

# MANAGEMENT MEASURES RELATING TO INTRODUCTION OF REDBAIT (RBT) INTO QMS ON 1 OCTOBER 2009 – INITIAL POSITION PAPER

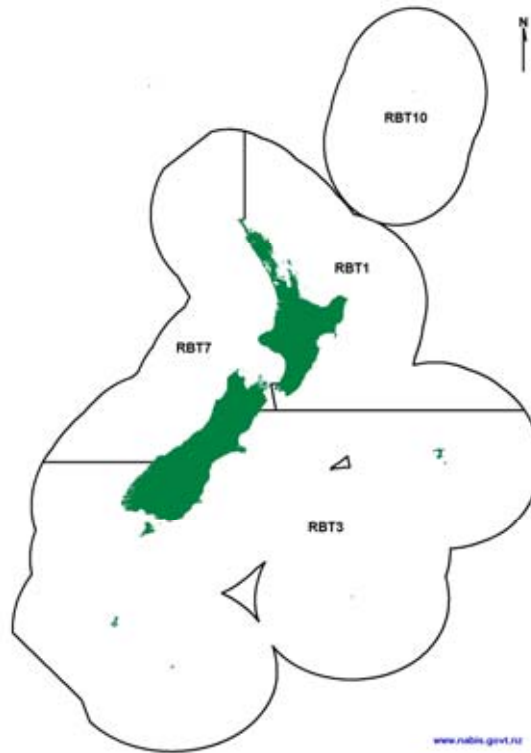
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## Purpose of consultation

- 1 The purpose of this paper is to set out the Ministry of Fisheries' initial position on management measures for redbait (*Emmelichthys nitidus*) for when it comes into the Quota Management System (QMS) on 1 October 2009. Specifically MFish seeks stakeholder views on:
  - a) The proposed total allowable catches (TACs) and total allowable commercial catches (TACCs);
  - b) MFish's proposal to not include recreational or customary Maori allowances;
  - c) The proposed deemed value rates for each redbait stock;
  - d) The proposal to add redbait to Schedule 5 of the Fisheries Act 1996 (the "Act") to allow a person to own quota up to the equivalent of 45% of the combined TACCs for every redbait stock;
  - e) Amending the Fisheries (Reporting Regulations) 2001 to include reporting codes for redbait stocks.

## Executive summary

- 2 Redbait stocks will enter the QMS on 1 October 2009. The Quota Management Areas (QMAs) for redbait are shown in Figure 1.
- 3 The Ministry of Fisheries (MFish) proposes two approaches upon which to base the initial setting of Total Allowable Catches (TACs), Total Allowable Commercial Catches (TACCs), allowances for customary and recreational fishers and other sources of fishing-related mortality for redbait stocks:
  - a) Under Option 1 the proposed TACs are based on the average of commercial catches reported over the past 5 fishing years (2003/04 – 2007/08). A five year period was chosen in order to reflect recent fishing activity and, presumably, current interest in the fishery.
  - b) Under Option 2 the proposed TACs are based on a figure around 10% higher than the highest reported annual commercial catch taken during the past 5 fishing years (2003/04 – 2007/08). This approach recognises that redbait catches are variable and that redbait may have been relatively lightly exploited to date. Setting TACs using this approach may provide some scope for developing the fishery as well as covering redbait taken as bycatch to other fisheries. Additionally, the biological characteristics of redbait (relatively fast-growing and short-lived) may support greater harvest levels.



**Figure 1. Map showing redbait (RBT) QMAs.**

- 4 For the RBT1 stock only MFish proposes a third option to set a TAC of 20 tonnes. The comparatively low TACs under options 1 and 2 could potentially result in a vessel taking the entire TAC in one trawl. Setting a comparatively high TAC of 20 tonnes would reduce the likelihood of this eventuality.
- 5 Options for the proposed TACs, TACCs and allowances for recreational and customary fishers, and other sources of fishing-related mortality for redbait stocks are listed in Tables 1 – 3 below.

