

## **5. Recreational and Commercial Fishing**

Within any fisheries management system, sustainability cannot be guaranteed unless the effect of all fishing sectors is considered. In systems where only one or some of the fishing sectors are controlled by an ITQ based system, it is vital that the joint effects of all sectors on the fishery are considered to ensure sustainability. But aligning the management systems used for different fishing sectors can be challenging because of the differing objectives and mechanisms that are available in each system. In New Zealand, much of the conflict between customary and commercial fishing has been resolved, or processes have been established to make decisions on areas of conflicting interests.<sup>1</sup> However, issues surrounding the interaction between recreational and commercial fishing still need to be resolved including, potentially, the need to create additional mechanisms to facilitate this management interaction.

Currently, identifying or directly controlling the level of recreational fishing in New Zealand is not possible. This chapter begins with a discussion of this issue before moving onto the interaction between recreational and commercial fishing sectors. Each year, the Minister has to determine the allocation of catch between the recreational and commercial sectors and this requires implicit decisions about the relative importance of each sector. The benefits of each sector are discussed briefly here before some of the issues surrounding the process of allocating catch between recreational and commercial fishing sectors are explained. Finally, recent attempts by the Ministry involving the recreational and commercial sectors are outlined, including the new Shared Fisheries Policy which is currently being developed.

### **5.1 Lack of Information on Recreational Fishing**

Within the New Zealand system, the Minister of Fisheries is charged with ensuring the sustainable utilisation of fish stocks. This means that he must not only set total catch limits for each fish stock, but he must also allocate the total catch levels between customary, recreational and commercial fishing sectors. Under current policy, priority is given to ensuring that there is sufficient allowance for customary harvest (see Section 4.8.1). The remaining catch is then allocated between the commercial and recreational fishing sectors.<sup>2</sup> To be effective, the approximate harvest level of each sector is required.

For the customary and commercial sectors, it is relatively simple to obtain information on catch levels due to the reporting that is required by individuals participating in the system. However, recreational fishers do not need to get a license to participate. Consequently, there is no compulsory, automatic reporting system to provide information on the location, species and amount of fish that recreational

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<sup>1</sup> See Chapter 4 for more details on customary fishing and indigenous treaty claims for fisheries resources.

<sup>2</sup> As outlined in Sections 2.4 and 2.5, the TACC levels are set based on the TAC with consideration given to the amount of fish caught non-commercially. But this does not imply that recreational fishing has priority over commercial fishing. The TACC and the allowance for recreational fishers are considered simultaneously.

fishers are catching. Instead, regulators must rely on voluntary surveys to provide estimates of recreational catch levels. These surveys have large differences in their estimates, even when the surveys are carried out a few years apart (Kearney 2002).

With the underlying uncertainty regarding the estimates of recreational catch levels, it is difficult to determine whether recreational harvest levels are within the level identified by the Minister. This is not an issue from a sustainability viewpoint if the recreational harvest level is lower than the recreational harvest level identified by the Minister, but if the harvest level is above the allowance set by the Minister, the sustainability of the fish stock may be compromised (Teirney *et al.* 1997).<sup>3</sup>

The Ministry of Fisheries is unable to directly manipulate the total level of recreational catch because this sector is regulated through input based controls such as daily catch limits and restrictions on fishing equipment and locations. So while the Ministry can reduce recreational fishing effort through the alteration of the regulations, quantifying the effect that these changes have is difficult. For example, reducing daily catch limits may decrease the recreational harvest in an area, but it is not clear by how much.<sup>4</sup>

Despite these difficulties, the Ministry must determine a way to share the harvest between sectors while maintaining sustainable fish stocks in the future and allowing the effective utilisation of the resource.

