

OFFICE OF HON **Jim Anderton**

Minister of Agriculture, Minister for Biosecurity, Minister of Fisheries, Minister of Forestry,
Associate Minister of Health, Associate Minister for Tertiary Education, Minister responsible for Public Trust

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Dear stakeholder

Seabird mitigation measures for trawl and longline vessels

This letter outlines my final decisions on proposals for the introduction of seabird mitigation measures for trawl and longline vessels. I have carefully considered the available information on fishery-seabird interactions, advice from the Ministry of Fisheries (MFish) and the Department of Conservation (DoC) and all of the issues raised in submissions received during the consultation process. I have also given careful regard to the legislative provisions in the Fisheries Act 1996 (the Act), especially the purpose of the Act, the environmental and information principles, and the setting and amending of sustainability measures.

Under the Act, I am required to ensure that any adverse effects of fishing on the aquatic environment, including on seabirds, are avoided, remedied or mitigated. Analysis by MFish suggests that fishing is likely to be having an adverse effect on at least some species of seabirds. Some fisheries are likely to carry a higher risk than others due to the method, area and season in which they fish. Furthermore, in any trawl or longline fishery, vessels that do not use any effective mitigation are also likely to carry a higher risk of seabird captures. The purpose of the proposed measures is to mitigate the immediate and ongoing risk to seabirds from vessels not using adequate mitigation measures.

I am conscious that a comprehensive management framework for seabirds is currently being consulted on. I have therefore considered what level of risk is acceptable in the period before this management framework can be implemented. As such, I have determined the minimum acceptable mitigation that vessels should be using in the



short term, and the ongoing advantages of having a minimum set of measures in place into the future. The advantages include the ability to take action against individual vessels that do not deploy any mitigation while fishing, and the concept of having a baseline of minimum standards upon which to develop further measures, should they be considered necessary in the future.

Summary of decisions

MFish proposed a range of sustainability measures for bottom longline, surface longline, inshore trawl and deepwater trawl fisheries. A number of these proposals were subsequently revised based on feedback from stakeholders. I consider that the final proposals recommended by MFish are necessary and best meet my obligations under the Act. I have therefore decided to introduce a suite of mitigation measures across all trawl and longline vessels. Details of these measures will be published in the New Zealand Gazette. A summary of the measures and my reasoning behind them can be summarised as follows:

Surface longline

I consider that surface longline fisheries already have a set of acceptable minimum mitigation measures in place and, while there is some reason for concern over continued catch of birds by some vessels in this fishery, I do not consider that additional measures are required at this time. However, I want to offer as much flexibility as possible to fishers, within the constraints of ensuring that effective mitigation is being deployed. I have therefore decided to allow fishers the option of setting their lines during the daytime, provided that they continue to use a streamer (tori) line and provided that they use a line weighting regime to certain minimum specifications.

I acknowledge that not all fishers will embrace this option and that, for some, other mitigation measures would have been preferable to line weighting. However, there is no requirement on fishers to use line weighting as the existing option of fishing at night with a streamer line is still available to them. Furthermore, I am willing to consider other combinations of mitigation measures should sufficiently robust information about their effectiveness and practicality be provided. Based on currently available information, I consider that line weighting is the only effective alternative to night setting.

Bottom longline

Bottom longline fisheries do not currently have any regulated seabird mitigation measures, though a number of operators, particularly large autoline vessels, deploy effective mitigation on a voluntary basis. I consider the risk of seabird mortality posed by bottom long line vessels not using any mitigation devices to be unacceptable. The method of bottom longline is known to be a risk to seabirds, particularly where lines are not sufficiently weighted and where mitigation measures such as streamer lines are not used. I am concerned that the significant levels of effort across the bottom longline fleet that overlaps with the range of a large number of protected species of seabird may be resulting in high levels of incidental mortality of seabirds. Observer coverage has historically been low in a number of bottom longline

fisheries and the risk posed by even one vessel on one fishing trip has recently been highlighted on the Chatham Rise where a large number of rare and protected seabirds were caught in a very short space of time. I have therefore decided to implement a suite of mitigation measures across all bottom longline vessels. The measures are as follows:

