

OPENNESS, TRANSPARENCY, CLARITY AND TRUST

Moving Forward Together for the NT Fishing and Seafood Industry

An overview of a Northern Territory multi-sector fishing and seafood industry fact finding mission to New Zealand

The Fisheries Research and Development Corporation (FRDC) in conjunction with the Northern Territory Seafood Council (NTSC), the Amateur Fishermen's Association of the NT (AFANT) and the Northern Land Council (NLC) supported an historic NT fishing and seafood industry fact finding delegation to New Zealand (NZ) in April 2008. The delegation included commercial, recreational, Aboriginal Territorians and NT Government representatives who investigated fishery resource management arrangements in NZ to identify how Indigenous participation in commercial operations and recreational and customary use of fish stocks are undertaken.

This document highlights the delegation's key findings. These findings have been documented for use by the various stakeholder groups and Government agencies as discussions continue on future arrangements for the NT fishing industry, particularly Aboriginal aspirations.

The delegation developed a set of key principles and a suggested way forward to progress these discussions in such a way that the goal of the project - 'Moving To a Common Vision and Understanding for Equitable Access for Indigenous, Recreational and Commercial Fishers in the Northern Territory' can be achieved.

The fact finding mission was beneficial for all delegates, allowing each to gain an understanding of how the Maori have been able to increase ownership and use of NZ fisheries and how the various sectors within the NZ fishery and NZ Government are dealing with the changing fisheries environment. NT stakeholders, especially Aboriginal Territorians, will be able to use the lessons learned from this experience to more effectively deal with future developments in the NT.

Following the delegation's return to Darwin, and after a series of meetings, it was agreed to finalise the FRDC project and outline the findings in this executive summary so as to provide stakeholders with a working document to assist with their ongoing discussions.



*Djumbulwa Murrawuli of Blue
Mud Bay greets
Ngahiwi Tomoana, the Chair of
Ngati Kahungunu*

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WHY GO TO NEW ZEALAND?

What Happened in the NT?

In March 2007 the full bench of the Federal Court, in what is commonly referred to as the Blue Mud Bay case, recognised the rights of Aboriginal land owners in relation to fishing activities in waters overlying Aboriginal land, granted under the Aboriginal Land Rights Act (ALRA).¹ This decision could have impacted on the NT commercial fishing and seafood industry, valued at approximately \$25 million per annum, and the recreational sector which is a considerable driver of the NT economy.

This case was the catalyst for a series of discussions which took place between the NLC, commercial and recreational fishing stakeholders and Government to consider future systems and arrangements for fishing in waters overlying Aboriginal Land, and Territory waters in general. This led to the proposal for a fact finding mission to NZ, supported by the FRDC, to examine and review the NZ fisheries management model, investigate Maori involvement in the industry and identify best practice, as well as identify impediments to achieving increased Aboriginal participation in the NT industry.

Currently there is limited Aboriginal participation in the NT industry. Irrespective of the Blue Mud Bay case, there is general agreement that opportunities to increase Aboriginal participation in all sectors of the seafood and fishing industry should be investigated, while still allowing for the ongoing operation and sustainable growth of the industry.

1. The decision was appealed to the High Court, which on 30 July 2008 found that although the legislation (Fisheries Act) was valid, Aboriginal traditional owners have the authority to exclude others (including recreational and commercial fishers) from entering or remaining on waters overlying land granted under ALRA. Coastal land granted under ALRA typically includes the inter-tidal zone. For full decision see: <http://www.austlii.edu.au/au/cases/cth/HCA/2008/29.html>

What Happens in New Zealand?

The Treaty of Waitangi guarantees the rights of Maori to their lands and fisheries, and for the NZ Government to protect those rights. In 1986 as a result of overfishing and sustainability concerns for many fisheries, NZ moved to a quota management system (QMS) to commercially harvest fish. This was considered a breach of the Treaty. Subsequent

court rulings, negotiations and agreements between Maori and Government resulted in Fisheries Settlements in 1989 and 1992.