## 5.2 Determining Sector Priority

When fisheries resources are allocated between the recreational and commercial fishing sectors, decisions need to be made, at least implicitly, about each sector's rank. As well as this, when TACs are reduced, decisions need to be made about which sectors should have their entitlement reduced and, if multiple sectors face reductions, by what proportion. In order to make these decisions, there needs to be a priority ranking between the different sectors. Based on current legislation, commercial, recreational and customary fishing are all considered simultaneously when TACC levels are set (See Chapter 2 for more details). However, while customary rights are considered to take priority because of the obligations set out in the Treaty of Waitangi (Ministry of Fisheries 2006d), the priority ranking between recreational and commercial fishing is not so clear (Sinner and Fenemor 2005).

Both recreational and commercial fishing generate a number of benefits for society. The combination of monetary and non-monetary benefits associated with each sector makes it difficult to determine which group would generate the most value from additional fish or conversely from which would a reduction in catch allowance provide the lowest cost to society.

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<sup>3</sup> However, if the recreational catch is significantly lower than the recreational allowance, the allowance of the commercial sector could have been increased allowing greater utilisation of the resource without compromising sustainability. So there are economic consequences when the recreational catch levels are lower than the allowed catch levels.

<sup>4</sup> Many recreational fishers do not know the daily catch limits and this further limits the Government's ability to control recreational fishing (Hawkey 1994).

### **5.2.1 Benefits of Recreational Fishing**

A significant number of New Zealanders from a wide range of ethnic and social backgrounds (Hawkey 1994) participate in recreational fishing each year (Gibbs and Stokes 2006). Recreational fishers get a variety of benefits from participating in this leisure activity. Not only are they able to provide fresh fish and shellfish for them and their families, but many also derive significant enjoyment and satisfaction from fishing. Because of the important role that recreational fishing plays in the life of many New Zealanders, it has significant cultural value. Consequently, many New Zealanders consider that being able to participate in recreational fishing is their birthright.

In addition to the cultural significance, recreational fishing also has a number of economic benefits. There are a number of communities that rely on good fishing spots to attract visitors throughout New Zealand (Ministry of Fisheries 2006c). These visitors create jobs in retail, entertainment and service industries which may not have otherwise existed. Through these flow-on effects and direct expenditure on equipment and services, recreational fishing is thought to generate an annual expenditure of \$973 million for the 5 major recreational species alone (Option4 2000).

### **5.2.2 Benefits of Commercial Fishing**

The commercial fishing sector provides substantial economic benefits for New Zealand and is a major export earner. For instance, in 2004, the commercial fishing industry generated \$1.2 billion of export earnings. It also provides substantial employment. In 2004, it directly employed over 10,000 full time equivalent people and, it is estimated, that it indirectly employs another 15,000 full time equivalent people (Ministry of Fisheries 2006e). The economic benefits of the fishing industry are spread across the country; a number of small towns' and communities' economies are reliant on earnings from people involved in the industry.

Balancing the monetary and non-monetary benefits of recreational and commercial fishing is challenging. Different groups within the fishing industry have their own views on which sector should take priority (Gibbs and Stokes 2006). While TOKM and commercial fishers believe that commercial fishing should receive priority over recreational fishing (TOKM 2000), groups representing recreational fishers believe that recreational fishing should have priority (e.g. Option4 2000). In 1989, Colin Moyle, the Minister of Fisheries at the time, stated that non-commercial fishing would receive priority over commercial fishing when a species was not able to support both sectors (Option4 2006c). This policy was not, however, ever formalised in legislation (Office of the Parliamentary Commissioner for the Environment 1999, p.66) and, more recently, Option4 was informed that this was not Labour Government policy (Option4 2000).<sup>5</sup>

### **5.2.3 Ministerial Discretion**

The responsibility for sharing the total catch between recreational, customary and commercial fishing rests with the Minister of Fisheries. While quota holders have rights to a proportion of the TACC under current legislation, the Minister is able to

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<sup>5</sup> Option4 is a recreational fishing lobby group. See Section 5.3.2 for more details on Option4.

