND FISHERY MANAGEMENT AREA.

### Maori Fisheries

TO MANAGE FISHERIES IN THE AUCKLAND FISHERY MANAGEMENT AREA IN WAYS WHICH ARE RESPONSIVE TO THE NEEDS OF MAORI.

In addition to the overall aim and goals, the following three guiding principles have been adopted as a basis for the management strategies proposed in the plan.

1. Maintenance of the sustainability of fishery resources is of primary importance. This is because both the various uses of fishery resources at present, and new uses which may be devised in the future, all ultimately depend upon the maintenance of fish stocks at sustainable levels.

2. The concept of a "reasonable share" needs to guide decisions on access to, and allocation of, fisheries resources.

Fishery resources are currently managed on the basis that they are common property, although this is currently in dispute. To the extent that these resources are common property, it is desirable that the legitimate needs of all those with an interest in such resources are recognised and provided for.

It is important to note that this will not always be possible - in particular, where a species of fish is not sufficiently abundant to support both commercial and non-commercial fishing. In this circumstance the Government has determined that preference be given to non-commercial fishing.

3. As well as biological considerations, both the economic and social implications of management strategies need to be identified before decisions on implementation are made.

Many of the management strategies contained in the plan are aimed at striking a balance between economic and social interests in fisheries resources. Economic interests are generally held by those involved in the fishing industry (including charter recreational fishing with its tourism component) while what are often less tangible social interests relate to sectors of the community who utilise fisheries as a food source or as the basis for recreation.

It is important at all times to identify and to take into account the nature of these various interests, so that management measures bring benefits to as many interest or user-groups as possible while not unduly disadvantaging any particular group.

The following outline summarises management proposals contained in the plan. Numbers in brackets after each proposal refer to the section in the plan where each proposal can be found. A map summarising existing and proposed restrictions on fishing in the Auckland Fishery Management Area is at the end of this outline.

#### Commercial Fisheries

- To review sustainable yields for commercial fisheries in the Auckland Fishery Management Area for species managed under the Quota Management System. Total Allowable Catches for all major species will be reviewed annually and changes may be recommended to ensure that total catches do not exceed the sustainable yield. (5.1.2.1)

- Where compelling reasons exist, to balance catch and abundance of major species by setting separate Total Allowable Catches for the east and west coast of the Auckland Fishery Management Area, and by implementing controls on the East Coast which serve to reduce fishing pressure on snapper stocks in the Bay of Plenty. (5.1.2.2)

- To control potential expansion of commercial fishing effort on non-quota species in a manner that recognises the extent to which catches of any particular species or group of species have reached an optimal level of development. (5.1.2.3)
- To promote the controlled development of the commercial fishery for under-utilised pelagic species such as blue mackerel, pilchards, anchovy and saury. At the same time to implement controls to protect more sought-after pelagic bait-fish species such as trevally, kahawai and blue maomao in areas where there is already heavy fishing pressure on these fish, and/or where they are of non-extractive and ecological value (eg. around Cape Brett, Bird Rock and the Ninepins in the Bay of Islands). (5.1.2.4)
- To prevent over-fishing of reef-dwelling finfish species such as red moki, kingfish and leatherjacket by restricting the issue of new or additional commercial fishing permits which authorise the taking of these species, and by investigating the need for controls on fishing in areas where there is a danger of reef-dwelling species being depleted. (5.1.2.5)
- To review existing restrictions on commercial fishing methods, areas, and type or amount of gear used to ensure that such restrictions do not unnecessarily impair the efficiency of commercial fishing operations. (5.1.3)
- To minimise catching of juvenile fish by closing semi-enclosed bays and harbours to trawling, Danish seining and drag netting, (refer Map) and by requiring use of nets with mesh sizes which allow juveniles to escape, and by limits on size of fish permitted to be caught. (5.1.4)
- To seek to optimise both the biological and economic return from fisheries resources by reducing wastage of fish caught. Proposals to achieve this involve measures to reduce the capture and discard of juvenile fish (outlined above), restricting, as required, fishing practices which may cause wastage, and investigating methods of regulating by-catch of quota and non-quota species. (5.1.5)
- To minimise local depletion of fish stocks by retaining existing controls on fishing effort in various parts of the region (refer Map), and by investigating the need for additional closed areas and/or closed seasons. (5.1.6)
- To reduce conflict between commercial fishing groups by separating power fishing methods (eg. trawlers, Danish seiners) and non power methods (eg. long-lining, set-nets) particularly in bays and harbours (refer Map). (5.1.7)

