

NZSFC Hooked Up – Fisheries management update

December 2017

Let's get working on the real issues

It was purely coincidental that a supermoon occurred on the same night that the third and last *Future Catch* report was launched in early December. Around 120 people gathered in Wellington to hear the New Zealand Initiative and a panel of four talk about Dr Randall Bess' work. The panel were there to present their views of the report and its recommendations, and included our own Vice President Bob Gutsell. Other panellists were Randall Bess, Fisheries Minister Stuart Nash and Sir Mark Solomon, Deputy chair of Te Ohu Kaimoana. A willing team from NZSFC and LegaSea, and President of New Zealand Angling and Casting Association Jim Yeoman, were in Wellington to support Bob because the stakes were high.

The New Zealand Sport Fishing Council rejected outright the report's recommendations because of its promotion of proportional allocation despite longstanding and widespread rejection of such policy. The proposed peak body funded by government or licences would only create a new and expensive level of bureaucracy between the Minister and recreational fishing interests. And, the loss of Ministerial discretion due to proportional allocation would be a headshot for recreational fishing interests.

The Future Catch report sets out to provide solutions, yet misses the critical step of firstly defining the problems to be solved. Our Council has been calling on the Minister to establish an independent Commission of Inquiry into fisheries management and identify the issues that need fixing, then find solutions, not the other way around.

Bob did a fine job of explaining why proportional allocation represents a huge risk to our non-commercial fishing interests. Enhancing commercial fishing rights and removing Ministerial discretion at the expense of current and future recreational fishing interests is not a goer. That is because of all the stakeholders involved in fisheries discussions it is only the Minister who has a statutory (legal) obligation to sustainably manage fisheries in the national interest, to provide for the reasonably foreseeable needs of future generations.

Moreover, if the available information is incomplete, unreliable or uncertain the Minister has a legal obligation to act in a precautionary matter.

Our Council invested heavily in the Kahawai Legal Challenge between 2004 and 2009 seeking to define Ministerial discretion. This discretion is the first victim of any proportional allocation scheme because future changes to catch shares are pre-determined. If a fishery rebuilds, the allocation for recreational and commercial fishing interests increases by the same percentage. If cuts are required each sector's allocation is reduced by the same percentage. This is often described as "shared pain – shared gain," a convenient way to ignore who has depleted the fishery or reduced the productivity of the marine environment.

There were a few barbs thrown the way of the Minister, but more attention was focused on Bob and the Council's stance regarding proportional allocation. The usual chestnut of 'we don't know what recreational fishers catch' was rebutted, as was catch shares.

The last National Panel Survey in 2011-12 delivered credible results that have been corroborated by two independent surveys in key fisheries. These surveys have been peer reviewed by a panel of international experts. That the Ministry is investing millions into another survey, underway now, is testament to the

BREAKOUT BOX

Excluding aquaculture, MPI research reveals that recreational fishing **conservatively** represents –

1. Less than 3% of the total harvest from New Zealand's marine waters ie. including the EEZ.
2. Less than 20% of total harvest from the inshore fisheries in which the public has an interest. (inshore is generally referred to as inside 12nm)
3. Less than 10% of total harvest from the inshore fisheries in which the public has an interest and when snapper and kahawai are excluded.

survey's reliability and status.

Before rushing into any radical change we need to heed the lessons learnt in other jurisdictions. There are overseas examples of proportional catch shares creating unnecessary and damaging social and economic changes. In the USA an Act has been drafted that seeks to unwind proportional allocation and revise the inflexible management regime.

BREAKOUT BOX

The 'Modernising Recreational Fisheries Management Act of 2017' was introduced to Congress in April 2017. As of September the Act had been considered by two Subcommittees. The Act aims to reinstate public access to fisheries so recreational fishing, its industry and regional America can thrive.

According to Jeff Angers, President of the Center for Sportfishing Policy, a nonpartisan organisation focused on maximising opportunity for America's saltwater recreational anglers, the effects of existing management are felt by anglers and thousands of fishing related businesses.

"With their time on the water choked by regulation, boaters and anglers are far less likely to purchase goods and services related to fishing. This has had a chilling impact on business," said Jeff Angers.

"This landmark legislation would update federal fisheries management for recreational angling by opening the door to alternative management techniques that would improve public access to America's federal waters, promote conservation of our natural marine resources and spur economic growth. These are the goals every American can support, and leaders in Congress on both sides of the aisle should do everything in their power to help Americans back on the water."

During the Kahawai Challenge the Supreme Court made a significant and relevant statement to the current discussion,

"The allowances made under s 21(1) for non-commercial fishing interests differ in nature from the rights the [Fisheries] Act creates in respect of entitlements to the total allowable commercial catch. As the Court of Appeal said in *Snapper 1*:

It is important to recognise that what is allowed for by the Minister in respect of the interests for which he must allow before setting the TACC, is not a quota as such. To take recreational fishers as an example, the 'allowance' is simply the Minister's best estimate of what they will catch during the year, they being subject to the controls which the Minister decides to impose upon them eg. bag limits and minimum lawful sizes. Having set the TAC the Minister in effect apportions it between the relevant interests. He must make such allowances as he thinks appropriate for other interests before he fixes the TACC. That is how the legislation is structured."

Moves to force recreational catch into the Quota Management System are not random. So far all such moves have been resisted, including the Soundings process in mid-2000 and the Shared Fisheries process in 2006. Now the New Zealand Initiative has spent a lot of money to raise the proportional allocation argument again.

Unsurprisingly, it was the commercial fishers at the meeting that were most supportive of the report's recommendations to "improve" recreational fishing. Probably because they have the most to gain. So it was pleasing to hear the Minister in Parliament the next day reject *The Future Catch's* recommendations. When asked which recommendations he intended to adopt or announce before Christmas Stuart Nash replied with an emphatic "None". Thanks to the Minister's clear thinking we can now move on.

The next supermoon is due at the end of January, let's hope by then we have made progress in our quest for a comprehensive, independent review of fisheries management and the Quota Management System so our country can earn a better return from the use and conservation of our marine resources.