use his discretion to determine what proportion of the TAC is allocated to commercial fishers each year (i.e. the level of the TACC) and the recreational fishing sector. While this enables the Minister to respond to new information regarding the sustainability of the fish stock, it also means that there can potentially be large changes in TACCs from year to year, making it difficult for the industry to plan for the future. This is especially pertinent when the Minister of Fisheries changes. A new Minister could have a different view of the relative importance of the recreational and commercial sectors than the previous minister, potentially causing significant changes in the amount of harvest allocated to each sector. In practice, shares have not changed much year to year and most allocation decisions made following a TAC adjustment have been done proportionately.

### **5.3 Legislative Management of Recreational and Commercial Fishing**

The interaction between the recreational and commercial fishing sectors provides a challenge for policy makers. Not only is a clear mechanism for allocating catch between these two groups necessary, but it is also important to ensure that a level of trust and cooperation between the two sectors is maintained. This is particularly difficult to achieve because both sectors have naturally conflicting objectives: they both want higher catch levels for themselves at the expense of the other sector. The legislation under the 1996 Act did not assist in encouraging cooperation between the recreational and commercial fishing sectors, but subsequent projects have focused on improving this relationship.

#### **5.3.1 1996 Fisheries Act regulations**

Under the 1996 Fisheries Act there is provision for areas to be put aside for non-commercial fishing only.<sup>6</sup> Section 311 of the Act gives the Minister power to close areas to commercial fishing or to prohibit a commercial fishing method or methods for a particular stock in order to better provide for recreational fishing when commercial fishing has an adverse effect on recreational fishing.<sup>7</sup> However, by putting these restrictions in place there cannot be any conflict with customary fishing or the principles of the Treaty of Waitangi.

But Section 311 has rarely been used in practice. To date, only two marine ‘parks’ have been set up which are closed to commercial fishing, and with the support of locals, these areas also have restrictions in place on recreational fishing (Bess and Rallapudi 2006). The limited utilisation of this provision is likely to be due to the potentially large financial repercussions of putting a commercial fishing ban in place rather than a lack of public interest in commercial fishing free areas. Under this legislation, if there are large losses to the commercial sector, they may seek

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<sup>6</sup> This is in addition to the regulations providing for the creation of taiapure, mātaimai and rāhui areas, which can also prevent commercial fishing in selected areas (See Sections 4.5.1.3, 4.8.3.1, 4.8.3.2 for more information on taiapure, mātaimai and rāhui areas respectively).

<sup>7</sup> Improved recreational fishing can also be provided for by increasing the share of TAC which is allocated to the recreational sector (i.e. reducing the TACC).

compensation for the non-commercial areas that are set up (Ministry of Fisheries 2000).

The inability to use current legislation and the increased conflict between different fishing sectors have led to further efforts to revise the methods available to manage recreational fishing and the interrelationship between different sectors.

### **5.3.2 Soundings**

In 2000, Soundings was produced by the Ministry of Fisheries in conjunction with the New Zealand Recreational Fishing Council. It outlined three possible new methods for managing fisheries in order to address the issue of allocation between recreational and commercial fisheries (Ministry of Fisheries 2000). The first method retained the status quo for determining allocation between the two groups. Current legislation would be used and the Minister would continue to determine the allocation of fishing rights between the two groups.

The second method used a fixed proportion to allocate harvest levels between the two groups. The Minister would set a TAC and the remaining catch (after allowing for customary harvest) would be split between recreational and commercial fishing based on pre-determined proportions. These proportions may have differed between fish stocks and may have varied over time.

The final method focused on the use of recreational management, which would encourage cooperation with other sectors including Government and commercial fisheries. Under this system, it is likely that a proportional system would have been used to allocate fishing harvest between recreational and commercial fishing. Fisheries plans and recreational involvement in management were also encouraged under this proposal (See Section 8.2.1 for more details on fisheries plans). Inherent in all of the proposed methods was the idea that neither recreational nor commercial fisheries had priority over the other.