**Table 1. Option 1 - Proposed TACs (tonnes), TACCs (tonnes), and allowances (tonnes) for redbait stocks based on average of commercial catches over the past 5 years.**

Stock	TAC	Customary allowance	Recreational allowance	Other sources of fishing-related mortality	TACC
RBT 1	2.8	0	0	0.1	2.7
RBT 3	1,233	0	0	62	1,171
RBT 7	2,078	0	0	104	1,974
RBT 10	0	0	0	0	0

**Table 2. Option 2 - Proposed TACs (tonnes), TACCs (tonnes), and allowances (tonnes) for redbait stocks based on highest reported commercial catch plus 10% from the past 5 years.**

Stock	TAC	Customary allowance	Recreational allowance	Other sources of fishing-related mortality	TACC
RBT 1	6.4	0	0	0.3	6.1
RBT 3	2,305	0	0	115	2,190
RBT 7	2,991	0	0	150	2,841
RBT 10	0	0	0	0	0

**Table 3. Option 3 - Proposed TAC (tonnes), TACC (tonnes), and allowances (tonnes) for RBT1 only.**

Stock	TAC	Customary allowance	Recreational allowance	Other sources of fishing-related mortality	TACC
RBT 1	20	0	0	1	19

6 Additionally, MFish proposes the following management measures:

- a) That the Fisheries (Reporting) Regulations 2001 be amended to include the following reporting codes for redbait that should be used when completing returns required by those regulations: RBT1, RBT3, RBT7 and RBT10;
- b) That redbait be added to Schedule 5 of the Act to allow a person to own up to 45% of the combined TACCs for redbait stocks;
- c) That the interim and annual deemed value rates for redbait stocks are set as follows:
  - o Interim deemed value rate - \$0.36 per kg (excluding GST)
  - o Annual deemed value rate \$0.71 per kg (excluding GST)
  - o Differential deemed value rates as shown in Table 4 below

**Table 4. Proposed differential deemed value rates for all redbait stocks**

Catch in excess of ACE holdings (%)	Proposed differential deemed value rate (\$ per kg)
20	0.852
40	0.994
60	1.136
80	1.278
100	1.420

## Regulatory impact analysis requirements

- 7 This Initial Position Paper (IPP) required a Regulatory Impact Statement (RIS), which was reviewed internally within MFish. The RIS is attached at the end of this paper.
- 8 A RIS is a summary of the key information that decision-makers need to know in order to make an informed decision as to which option is best by assessing the likely impact from making regulatory changes. MFish is not seeking stakeholder views on the attached RIS.
- 9 For more information on the Regulatory Impact Analysis Requirements please refer to the Treasury website, [www.Treasury.govt.nz](http://www.Treasury.govt.nz).

## The issue

- 10 On 5 March 2009 the Minister of Fisheries, by notice in the *New Zealand Gazette*, declared that redbait stocks would be subject to the QMS on and from 1 October 2009. Concurrently, the Minister also defined the QMAs (as shown in Figure 1 above), agreed that redbait would be subject to the 1 October fishing year and agreed that TACCs and annual catch entitlement be expressed in greenweight.
- 11 The Minister must now set a TAC, TACC and deemed value rates for all redbait stocks. He must also agree to any other management controls necessary to support the introduction of redbait stocks into the QMS on 1 October 2009.
- 12 MFish considers that the key issues affecting the setting of sustainability measures and other management controls for redbait stocks are as follows:
  - a) There are no estimates of current biomass, sustainable yield, or of stock status for any redbait stock. Stock status can either refer to the stock size in relation to the unfished biomass or to the biomass that can produce the maximum sustainable yield. While past and recent levels of reported catch have not given rise to known sustainability concerns, there is a degree of uncertainty and inadequacy in the best available information.
  - b) Redbait is a significant bycatch to a number of target species, principally jack mackerel and squid. A target fishery for redbait is also developing in New Zealand and some markets do exist for the species. Setting appropriate sustainability measures will be necessary to ensure the sustainable utilisation of the fishery while avoiding constraining the target fisheries.
  - c) The majority of redbait catch is taken using midwater trawls. Catch to date has not given rise to known adverse environmental impacts.
  - d) Almost all available information comes from catch reported by the fishing industry. However, MFish believes that reported catch figures may not be accurate in some cases. It is possible that reported landings may underestimate catches due to discarded fish not being reported or, alternatively, may overestimate catches due to other species being misreported as redbait.
  - e) Redbait is believed to be a relatively fast-growing and short-lived species.