- Requirement to use a streamer line (tori) while setting lines; **and**
- Requirement to **either** use line weighting **or** set at night; **and**
- Requirement to hold all offal and whole fish while setting, **and** only discharge on the opposite side of the vessel while hauling

In implementing these measures I acknowledge that there may be some impact on the fishing practice of some fishers, due to the difficulties of proposing method-wide mitigation measures that are safe, practical and cost-effective. I outline below in the section on longer-term framework, how less-cost, finer-scale mitigation measures can be developed over time as a suitable replacement to these method-wide mitigation measures.

Inshore trawl (vessels less than 28m in overall length)

Trawl vessel less than 28 metres in overall length are not currently required to use any regulated mitigation measures, although some vessels operate in a way that minimises risk to seabirds. While observer coverage has typically been low, I am concerned by reports from observers that warp strikes and net captures can occur on these vessels, particularly when offal and fish are discharged during trawling. These observations are consistent with our understanding of the significant risk posed by birds feeding on fish and offal from larger fishing vessels. The frequency of warp strikes can be very high at times when offal and fish are being discharged, with only a small proportion of birds being actually landed on deck and recorded. I therefore consider the risk from offal and fish discharge to be a significant concern, particularly as many vessels do not use mitigation measures such as streamer lines.

I have therefore decided to implement a range of offal management measures, designed to remove attractants to seabirds, minimise the risk of warp strikes and reduce the risk somewhat from net captures. The measures are as follows:

- Retain all offal and fish during and immediately prior to shooting and hauling; **and**
- Restrict the discharge of offal and fish while trawling by only permitting one discharge per tow

While I consider that these measures will be effective, and will not require significant changes for a large number of trawl vessels, there will be implications for vessels that typically produce more significant amounts of offal or on occasion discard significant amounts of whole fish. It is imperative that operators of these vessels understand the possible stability implications of complying with the requirements set out above. I encourage all operators to consider these safety issues carefully. Should operators be able to demonstrate that they cannot meet the above requirements, MFish will consider granting an exemption and less stringent measures may be implemented that

are more suitable to the vessel. I am providing three months before the measures come in to force, to allow vessels to undergo any necessary safety and stability tests, and to fit any necessary extra storage capacity.

Deepwater trawl vessels (28metres or more in overall length)

Trawl vessels 28 metres or more in overall length are currently required to deploy one of three back of boat mitigation measures, most commonly paired streamer lines. A large number of vessels have also developed and are implementing voluntary Vessel Management Plans (VMPs). I want to take this opportunity to say that I appreciate the voluntary efforts to date in the deepwater fisheries and I encourage further development and implementation of year-round VMPs. However, I do not consider that the VMP programme, as currently developed and implemented, is sufficient to manage the risk from seabird bycatch to acceptable levels.

My principle concern with the VMP programme is that vessels do not have any absolute minimum standard in place for offal management. At certain times when large volumes of fish are processed, VMPs allow for continuous discharge of offal, though additional mitigation measures are deployed in these circumstances. I am also concerned that not all vessels follow the measures set out in their VMP all of the time.

Deepwater fisheries such as squid and hoki are known to carry some of the highest risk to seabirds of all of New Zealand's fisheries. While some effective measures are already in place, I have decided to introduce minimum offal management measures designed to reduce the risk caused by vessels that may not always follow their VMPs, or that currently allow continuous discharge of offal and fish under certain circumstances. In implementing these measures, I anticipate that they will complement and strengthen the ability of the VMP programme to effectively manage seabird bycatch. The proposed measures are minimum standards and I expect all vessels to exceed these minimums where they are able to do so. The measures are as follows:

- Retain all offal and fish during and immediately prior to shooting and hauling; **and**
- Restrict the discharge of offal and fish while trawling by only permitting one discharge per tow for 'fresher' vessels and one discharge per half-hour for 'factory' vessels

As with smaller trawl vessels, while I consider that these measures will be achievable for the majority of vessels, I am conscious of the need to ensure that the safety of vessels and crew is not compromised. Should operators be able to demonstrate that they cannot meet the above requirements, MFish will consider granting an exemption and less stringent measures may be implemented that are more suitable to the vessel. I am providing six months before the measures come in to force, to allow vessels to undergo any necessary safety and stability tests, or to fit extra storage capacity.