The Soundings document received a number of mixed responses and led to the creation of a recreational fishing lobby group called Option4 (Ministry of Fisheries 2006f).<sup>8</sup> Option4 strongly rejected all of the options outlined in the Soundings report and suggested instead that recreational fishing should have priority over commercial fishing because of its social, cultural and economic value to society. Submissions from Option4 members made up over 98% of the submissions on Soundings (Careering Options Limited 2001). But in addition to the large number of Option4 submissions, there were also 939 other submissions from a range of individuals and groups. Most submitters agreed that the issues set out in the Soundings report were important, but varied in their opinion of the proposals. For example, a submission by TOKM wanted commercial fishing rights to take precedence over recreational fishing rights to maintain the value of the Treaty settlement. To do otherwise would break the agreement that was set in place when Maori fishing claims were settled (TOKM

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<sup>8</sup> As mentioned above (see footnote 54), Option4 is a recreational fishing lobby group that was set up to lobby the Government regarding recreational fishing rights. Option4 does not claim to represent all recreational fishers and cannot be confused with the New Zealand Recreational Fishing Council. However, many Option4 members are also members of the New Zealand Recreational Fishing Council.

2000). In contrast, other individuals believed that the public's right to collect fish and seafood for consumption should take priority.

The first proposed method of retaining the status quo received the least amount of support in the submissions while the second method which advocated proportional share received the most. This suggested that people would like the system to be changed. However, there was not overwhelming support for one method in particular, so none of the proposed changes were made.

In the three years following the Soundings report, two Ministerial consultative groups from the recreational sector were held (Ministry of Fisheries 2005a). These groups reached agreement on the objectives for recreational fisheries management, the need to revise spatial management tools and the development of an amateur fishing information strategy. However, despite this progress, no agreement could be reached on a method for allocating the TAC between recreational and commercial fishers. Due to this lack of agreement, the Minister of Fisheries abandoned the reform process in December 2003.

### **5.3.3 Shared Fisheries Policy Development**

Although the review of recreational fishing issues was abandoned in 2003, the issues that prompted this review had not gone away. Many inshore fisheries were still facing competing demands from the commercial, recreational and customary sectors and resources were still being used to lobby the Minister and to take legal action, resources which could be better used for fisheries management and enhancement. It was clear that until these conflicting demands for access to fisheries were resolved, the management of fisheries would continue to be undermined and commercial investment limited. Thus, in late 2005, the Government announced a Shared Fisheries Project.

The Shared Fisheries Project aims to improve the management of shared fisheries (Ministry of Fisheries 2006g).<sup>9</sup> Through the development of new policy, the Shared Fisheries Project will attempt to increase the value of shared fisheries, taking into consideration that the value of a fishery to New Zealand needs to include both its pecuniary and non-pecuniary benefits to society (Ministry of Fisheries 2006h).

Currently the Shared Fisheries Project is in the development phase, with a discussion document released in November 2006. So while the remainder of this chapter will outline the options presently being discussed, the format that the Shared Fisheries Policy will take when implemented may be quite different to what is outlined below. However, by including the options that are being considered, this report will provide both insight into the possible future of the system and also document options that are being considered at this time.

The public discussion paper (Ministry of Fisheries 2006h) covers a range of issues and aspects of fisheries management, summarised below.

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<sup>9</sup> These are fisheries where customary, recreational and commercial fishers have significant interest and share the available catch (Ministry of Fisheries 2005a).

#### *5.3.3.1 Improving information on catch and value*

As outlined above, while there is good information on the catch of the commercial fishing sector, information regarding recreational catch levels is limited. This needs to be improved with better survey procedures implemented. Special interest could be paid to the role of charter fishing boats as this may be a cost effective way of increasing knowledge about where recreational fishing occurs. Additional analysis may also take place to attempt to quantify the relative values of fish caught by the recreational and commercial fishing sectors allowing the maximum value to be achieved.