## Proposed TACs, TACCs and allowances

### *Basis for setting TACs*

- 13 MFish proposes that TACs for redbait stocks be set under section 13 of the Act. Section 13(2) requires the Minister to set a TAC at a level that:

- a) maintains the stock at or above a level that can produce the maximum sustainable yield ( $B_{MSY}$ ), having regard to the interdependence of stocks; or
  - b) enables the level of any stock whose current level is below that which can produce the maximum sustainable yield to be altered –
    - i) in a way and at a rate that will result in the stock being restored to or above a level that can produce the maximum sustainable yield, having regard to the interdependence of stocks; and
    - ii) within a period appropriate to the stock, having regard to the biological characteristics of the stock and any environmental conditions affecting the stock; or
  - c) enables the level of any stock whose current level is above that which can produce the maximum sustainable yield to be altered in a way and at a rate that will result in the stock moving towards or above a level that can produce the maximum sustainable yield, having regard to the interdependence of stocks.
- 14 The current status of redbait stocks in relation to  $B_{MSY}$  is unknown. However, section 13(2A) enables TACs to be set under section 13 even where the current biomass of a stock and the biomass that produce a MSY are not able to be estimated reliably.
- 15 Given the absence of a target fishery for redbait prior to 2004, together with the limited targeting since then and the relatively consistent catch levels, MFish considers that redbait stocks are likely to be at a level that is at, or above,  $B_{MSY}$ . MFish considers, therefore, that it is appropriate to set the TACs under s 13(2)(a) of the Act.
- 16 Alternative options for setting the TACs are available:
- a) The Act allows TACs to be set under section 14 if the quota management stock is listed in Schedule 3. A stock can be added to Schedule 3 (stocks managed with an alternative total allowable catch) provided that it satisfies one of four criteria specified in section 14(8). MFish considers none of the criteria, which are detailed below, are applicable to redbait.
    - i) *It is not possible, because of the biological characteristics of the species, to estimate maximum sustainable yield (MSY).* MFish considers that MSY could be estimated for redbait stocks.
    - ii) *A national allocation for New Zealand has been determined as part of an international agreement.* There are no international agreements regarding redbait.
    - iii) *The stock is managed on a rotational or enhanced basis.* Redbait is not managed on this basis.
    - iv) *The stock comprises 1 or more highly migratory species.* Redbait is not a highly migratory species.
  - b) Section 14B of the Act enables the Minister to set a TAC that maintains a stock at a level below  $B_{MSY}$ , but above a level that ensures its long-term viability. The intention of section 14B is to ensure the harvest of a target stock is not constrained by the TAC of an associated bycatch species. Use of section 14B depends on owners of at least 95% of the quota shares for a stock proposing that it be used. As quota will not be

allocated until 1 October 2009 this section cannot be used for the initial setting of TACs for redbait stocks.

- 17 Annex One provides additional information on statutory considerations.

### ***Basis for setting TACCs and other allowances***

- 18 When setting any TAC, that TAC must be apportioned between the relevant sectors and interests set out under the provisions of s 21 of the Act. Section 21 prescribes that the Minister shall make allowances for Maori customary non-commercial interests, recreational fishing interests, and for any other sources of fishing-related mortality, before setting the TACC.
- 19 The Act does not provide an explicit statutory mechanism to apportion available catch between sector groups either in terms of a quantitative measure or prioritisation of allocation. Accordingly, the Minister has the discretion to make allowances for various sectors based on the best available information.

### ***Recreational allowances***

- 20 MFish proposes no allowance be made for recreational fishing interests for any of the redbait stocks. MFish does not have information on the quantities (if any) of redbait that might be harvested by recreational fishers, but believes the current recreational catch to be zero. Redbait is unlikely to be accessible to non-commercial fishers given the depths where the species occurs.