### Recreational Fisheries

- To seek to improve the quality of recreational fishing, by way of some of the management proposals for commercial fisheries eg. controls on commercial fishing activities in semi-enclosed bays and harbours. (Refer Map). (5.2.2)
- To encourage recreational users to contribute towards conservation of fish stocks and towards sharing of fishery resources with other recreational fishers by introducing a daily limit of 20 finfish per person per day. A list is provided of species which this limit applies to. It includes snapper, trevally, kahawai and groper:

This limit is proposed as representing a reasonable day's catch for most fishers. However what constitutes a "reasonable" catch is open to wide interpretation. MAF is therefore particularly interested to find out what you think is "reasonable", preferably with reasons for arriving at your suggested quantity. (5.2.3)

To review the use of bulk fishing methods such as set-lines and nets, and to investigate the possibility of a total ban on the use of monofilament set nets by recreational (and all other) fishers. (5.2.3)

To minimise catching of juvenile fish by limiting the size of fish permitted to be caught and by requiring the use of nets with appropriately sized mesh. At present some recreational net mesh sizes are different to those which commercial fishers must use. The differences allow recreational fishers to catch smaller fish. It is proposed to revise the mesh sizes for recreational fishers so that they are the same as commercial mesh sizes. (5.2.4)

To improve recreational fisheries management generally by carrying out research into recreational fishing activities and ensuring that recreational user groups are actively involved in management. (5.2.5)

To implement restrictions on commercial fishing in areas important for recreational and other forms of non-commercial fishing through the retention of appropriate existing controls, and by extending the area closed to trawling and Danish seining on the west coast from the southern end of Muriwai Beach to the North Head of the Manukau Harbour, and through the management regime proposed for the Bay of Islands. (Refer Map) The need for additional controls to reduce conflict between commercial and recreational and other non-commercial fishers will be investigated in situations where this type of conflict appears to be occurring. (6.2)

To monitor the commercial fishery for tunas and big-game fish species to ensure that this fishery has no adverse affect on the important recreational big-game fisheries in Northland and the Bay of Plenty. (6.3.1)

To develop a management regime for kahawai which as well as the possible inclusion of this species in the Quota Management System, will involve investigation of localised area controls on commercial fishing for kahawai, and a specific proposal to close the Hauraki Gulf to purse seining south of a line from Cape Rodney to Cape Colville. (Refer Map) (6.3.2)

To introduce a variety of management measures in the Bay of Islands as a way of enhancing the recreational and tourist values of this area. Specific proposals include restrictions on commercial fishing activities generally, and restrictions on the use of some fishing methods, where these activities and methods catch or have the potential to catch significant numbers of pelagic or reef fish species around the Ninepins, Bird Rock and Cape Brett. All commercial fishing (except some rock lobster potting) will be prohibited in the eastern Bay of Islands from 1 October to 1 May each year. Use of set-nets (except to catch grey mullet and flatfish) and set-lines by amateurs will also be prohibited in this area from 1 October to 1 May. (Refer Map) (6.3.3)

MAF is no longer responsible for the establishment of marine reserves, but its agreement must be obtained before particular areas may be constituted as marine reserves. The plan contains a proposed outline of the kinds of things MAF would like to see done or considered in order to gain its agreement for specific marine reserve proposals. (6.5)