These settlements saw the transfer of some \$0.5 billion in assets to the Maori, giving them close to 40% of the NZ commercial fishery quota. All Maori commercial fishing claims were resolved as a result of the settlements. The estimated value of the settlement assets in 2005 was \$750 - \$800 million. The commercial fishing industry in NZ has a current estimated annual value of \$1.75 billion.

The settlements also guaranteed Maori rights to customary food gathering and places of customary food gathering importance.

A private trust, Te Ohu Kai Moana (TOKM), was established to allocate the assets to mandated iwi (Maori organisations). TOKM was also responsible for the advancement of Maori interests in the marine environment and to provide advice to iwi. TOKM plays a major role in building Maori capacity in fishing industry skills and techniques, and business associated with fisheries.

Although each sector in NZ has an allowance under the QMS, the customary and recreational shares of the Total Allowable Catch (TAC) are only by way of a general entitlement, not a specific allocation in the form of quota. This has led to concern for the sustainability of some inshore fisheries and significant issues in dealing with resource reallocations between sectors.



NT delegates at the TOKM offices in Wellington. Standing L to R. Samuel Bush-Blanasi (NLC), Katherine Sarneckis (NTSC), Steve Sly (NT Govt), Doug Neville (NTSC), Heather Brayford (NT Govt), Chris Makepeace (AFANT), Bunug Galaminda (NLC), Chris Calogeras (C-AID Consultants), Kim Hill (NT Govt ¹). Sitting Djumbulwa Murrawuli (Blue Mud Bay). (¹ Kim is now CEO of the NLC)

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Key Principles from the NZ Delegation

The following guiding principles have been put forward by the Aboriginal and industry delegates for consideration when developing arrangements for fishery management regimes in the NT, in particular when seeking to increase Aboriginal participation in the industry. These principles are:

- > Management arrangements must be developed in line with the principles of Ecologically Sustainable Development (ESD)
- > A strategic framework should be developed to deal with the whole management 'process' (including stakeholder aspirations and needs covering economic, cultural and social matters)
- > Stakeholders must ensure that a clear and agreed vision, goals and principles are developed
- > As allocation and reallocation of resources for all user groups is complex, an agreed framework must be established as part of any management regime and must include fair and agreed methods to allocate and reallocate resources amongst stakeholders
- > Cost efficiency considerations must be built into any management reforms
- > Stakeholder groups must have, or must develop, sound governance structures
- > All parties need to understand and recognise the rights, aspirations and values of stakeholders utilising the fisheries resource, particularly that of traditional owners.
- > Poor or unreliable data, although often an impediment to decision making, should not be a stumbling block to change as lower risk scenarios can be used to overcome data deficiencies
- > Openness, transparency, clarity and trust continue to be paramount in any process surrounding development or changes to the NT's fisheries management regime
- > Stakeholders must identify the right people to speak with knowledge and who have a mandate to represent them and negotiate on their behalf in any management discussions
- > The differences between recreational and customary fishing needs to be understood by stakeholders and the public
- > Particular species may require a specific allocation of any TAC based on that species importance to a sector, not on some generic allowance across all species
- > Management may require a regional and/or a staged approach.

Key Lessons for the NT

- > **Identify who sits at the table and ensure they are empowered to negotiate outcomes**
- > **Look for a cooperative way forward – seek win-win outcomes**
- > **Be inclusive and transparent**
- > **Understand each other's rights, aspirations and values**
- > **Develop shared vision, goals and principles**
- > **Control and manage expectations**
- > **Develop an agreed framework and timeframes**
- > **Be open to different ways forward**
- > **Be aware this will be a work in progress.**



Bunug Galaminda holding a lobster from Ngati Porou (Maori fishing group)

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The Way Forward – What Do We Do With These Learnings?