### ***Customary Maori allowances***

- 21 MFish proposes no allowance for customary fishing interests for any of the redbait stocks. MFish does not have information on the quantities (if any) of redbait that might be harvested by customary fishers, and is unaware of any information indicating the existence of a customary take of redbait. MFish believes the current customary catch to be zero, for the reasons noted above.

### ***Allowances for other sources of fishing-related mortality***

- 22 Some level of fishing-related mortality is likely given the species is taken by trawling.
- 23 MFish proposes that an allowance of around 5% of the TAC for fishing-related mortality be made for the RBT1, RBT3 and RBT7 stocks. This is similar to the mechanism used in other fisheries to account for other sources of fishing-related mortality.

### ***Summary of MFish proposals***

- 24 Options for the proposed TACs, TACCs and allowances for recreational and customary fishers, and other sources of fishing-related mortality for redbait stocks are listed in Tables 5 - 7.

**Table 5. Option 1 - Proposed TACs (tonnes), TACCs (tonnes), and allowances (tonnes) for redbait stocks based on average commercial catches over the 2003/04 – 2007/08 fishing years.**

Stock	TAC	Customary allowance	Recreational allowance	Other sources of fishing-related mortality	TACC
RBT 1	2.8	0	0	0.1	2.7
RBT 3	1,233	0	0	62	1,171
RBT 7	2,078	0	0	104	1,974
RBT 10	0	0	0	0	0

**Table 6. Option 2 - Proposed TACs (tonnes), TACCs (tonnes), and allowances (tonnes) for redbait stocks based on highest reported commercial catch plus 10% from the 2003/04 – 2007/08 fishing years.**

Stock	TAC	Customary allowance	Recreational allowance	Other sources of fishing-related mortality	TACC
RBT 1	6.4	0	0	0.3	6.1
RBT 3	2,305	0	0	115	2,190
RBT 7	2,991	0	0	150	2,841
RBT 10	0	0	0	0	0

**Table 7. Option 3 - Proposed TAC (tonnes), TACC (tonnes), and allowances (tonnes) for RBT1 only.**

Stock	TAC	Customary allowance	Recreational allowance	Other sources of fishing-related mortality	TACC
RBT 1	20	0	0	1	19

### *Rationale for proposed TACs*

- 25 The only available information upon which to base the initial TACs for redbait stocks is commercial catch data together with some limited biological information. The guidelines for determining TACs for new species introduced into the QMS provide that TACs may be set at levels based on consideration of known or estimated levels of catch (including catch by all sectors, and also other sources of fishing-related mortality). RBT3 and RBT7 catches best fit the criteria for a ‘stable’ fishery, where catches have been reported for an extended period, although varying considerably between years.
- 26 As detailed earlier there is no known level of redbait catch for customary Maori purposes or by recreational fishers.
- 27 NIWA was contracted by MFish to compile and summarise known fishery and biological information on redbait. In the report NIWA presents information indicating that redbait is thought to be a relatively fast-growing and short-lived species. Information from Australian redbait indicates that:
- redbait grow rapidly in the first few years;
  - redbait typically mature at 2-3 years; and
  - maximum age ranges from 7 years to 10 years.