## Maori Fisheries

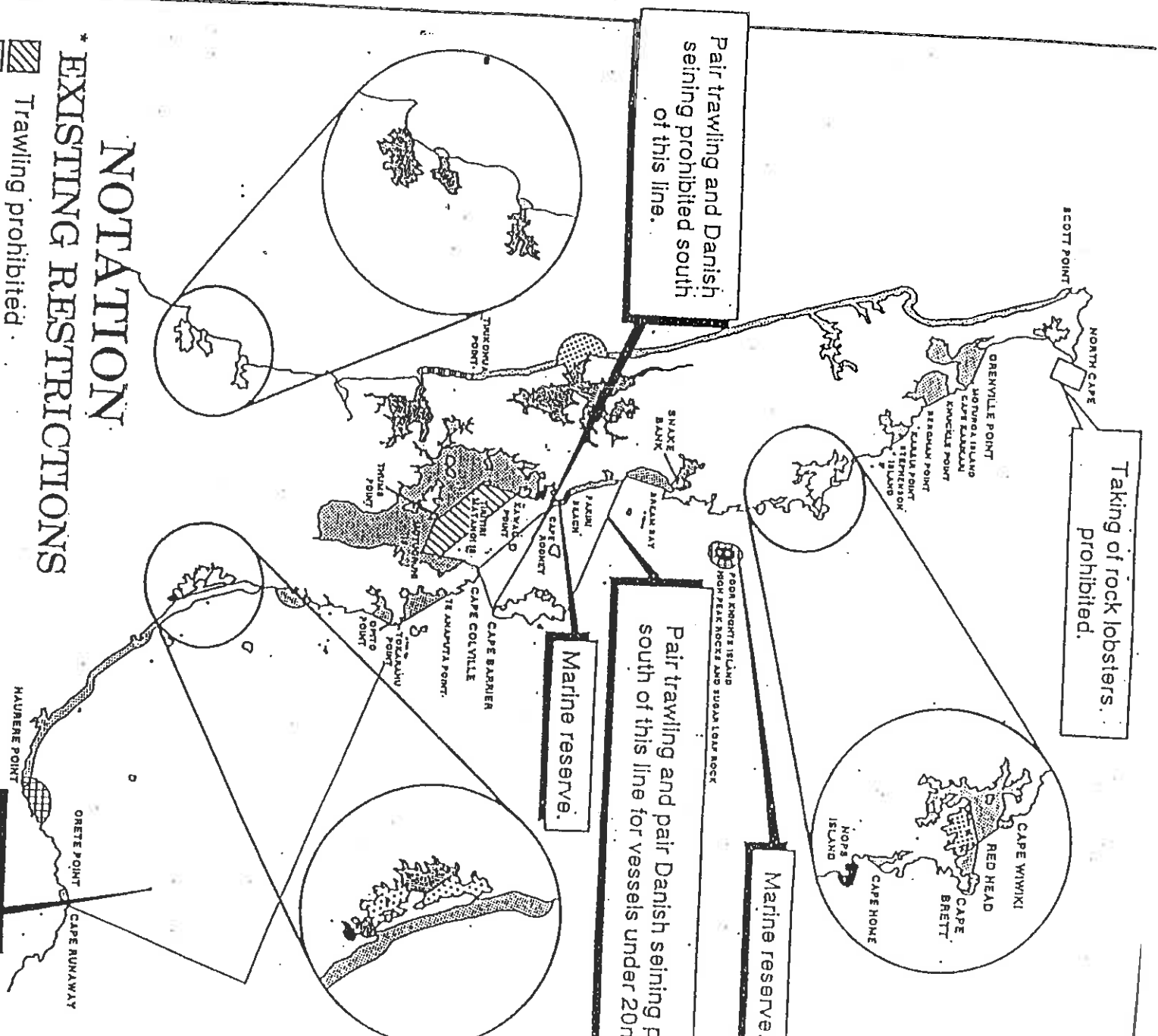
Many of the proposals summarised above which seek to improve the quality of recreational fishing are also intended to be of benefit to Maori in their fishing activities. These include the proposals relating to restrictions on commercial fishing in important non-commercial fishing areas (the term non-commercial is used in these proposals as a way of referring to both recreational and Maori fishing), existing controls on commercial fishing activities in semi-enclosed bays and harbours, and the proposed management regime for kahawai.

Measures which relate specifically to issues and matters of concern to Maori include the following:

- To recommend the establishment of taiapure - local fisheries, in appropriate circumstances as proposed in the Maori Fisheries Bill. Once established the Ministry will provide assistance by providing advice on management techniques, and by helping with the development and enforcement of by-laws or other controls which may apply in such areas. (5.3.2)
- To develop a joint approach to dealing with and resolving management issues by adopting a formalised consultative structure with Maori, as well as seeking to establish informal links with the Maori community. (5.3.3)
- To co-operate with Maori in developing iwi management plans and to investigate amendments to the Fishery Management Plan which may be needed as a way of recognising iwi values, concerns and priorities expressed in iwi management plans, or made known to MAF by other means. (5.3.3)
- To implement a Maori fisheries investigation programme in order to obtain information on Maori fishing activities, catch, and catch rates, as a way of identifying the needs of Maori users, to assist in the identification of non-commercial fishing areas, and to be used in calculating Total Allowable Catches under the Quota Management System. (5.3.4)

## Protection of Fishery Habitats

- To identify fish and shellfish habitats which are vulnerable to damage by fishing methods or gear and to introduce appropriate controls (restrictions on methods, type of fishing gear, seasonal restrictions) to ensure these habitats are protected. (7.2)



Pair trawling and Danish seining prohibited south of this line.