I am also acutely aware of the asymmetry of information that exists between the fishing industry and government in terms of understanding the capability of vessels to manage large quantities of offal and the costs and practicalities associated with

improving or fully utilising this capability. This area is very complex and while some vessels are very similar in build, all are unique in their set-up and fishing activity. I do not consider that this situation is to the benefit of any party. In the absence of good quality information on the costs and practicalities of offal management measures, regulated solutions may come at a higher cost to the fishing industry than would otherwise be necessary.

To enable better understanding of the implications of future measures and aid in the development of more effective measures over time, I request that all factory vessels undergo an independent audit to ascertain the maximum potential safe offal holding capacity of each vessel, and the costs and benefits associated with achieving this maximum safe capacity.

Finally, I encourage deepwater stakeholders to engage in constructive dialogue with MFish aimed at best meeting, or better still improving, the offal management measures that will come in to force in six months.

Notification of intention to fish

In line with recommendations by MFish I have decided not to implement any additional requirements relating to providing timely information on intention to fish. Currently, additional requirements are only in place for the surface longline fleet. I consider that the effective and cost-effective placement of observers to be a high priority and will be receiving further advice from DoC and MFish on this issue later this year. I would like to thank stakeholders for their feedback on the proposals to date and encourage you to continue to participate in the development of a better approach to gaining cost-effective and sufficient observer coverage in to the future.

Longer-term management framework and Industry alternatives

The above measures will be implemented initially by gazette notice under section 11(4) of the Act. However, I intend to supersede the gazette notices through changes to the commercial fishing regulations later this year. The commercial fishing regulations allow greater flexibility for least cost, finer scale measures to be implemented through the use of circulars issued by the chief executive. This mechanism will also more easily allow changes in knowledge and understanding of effective mitigation to be translated into improvements in required mitigation measures.

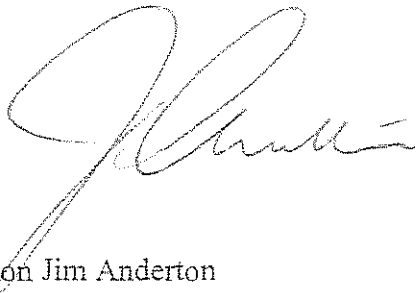
The development of a flexible regulatory mechanism will also complement longer-term proposals for the management of incidental seabird mortality that MFish is currently consulting on. This framework includes the development of a seabird standard, and revisions to the existing NPOA Seabirds management framework.

I strongly believe that the objectives-based management approach set out in the seabird standard will benefit all stakeholders by providing greater levels of certainty over government's expectations of acceptable levels of seabird incidental mortality. I also believe that this approach will allow more flexibility to achieve outcomes, provided that the risk of not meeting objectives is sufficiently considered.

I see stakeholder-led proposals such as the widespread use of vessel management plans proposed by SeaFIC as being one of the options for how the objectives set out in the standard may be met. MFish officials will be providing me with advice on the merits and practicalities of this approach and the circumstances under which it may be effective. I also want to stress that there will be opportunities for *all* stakeholders to engage in the development of effective management proposals.

I look forward to working with you to ensure that the effects of fishing on seabirds are avoided, remedied or mitigated and encourage you to continue to engage in the development of longer-term measures to achieve this goal.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jim Anderton', written in a cursive style.

Hon Jim Anderton
Minister of Fisheries