- 28 Taking account of the available information MFish proposes two approaches to setting redbait TACs:
- a) The approach used for **Option 1** is to set TACs based on the average of commercial catches from the past 5 years (2003/04 – 2007/08).
  - b) The approach used for **Option 2** is to set TACs at a level that is 10% higher than the highest reported catch over the past 5 years (2003/04 – 2007/08).
- 29 Rationale for the Option 1 approach is that:
- a) it reflects recent fishing activity and current levels of interest in this species;
  - b) it covers the period when redbait became an open access species; and
  - c) it should be sufficient to cover redbait catches taken as bycatch to other fisheries.
- 30 MFish considers that Option 1 would pose the least risk to the sustainability of redbait stocks.
- 31 Rationale for Option 2 is that this approach recognises the variability of redbait catches and that redbait may have been relatively lightly exploited to date. Setting TACs using this approach may provide some scope for developing the fishery as well as covering redbait taken as bycatch to other fisheries. Additionally, the biological characteristics of redbait (relatively fast-growing and short-lived) may support greater harvest levels.
- 32 MFish considers that Option 2 may pose a higher risk than Option 1 to the sustainability of redbait stocks but that it will provide for greater utilisation opportunities.
- 33 For the RBT1 stock only MFish proposes a third option whereby the TAC is set at 20 tonnes. The rationale for this is that the comparatively low TACs under options 1 and 2 could potentially result in a vessel taking the entire TAC in one trawl. Setting a comparatively high TAC of 20 tonnes would reduce the likelihood of this eventuality.
- 34 Bringing redbait into the QMS and the subsequent allocation of rights should provide a more secure basis for investment in the utilisation and development of the fishery. A likely improvement in catch reporting, together with additional biological data and other information from the fishery, could provide a basis upon which a future review of the TAC for each redbait stock could be undertaken.
- 35 MFish considers that the proposed TACs under both options take into account the best available information on past catches and redbait biology and will ensure sustainability at least in the short term. Despite the limited available information, MFish considers that all proposed TACs should enable redbait stocks to be managed at, or above, a level that can produce the MSY. Both options also provide for utilisation, although setting TACs based on Option 2 is likely to provide for additional utilisation opportunities i.e. some target fishing rather than just covering bycatch.

### *Reported commercial catches*

- 36 Reported RBT commercial landings for the fishing years 1993/94 – 2007/08 are summarised in Table 8. Landings data from each fishery management area has been grouped into the QMAs that will become effective on 1 October 2009.

**Table 8: Reported landings (greenweight tonnes) of redbait (from MFish catch effort database).**

Year	RBT 1	RBT 3	RBT 7	RBT10	Total
1993/94	0.5	1,676	297	-	1,974
1994/95	0.8	1,967	550	-	2,517
1995/96	0.4	1,532	474	-	2,007
1996/97	0.7	1,194	611	-	1,805
1997/98	3.5	1,497	525	-	2,025
1998/99	0.6	1,823	693	-	2,516
1999/00	1.1	2,392*	580	-	2,973
2000/01	0.3	938	745	-	1,684
2001/02	0.6	1,640	1,630	-	3,271
2002/03	0.6	1,218	2,092	-	3,311
2003/04	2.1	1,697	2,719*	-	4,419
2004/05	1.0	802	1,729	-	2,532
2005/06	2.3	2,095	1,934	-	4,031
2006/07	3.1	939	1,507	-	2,449
2007/08	5.8*	633	2,503	-	3,142

\* highest reported catch

- 37 Catches are most abundant from stocks RBT3 and RBT7. In all stocks except RBT10 there is considerable variability between years, the cause of which is not well understood. It is also possible that the reported landings may underestimate catches due to discarded fish not being reported or, alternatively, may overestimate catches due to other species being misreported as redbait. However MFish has no information on the extent to which reported catches may not reflect actual catches.
- 38 Small catches have been reported from RBT1 while no catch has been reported from RBT10.
- 39 When considered in conjunction with the statutory obligations regarding sustainability versus utilisation, environmental issues, and the biological characteristics of redbait, the catch data provides general guidance in setting the introductory TACs for redbait stocks.

#### *RBT1*

- 40 As shown in Table 8, reported commercial landings of redbait in RBT1 are small compared to RBT3 or RBT7. Landings were greatest in 2007/08 at 5.8 tonnes, while landings in other years varied between 0.3 and 3.5 tonnes.
- 41 To date all redbait catches from RBT1 have been reported as bycatch in target fisheries such as rubyfish and cardinalfish. Reasons for the relatively small catches may include:
- RBT1 may be at the limit of redbait's distribution in New Zealand waters.
  - The jack mackerel fishery, which is the source of the greatest redbait bycatch nationwide, is a purse seine fishery in RBT1 but is a mid-water trawl fishery in all other parts of the country. Because purse seining takes place at the top of the water column this may mean that little fishing has been done in RBT1 over the depth range where redbait is most likely to be found.