Taking of rock lobsters prohibited.







Pair trawling and pair Danish seining prohibited south of this line for vessels under 20t

Marine reserve.




Marine reserve.

### NOTATION

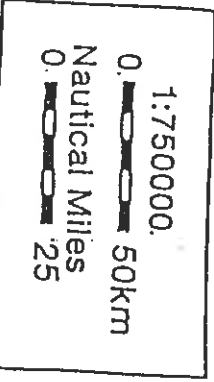
#### \* EXISTING RESTRICTIONS

-  Trawling prohibited
-  Trawling and Danish seining prohibited
-  Trawling, Danish seining and drag netting prohibited
-  Trawling and Danish seining prohibited restricted drag netting
-  All commercial fishing prohibited
-  Seasonal and/or method restrictions apply

#### PROPOSED RESTRICTIONS

-  Trawling and Danish seining prohibited
-  Seasonal and/or method restrictions apply
-  Purse seine exclusion line

Pair trawling prohibited in this area.



\* as at 14/12/89



## Appendix 17 :

## Clause 5(e)(i) of Resource Management Bill

S(e) The maintenance and enhancement of the natural, physical, and cultural features which give New Zealand its character, and the protection of them from (inappropriate) unnecessary subdivision, use, and development including—

(i) The preservation of the natural character of the coastal environment, wetlands, and lakes and rivers and their margins; and

# Appendix 18 : Treaty of Waitangi

(Orange, 1989, 30-31)

## *The Treaty of Waitangi*

Her Majesty Victoria Queen of the United Kingdom of Great Britain and Ireland regarding with Her Royal Favor the Native Chiefs and Tribes of New Zealand and anxious to protect their just Rights and Property and to secure to them the enjoyment of Peace and Good Order has deemed it necessary in consequence of the great number of Her Majesty's Subjects who have already settled in New Zealand and the rapid extension of Emigration both from Europe and Australia which is still in progress to constitute and appoint a functionary properly authorized to treat with the Aborigines of New Zealand for the recognition of Her Majesty's sovereign authority over the whole or any part of those islands - Her Majesty therefore being desirous to establish a settled form of Civil Government with a view to avert the evil consequences which must result from the absence of the necessary Laws and Institutions alike to the native population and to Her subjects has been graciously pleased to empower and to authorize me William Hobson a Captain in Her Majesty's Royal Navy Consul and Lieutenant Governor of such parts of New Zealand as may be or hereafter shall be ceded to Her Majesty to invite the confederated and independent Chiefs of New Zealand to concur in the following Articles and Conditions.

Article the first  
The Chiefs of the Confederation of the United Tribes of New Zealand and the separate and independent Chiefs who have not become members of the Confederation cede to Her Majesty the Queen of England absolutely and without reservation all the rights and powers of Sovereignty which the said Confederation of Individual Chiefs respectively exercise or possess, or may be supposed to exercise or to possess over their respective Territories as the sole sovereigns thereof.

Article the second  
Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession; but the Chiefs of the United Tribes and the Individual Chiefs yield to Her Majesty the exclusive right of Preemption over such lands as the proprietors thereof may be disposed to alienate at such prices as may be agreed upon between the respective Proprietors and persons appointed by Her Majesty to treat with them in that behalf.

Article the third  
In consideration thereof Her Majesty the Queen of England extends to the Natives of New Zealand Her royal protection and imparts to them all the Rights and Privileges of British Subjects.

[signed] W. Hobson Lieutenant Governor

Now therefore We the Chiefs of the Confederation of the United Tribes of New Zealand being assembled in Congress at Victoria in Waitangi and We the Separate and Independent Chiefs of New Zealand claiming authority over the Tribes and Territories which are specified after our respective names, having been made fully to understand the Provisions of the foregoing Treaty, accept and enter into the same in the full spirit and meaning thereof in witness of which we have attached our signatures or marks at the places and the dates respectively specified.