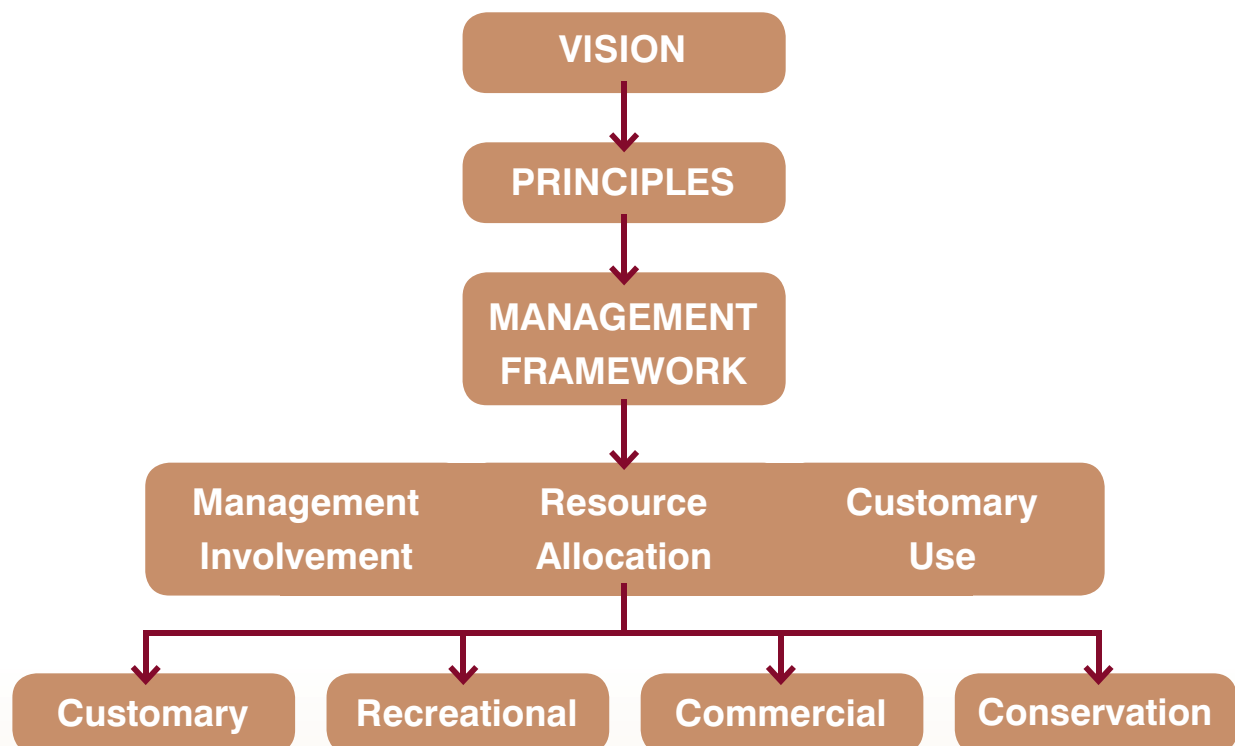
Since returning from NZ the delegates had two follow up meetings where the key principles and learnings were agreed to. These are generic in nature so they can be applied across all sectors. Importantly they reflect the delegates' own positions based on individual experiences and learnings from the trip,

The delegation also determined that it was appropriate to finalise the FRDC component of the process and move forward. This executive summary was considered an ideal vehicle for each sector and government to use in its internal consultative processes and discussions.

The delegation believed that it was appropriate that the stakeholder discussions between the NLC, NTSC and

AFANT, which began prior to the fact finding mission, should recommence as a matter of priority to build on the processes and agreements reached during that period. Delegates also felt that it would be highly beneficial to utilise their experience, skill sets and new learnings as part of future planning groups that seek to develop models or policies to increase Aboriginal participation in the NT fishing and seafood industry.

The flow chart below was developed by the group to allow consideration of the guiding principles with the three key areas identified by the delegation; i.e. customary use, resource allocation/reallocation and enhanced involvement of the Aboriginal people in fisheries management.



Further Contacts

If you have further queries in relation to the matters contained in this document or would like to have input you should contact your peak body, or representative group below

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NT Fisheries
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Acknowledgments



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This mission could not have taken place without the support of the Aboriginal Investment Group (AIG), the NT Government and the generosity and hospitality shown by the Maori representatives, Government and Industry Agencies in NZ.