### *Option 1*

- 42 MFish proposes that the initial TAC for RBT1 under Option 1 be set at 2.8 tonnes with a corresponding TACC of 2.7 tonnes.
- 43 The average reported catch from RBT1 over the past 5 fishing years is 2.8 tonnes. MFish proposes to allocate 5% of the TAC to other sources of fishing-related mortality (0.1 tonnes). Under Option 1 the TACC for RBT1 would be 2.7 tonnes.
- 44 MFish notes that reported catches of RBT1 have exceeded the proposed Option 1 TACC (2.7 tonnes) twice during the past 5 years.

### *Option 2*

- 45 MFish proposes that the initial TAC for RBT1 under Option 2 be set at 6.4 tonnes with a corresponding TACC of 6.1 tonnes.
- 46 The highest reported catch during the past 5 fishing years was 5.8 tonnes, which was taken during the 2007/08 fishing year. The reason for the elevated catch during this year is thought to be due to redbait being taken as bycatch because of additional fishing effort directed at rubyfish in fisheries management area 2 during that year.
- 47 Using the approach of adding 10% to the highest reported catch over the past 5 years gives an initial TAC of 6.4 tonnes. MFish proposes that 0.3 tonnes (5% of the TAC) be allocated to other sources of fishing-related mortality. Under Option 2 the TACC for RBT1 would be 6.1 tonnes.

### *Option 3*

- 48 For this stock only MFish proposes a third option of setting the TAC at 20 tonnes with 1 tonne (5% of the TAC) allocated to other sources of fishing-related mortality and a corresponding TACC of 19 tonnes.
- 49 An analysis of trawl information indicates that it is not uncommon for more than 5 tonnes of redbait to be caught in a single tow. Despite the absence of large bags of redbait being reported in RBT1 to date MFish proposes this option to avoid the hypothetical situation where the entire TACC is taken in a single trawl. Setting a comparatively high TAC of 20 tonnes would reduce the likelihood of this eventuality.

### *RBT3*

- 50 Reported commercial landings of redbait in RBT3 have varied considerably over the past 5 fishing years. Landings were greatest in 2005/06 at 2,095 tonnes but have been as low as 633 tonnes in 2007/08, the most recent fishing year.
- 51 The reasons for such variability in landings are not well understood although a contributing factor is likely to be the relative abundance of, as well as the amount of fishing effort directed at, specific target species. RBT3 is mostly taken as a bycatch in several fisheries including jack mackerel (JMA), squid (SQU) and barracouta (BAR).
- 52 MFish notes that until 1 October 2004 it was not possible to target redbait due to the permit moratorium. All redbait catch reported up to that point was therefore taken as bycatch to other fisheries. Despite the moratorium being lifted there has only been a small number of instances of redbait being targeted in RBT3; 4 tows were reported in

2007 with an estimated catch of 59 tonnes and 3 tows were reported in 2008 with an estimated catch of 79 tonnes.

- 53 Table 9 shows the estimated catch of redbait taken in RBT3 by target species for the most recent 5 years only.