Done at Waitangi this Sixth day of February in the year of Our Lord one thousand eight hundred and forty.

*This English text was signed at Waitaito Heads in March or April 1840 and at Manukau on 26 April by many-name chiefs only. The text became the official version.*

**Te Tiriti o Waitangi**

Ko Wikitoria te Kuni o Ingarani i tana mahara atawai ki nga Rangaitira me nga Hapu o Nu Tirani tana hiahia hoki kia tohungia ki a ratou o ratou rangaitiranga me to ratou wenua, a kia mau tonu hoki te Rongo ki a ratou me te Atanoho hoki kia wakarotia he mea tika kia tukua mai tetahi Rangaitira - hei kai wakarite ki nga Tangata maori o Nu Tirani - kia wakaetia e nga Rangaitira maori te Kawarantanga o te Kuni ki nga wahikatoa o te wenua nei me nga motu - na te mea hoki he tokomaha ke nga tangata o tona Iwi Kua noho ki tenei wenua, a e haere mai nei.

Na ko te Kuni e hiahia ana kia wakarites te Kawarantanga kia kua ai nga kuno e puta mai ki te tangata maori ki te Pakeha e noho ture kore ana.

Na kua pai te Kuni kia tukua a hau a Wiremu Hopihona he Kapitana i te Rolaro Nawī hei Kawana mo nga wahi katoa o Nu Tirani e tukua aianei amua atu ki te Kuni, e mea atu ana ia ki nga Rangaitira o te wakaminenga o nga hapu o Nu Tirani me era Rangaitira atu enei ture ka koreotia nei.

**Ko te tuatahi**

Ko nga Rangaitira o te wakaminenga me nga Rangaitira katoa hoki ki hahi uru ki taua wakaminenga ka tukuru rawa atu ki te Kuni o Ingarani ake tonu atu - te Kawarantanga katoa o o ratou wenua.

**Ko te tuarua**

Ko te Kuni o Ingarani ka wakarite ka wakahe ki nga Rangaitira ki nga hapu - ki nga tangata katoa o Nu Tirani te tino rangaitiranga o o ratou wenua o ratou kaiti me o ratou taonga katoa. Oia ko nga Rangaitira o te wakaminenga me nga Rangaitira katoa atu ka tuku ki te Kuni te hokonga o era wahi wenua e pai ai te tangata nona te wenua - ki te ritenga o te utu e wakarites ai e ratou ko te kai hoko e meatia nei e te Kuni hei kai hoko mona.

**Ko te tuatoru**

Hei wakaritenga mai hoki tenei mo te wakaetanga ki te Kawarantanga o te Kuni - Ka tiakina e te Kuni o Ingarani nga tangata maori katoa o Nu Tirani ka tukua ki a ratou nga tikanga katoa rite taahi ki ana mea ki nga tangata o Ingarani.

[signed] W. Hobson Consul & Lieutenant Governor

Na ko matou ko nga Rangaitira o te Wakaminenga o nga hapu o Nu Tirani ka huihui nei ki Waitangi ko matou hoki ko nga Rangaitira o Nu Tirani ka kite nei i te ritenga o enei kupu. Ka tangohia ka wakaetia katoatia e matou, koia ka tohungia ai o matou ingoa o matou tohu.

Ka meatia tenei ki Waitangi i te Ono o nga ra o Pepueri i te tau kotahi mano e waru rau e wa te kau o to ratou Ariki.

*This treaty text was signed at Waitangi, 6 February 1840, and thereafter in the north and at Auckland. It is reproduced as it was written, except for the heading above the chiefs' names: to nga Rangaitira o te Wakaminenga.*