#### *5.3.3.2 Setting of TAC*

Currently, the TAC is set to manage stocks at a level that is able to provide the MSY, allowing the greatest amount of fish to be harvested at a sustainable level each year. However, while commercial fishers are interested in the amount of fish that they are able to catch, recreational fishers may prefer larger and/or more abundant fish. Thus, the Shared Fisheries Policy includes proposals to alter the way that the TAC is set and determining optimal rebuild times for depleted fisheries. If implemented, these would be applied on a case-by-case basis if they would lead to higher value being obtained from the fish stock.

#### *5.3.3.3 Prioritising TAC allocations*

To date, the Minister of Fisheries is able to determine the proportion of the TAC that is allocated to each of the three fishing sectors. However, this process is not transparent and provides little certainty for the future. Consequently, the Shared Fisheries Project aims to address this uncertainty by proposing that the rights of recreational fishers are protected with a guaranteed minimum tonnage for recreational fishing and the priority status that is currently given to customary fishing is formalised in legislation.

#### *5.3.3.4 Setting and Adjusting Recreational and Commercial Allocations*

Initial baseline allocation methods need to be identified for each of the fish stocks in order to determine how the TAC should be allocated between sectors, thus providing transparency and certainty for each of the sectors. Three mechanisms are identified in the discussion document for setting the baseline allocations.<sup>10</sup> First, allocations are identified by an independent panel or individual based on evidence and submissions. Second, allocations are identified based on a valuation study of the commercial and recreational sectors. Third, allocations are set after a negotiation process between representatives from the recreational and commercial sectors.

Once allocations have been set, mechanisms need to be developed to establish how adjustments to the allocations will be made. In the long term, direct negotiation between the recreational and commercial sectors would be ideal, but given the current level of information and representation of these groups, this is not currently feasible. Instead, three mechanisms have been suggested. First, any adjustments that are made

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<sup>10</sup> Due to the cost of these processes, it is likely that they would only be carried out for a limited number of stocks.

to the TAC result in proportional adjustments to the existing allocations. Second, allocations are adjusted based on estimates of marginal value. Third, adjustments are made proportionally, but the adjustments take into consideration the valuation data in order to ensure that allocations lead to the greatest value from the fish stock.

#### *5.3.3.5 Management of Specific Local Areas*

While there are already tools for managing particular areas, such as *mätaitai*, providing additional mechanisms to manage fish stocks on a small scale may help to increase the value of shared fisheries. Three proposed additional management tools have been suggested. First, a coastal zone could be developed to allow for non-commercial fishing only within an area. Second, sector representatives could introduce initiatives to protect specific areas such as multi-party agreements to limit catches or amateur fishing havens. Third, fisheries plans could be developed to cover all shared fisheries within an area (See Section 8.2 for more details on fisheries plans).

#### *5.3.3.6 Compensation for Industry*

If any of the above proposed changes were put in place and, consequently, introduced significant costs for industry, compensation might need to be considered. This could occur through the existing method of leaving redress to the courts or else compensation could be identified through a cost and benefit approach identified by the Government.

#### *5.3.3.7 Recreational Fisher's Participation in Management*

Due to the large role that recreational fishers have in shared fisheries, their involvement in the management of the fisheries is warranted. Thus, the Shared Fisheries Project proposes that an Amateur Fishing Trust be created to provide professional input from recreational fishers into fisheries management. This would provide effective input from the recreational fishing sector into fisheries management and work with the current amateur fishing organisations that are operating around the country.

The consultation process and, subsequently, the implementation of the outcomes from the Shared Fisheries Project is likely to be a long process taking several years. Not only does this project require consultation with stakeholders, but any proposals which are recommended are likely to require further detailed development if they are to be put into place (Ministry of Fisheries 2006h).