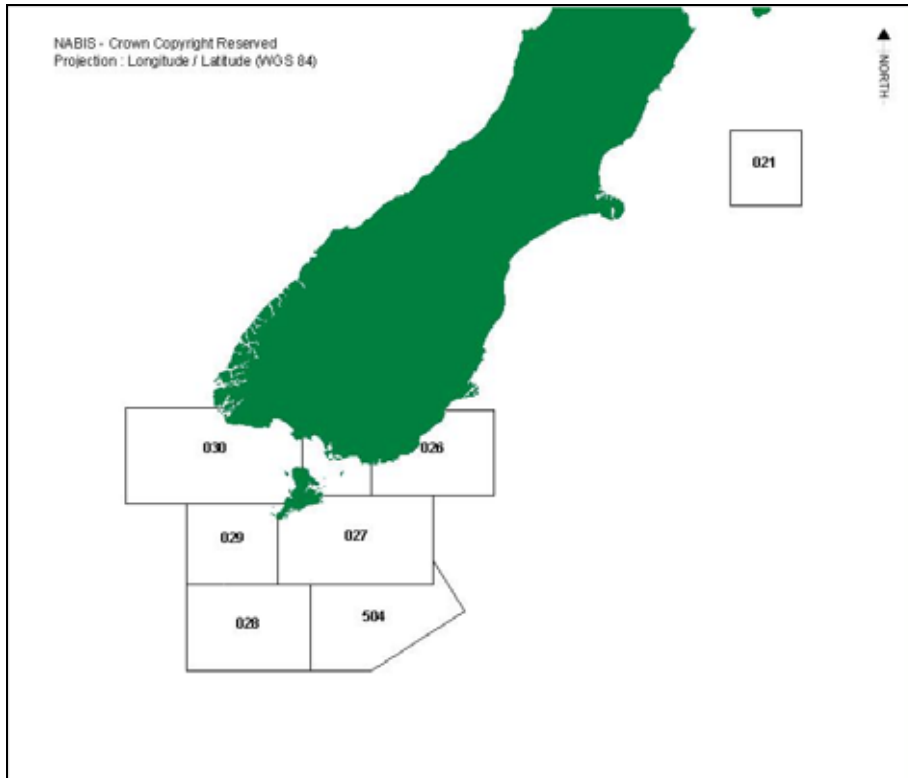
**Table 9: Estimated RBT3 catch (tonnes) by target species for the 5 most recent fishing years (from MFish catch effort database).**

Year	Total Estimated RBT3 catch (tonnes)	Target species					
		JMA	SQU	BAR	HOK	RBT	Others
2003/04	1,569	129	1,247	183	3	0	6
2004/05	713	36	446	202	0	0	29
2005/06	1,920	999	297	613	0	0	11
2006/07	1,075	366	256	380	0	59	14
2007/08	550	259	69	135	0	79	6

- 54 In most of the past 5 years a significant amount of RBT3 is taken as a bycatch to the JMA fishery (up to 999 tonnes in 2005/06). MFish notes that historically, JMA3 catches peaked during the 1990s (10,000 - 20,000 tonnes caught annually) and have been considerably lower since 2000/01 (700 - 5,000 tonnes caught annually). However the reduced JMA3 catches do not always appear to result in RBT3 catches reducing in proportion.
- 55 The amount of RBT3 taken as bycatch to the SQUIT fishery also varies considerably (69 tonnes in 2007/08 to 1,247 tonnes in 2003/04). SQUIT abundance varies considerably, which affects landings (over the past 15 years annual landings have ranged between 13,000 - 49,000 tonnes). Like JMA, there does not appear to be a direct relationship between squid abundance and redbait landings. For example, landings of RBT3 recorded during 2004/05 were one of the lowest on record yet SQUIT landings that year were the highest on record.
- 56 Barracouta is the other primary target species that results in significant redbait bycatch. Again, the amount of redbait reported as bycatch to the barracouta fisheries over the past 5 years has varied considerably (135 tonnes in 2007/08 to 613 tonnes in 2005/06).
- 57 Analysis of spatial distribution of RBT catches also shows considerable variation. Over the past 5 years 97% of estimated catches of RBT3 was reported as being taken from just 7 statistical areas. This information is summarised in the table below while the statistical areas are shown in Figure 2.

**Table 10: Estimated RBT3 catch (tonnes) from statistical areas where 97% of estimated RBT3 catch has been reported over the past 5 fishing years (from MFish catch effort database).**

Year	Statistical area							Total
	28	21	29	27	30	504	26	
2003/04	1,213	0	163	60	18	38	32	1,525
2004/05	572	0	36	18	38	4	2	671
2005/06	848	698	227	93	10	11	9	1,896
2006/07	521	301	216	10	0	8	0.3	1,055
2007/08	198	316	13	1	0.1	0.2	1	529
Totals	3,352	1,315	655	182	67	62	44	



**Figure 2: Diagram showing location of the 7 statistical areas where 97% of estimated catch of RBT3 has been reported as being taken over the period 2003/04 – 2007/08.**