# Appendix 19 : Fish Species Subject to the Quota Management System

Common Name	Scientific Name
Alfonso	<u>Beryx splendens</u> & <u>B. decadactylus</u>
Arrow squid	<u>Nototodarus gouldi</u> & <u>N. sloanii</u>
Barracouta	<u>Thyrissites aeneus</u>
Oreo dories	<u>Alloccurus</u> sp., <u>Pseudoccurtus macularius</u> & <u>Neocurtus rhomboidalis</u>
Bluenose	<u>Hyperoplus the antarctica</u>
Blue cod	<u>Paraperca colias</u>
Blue moki	<u>Lauridopsis ciliaris</u>
Blue warehou	<u>Seriola lalandi</u>
Elephant fish	<u>Callorhynchus milii</u>
Flatfish	<u>Rhombosolea plebeia</u> , <u>R. leporina</u> , <u>R. retiata</u> , <u>R. lapidaria</u> , <u>Pelotreti flavilata</u> , <u>Peltochthys novaezealandiae</u> , <u>Colistium</u> <u>guntheri</u> & <u>C. nudipinnis</u>
Gemfish	<u>Rexea solandri</u>
Grey mullet	<u>Murex cephalus</u>
Groper/hapuka/bass	<u>Polyprion oxyenoides</u> & <u>P. moene</u>
Hake	<u>Merluccius australis</u>
Hoki	<u>Macrurus novaezealandiae</u>
Jack mackerels	<u>Trachurus declivis</u> , <u>T. novaezealandica</u> & <u>T. murphyi</u>
John dory	<u>Zeus faber</u>
Ling	<u>Genypterus blacodes</u>
Orange roughy	<u>Hoplostethus atlanticus</u>
Paua	<u>Haliois iris</u> & <u>H. australis</u>
Red cod	<u>Pseudophycis bacchus</u>
Red gumard	<u>Chelidonichthys kumu</u>
Rig	<u>Mustelus lenicularis</u>
School Shark	<u>Galeorhinus australis</u>
Silver warehou	<u>Seriola punctata</u>
Snapper	<u>Chrysophrys auratus</u>
Stargazer	<u>Kahetostoma giganteum</u>
Tarakahi	<u>Nemadactylus macropterus</u>
Trevally	<u>Caranx georgianus</u>

TAIAPURE-LOCAL FISHERIES

“34a. Object—The object of this Part of this Act is to make, in relation to areas of New Zealand fisheries waters (being estuarine or littoral coastal waters) that have customarily been of special significance to any iwi or hapu either—

“(a) As a source of food; or

“(b) For spiritual or cultural reasons,—  
better provision for the recognition of rangaruratanganga and of the right secured in relation to fisheries by Article II of the Treaty of Waitangi.

“34a. Declaration of taiapure-local fisheries—(1) Subject to subsections (2) and (3) of this section, the Governor-General may, from time to time, by Order in Council published in the *Gazette*, declare any area of New Zealand fisheries waters (being estuarine waters or littoral coastal waters) to be a taiapure-local fishery.

“(2) An order under subsection (1) of this section may be made only on a recommendation made by the Minister in accordance with this Part of this Act.

“(3) The Minister shall not recommend the making of an order under subsection (1) of this section unless the Minister is satisfied both—

“(a) That the order will further the object set out in section 54A of this Act; and

“(b) That the making of the order is appropriate having regard to—

“(i) The size of the area of New Zealand fisheries waters that would be declared by the order to be a taiapure-local fishery; and

“(ii) The impact of the order on the general welfare of the community in the vicinity of the area that would be declared by the order to be a taiapure-local fishery; and

“(iii) The impact of the order on those persons having a special interest in the area that would be declared by the order to be a taiapure-local fishery; and

“(iv) The impact of the order on fisheries management.

“34c. Proposal for establishment of taiapure-local fishery—(1) Any person may submit to the Director-General a proposal for the establishment of a taiapure-local fishery.

“(2) The proposal—

“(a) Shall contain a description of the proposed taiapure-local fishery, which description shall include particulars of the location, area, and boundaries of the proposed taiapure-local fishery; and

“(b) Shall describe—  
“(i) Maori, traditional, recreational, commercial, and other interests in the proposed taiapure-local fishery;

“(ii) The species of aquatic life in the proposed taiapure-local fishery that are of particular importance or interest.

“(3) The proposal shall—

“(a) State why the area to which the proposal relates has customarily been of special significance to an iwi or hapu either—  
“(i) As a source of food; or

“(ii) For spiritual or cultural reasons;

“(b) Set out the policies and objectives of the proposal;

“(c) Contain such other particulars as the Director-General considers appropriate.

**“54D. Initial consideration of proposal—**(1) The Director-General shall refer to the Minister every proposal submitted to the Director-General in accordance with section 54c of this Act.

**“(2)** If the Minister, after consultation with the Minister of Maori Affairs and after having regard to the provisions of section 54a (3) of this Act, agrees in principle with the proposal, the Minister shall authorise the Director-General to publish notice of the proposal in the *Gazette*.

**“(3)** The proposal shall be available for public inspection for a period of not less than 2 months after the date of the publication in the *Gazette* of the notice of the proposal.

**“(4)** The notice shall specify the office of the Maori Land Court in which objections to the proposal may be lodged.

**“(5)** If the Minister, after consultation with the Minister of Maori Affairs and after having regard to the provisions of section 54a (3) of this Act, does not agree in principle with the proposal, the Director-General shall inform the person who made the proposal that the proposal will not be proceeding further as the Minister does not agree with it in principle.

**“54E. Notice of proposal—**(1) The notice authorised under section 54D (2) of this Act shall be published at least twice, with an interval of not less than 7 days between each notification of the proposal, in the metropolitan newspapers and in a newspaper circulating in the locality of the area to which the proposal relates.

**“(2)** A copy of the proposal shall be deposited in—

**“(a)** The office of the Maori Land Court nearest to the locality of the area to which the proposal relates; and

**“(b)** The Ministry's Head Office; and

**“(c)** The office of the territorial authority for the area to which the proposal relates; and

**“(d)** The office of the regional council for the area to which the proposal relates.

**“54F. Objections to, and submissions on, proposal—**

**(1)** Any person or public authority, local authority, or any body specifically constituted by or under any Act, and any Minister of the Crown, which or who has any function, power, or duty which relates to, or which or who is or could be affected by, any aspect of the proposed taiapure-local fishery may, within 2 months of the publication in the *Gazette* of the proposal, lodge at the office of the Maori Land Court specified pursuant to section 54D (4) of this Act—

- “(a) An objection to the proposal; or  
 “(b) Submissions in relation to the proposal; or  
 “(c) Both.  
 “(2) Any such objection and any such submissions—  
 “(a) Shall identify the grounds on which the objections or submissions are made; and  
 “(b) Shall be supplemented by such particulars and information as the Registrar of the Maori Land Court notifies the applicant the Registrar of the Maori Land Court considers necessary to sufficiently identify the grounds of the objection or the submissions.

“54c. **Inquiry by tribunal**—(1) A public inquiry shall be conducted into all objections and submissions received under section 54f of this Act.

“(2) The inquiry shall be conducted by a tribunal consisting of a Judge of the Maori Land Court appointed by the Chief Judge of the Maori Land Court.

“(3) The Chief Judge of the Maori Land Court may direct that the tribunal conducting the inquiry conduct it with assistance of one or more assessors to be appointed by the Chief Judge for the purpose of the inquiry.

“(4) In considering the suitability of any person for appointment as an assessor, the Chief Judge of the Maori Land Court shall have regard not only to that person's personal attributes but also to that person's knowledge of and experience in the different aspects of matters likely to be the subject-matter of the inquiry.

“(5) The tribunal shall be deemed to be a Commission of Inquiry under the Commissions of Inquiry Act 1908 and, subject to the provisions of this Act, all the provisions of that Act, except sections 10 to 12, shall apply accordingly.

“(6) The person who submitted the proposal to the Director-General, the Minister, or any regional council or local authority whose region or district is affected by the proposal and every body and person which or who made submissions on or objected to the proposal under section 54f of this Act, shall have the right to be present and be heard at every inquiry conducted by the tribunal under this section, and may be represented by counsel or duly authorised representative.

“(7) A tribunal appointed under this section may, if the Chief Judge of the Maori Land Court so directs, conduct any 2 or more inquiries together notwithstanding that they relate to different areas or different parts of any area.

“(8) On completion of the inquiry, the tribunal shall, having regard to the provisions of section 54b (3) of this Act,—

“(a) Make a report and recommendations to the Minister on the objections and submissions made to it, which report and recommendations may include recommended amendments to the proposal; or

“(b) Recommend to the Minister that no action be taken as a result of the objections and submissions made to it.

“(9) The Minister, after taking into account the report and recommendations of the tribunal and after having regard to the provisions of section 54b (3) of this Act, and after consultation with the Minister of Maori Affairs,—

“(a) May—

“(i) Accept those recommendations; or

“(ii) Decline to accept all or any of those recommendations; and

“(b) Shall publish in the *Gazette*—

“(i) The report and recommendations of the tribunal; and

“(ii) The decision of the Minister on the report and recommendations of the tribunal.

“(10) Subject to section 54h of this Act, no appeal shall lie from any report or recommendation or decision made under this section.

“54h. **Appeal on question of law**—Where any party to any proceedings under section 54c of this Act before a tribunal appointed under section 54c of this Act is dissatisfied with the report or any recommendation of the tribunal as being erroneous in point of law, that party may appeal to the High Court by way of case stated for the opinion of the Court on a question of law only, and the provisions of subsections (2) to (11) of section 162 and of section 162a of the Town and Country Planning Act 1977 shall, with any necessary modifications, apply in respect of the report or recommendation in the same manner as they apply in respect of a determination of the Planning Tribunal under the Town and Country Planning Act 1977.

“54i. **Power of Minister to recommend declaration of taiapure-local fishery**—Where a proposal for the establishment of a taiapure-local fishery has been made under section 54c of this Act and either any proceedings in relation to that proposal (including any proceedings taken under sections 54f to 54h of this Act in relation to that proposal) have been disposed of or the time for taking any such proceedings has



expired, the Minister shall, if satisfied that a recommendation should be made under section 54b (2) of this Act, make that recommendation accordingly.

**“54j. Management of taiapure-local fishery—**(1) The Minister, after consultation with the Minister of Maori Affairs, shall appoint a committee of management for each taiapure-local fishery.

**“(2)** The committee of management may be any existing body corporate.

**“(3)** The committee of management shall be appointed on the nomination of persons who appear to the Minister to be representative of the local Maori community.

**“(4)** The committee of management shall hold office at the pleasure of the Minister.

**“54k. Power to recommend making of regulations—**

**(1)** A committee of management appointed for a taiapure-local fishery may recommend to the Minister the making of regulations under section 89 of this Act for the conservation and management of the fish, aquatic life, and seaweed in the taiapure-local fishery.

**“(2)** Regulations made under section 89 of this Act pursuant to subsection (1) of this section may override the provisions of any other regulations made under that section or the provisions of any fishery management plan.

**“(3)** Except to the extent that any regulations made under section 89 of this Act pursuant to subsection (1) of this section override or are otherwise inconsistent with the provisions of any other regulations made under that section or of any fishery management plan, those provisions shall apply in relation to every taiapure-local fishery.

**“(4)** Any provision of regulations made under section 89 of this Act that relates only to a taiapure-local fishery may be made only in accordance with subsection (1) of this section.

**“(5)** Any provision of a fishery management plan that relates only to a taiapure-local fishery may be included in that plan only on the recommendation of the committee of management of that taiapure-local fishery.

**“(6)** No regulations made under section 89 of this Act shall provide for any person—

**“(a)** To be refused access to, or the use of, any taiapure-local fishery; or

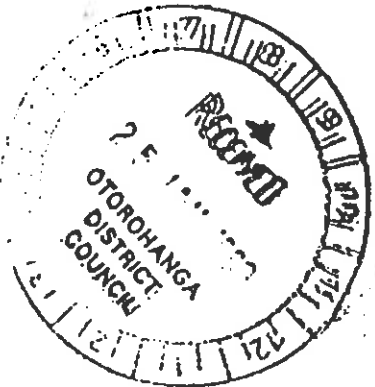
**“(b)** To be required to leave or cease to use any taiapure-local fishery,—





(Wetere, 1990)

OFFICE OF THE MINISTER OF MAORI AFFAIRS  
PARLIAMENT HOUSE,  
WELLINGTON, NEW ZEALAND



18 January 1990

Mr D L Bevan  
Chief Executive Officer  
Otorohanga District Council  
P O Box 11  
OTOROHANGA

Tena koe Mr Bevan

Thank you for your letter of 19 December 1989 concerning fisheries conservation in the Kawhia/Aotea region.

I appreciate you forwarding to me, the correspondence from the Waikato, Waipa and Waitomo District Councils as I have been in consultation with my colleague, on this matter for some time.

I can assure you, I will continue my endeavours to see that effective conservation measures are achieved and I would certainly give full consideration to supporting a petition to the House.

Kia ora

K T Wetere  
Minister of Maori Affairs