- 58 Table 10 shows that catches from the 7 main statistical areas can vary considerably from year to year. Overall, most catch was reported from statistical area 28. Yet catches from that area vary from 1,213 tonnes in 2003/04 to 198 tonnes in 2007/08. Similarly, there was no catch reported from statistical area 21 for the first two years but 698 tonnes was reported during 2005/06.
- 59 In summary, analysis of RBT3 catches does not indicate distinct relationships between redbait catches and abundance of, or effort directed at, the particular target fisheries where it is taken as bycatch. However, MFish believes that the primary factors influencing RBT3 catches are likely to be a combination of the annual variability in abundance of target species such as SQU and JMA together with variability in effort directed at the BAR fishery.

*Option 1*

- 60 MFish proposes that the initial TAC for RBT3 under Option 1 be set at 1,233 tonnes with a corresponding TACC of 1,171 tonnes.
- 61 The average catch of RBT3 for the past 5 years is 1,233 tonnes. MFish proposes to allocate 5% of the TAC to other sources of fishing-related mortality (62 tonnes). Under Option 1 the TACC for RBT3 would be 1,171 tonnes.
- 62 MFish notes that reported catches of RBT3 have exceeded the proposed Option 1 TACC (1,171 tonnes) for 2 out of the past 5 years. A TACC set using this approach may be expected to constrain catches of target species during some years.

## Option 2

- 63 MFish proposes that the initial TAC for RBT3 under Option 2 be set at 2,305 tonnes with a corresponding TACC of 2,190 tonnes.
- 64 The highest RBT3 catch reported during the past 5 years was 2,095 tonnes in 2005/06. Using the approach of adding 10% to the highest reported catch over the past 5 years gives an initial TAC of 2,305 tonnes. MFish proposes that 115 tonnes (5% of the TAC) be allocated to other sources of fishing-related mortality. Under Option 2 the TACC for RBT3 would be 2,190 tonnes.
- 65 As reported catches of RBT3 have not exceeded 2,190 tonnes during the past 5 years a TACC set using this approach may encourage development of the fishery.
- 66 Rationale for the Option 2 TAC includes the biology of the species (relatively fast-growing and short-lived) and the fact that because catches to date have varied considerably by both location and target species the stock is likely to have been relatively lightly exploited. It is therefore likely that the biomass of the stock is above that which can support the maximum sustainable yield and can sustain additional fishing effort.

## RBT7

- 67 Reported commercial landings of redbait in RBT7 have shown some variation over the past 5 years. Landings were greatest in 2003/04 at 2,719 tonnes but only 1,507 tonnes was reported during 2006/07.
- 68 Historically, landings prior to 2001/02 were less than 1,000 tonnes per years but have been more than 1,000 tonnes per year since then.
- 69 In RBT7 the species is primarily taken as bycatch to the JMA fishery. Lesser quantities are taken in the BAR and HOK fisheries and some targeting has occurred since 2004/05. This information is summarised in Table 11 for the 5 most recent fishing years only.

**Table 11: Estimated RBT7 catch (tonnes) by target species for the 5 most recent fishing years only (from MFish catch effort database).**

Year	Total Estimated RBT7 catch (tonnes)	Target species				
		JMA	BAR	HOK	RBT	Others
2003/04	2,615	2,518	74	23	-	-
2004/05	1,450	938	436	24	35	17
2005/06	2,071	1,745	2	54	211	60
2006/07	1,211	1,129	69	8	-	5
2007/08	2,305	1,568	399	32	275	31

- 70 As stated above the JMA fishery is where most RBT7 is taken as bycatch. Catches of JMA7 prior to 2001/02 averaged around 14,000 tonnes per year. From 2001/02 onwards JMA7 catches increased and have ranged between 22,000 and 37,000 tonnes since then. This period of increased JMA7 catches coincides with the jump in reported RBT7 catches. MFish considers that the increase in fishing effort directed at JMA7 has resulted in increased RBT7 catches.

### *Option 1*

- 71 MFish proposes that the initial TAC for RBT7 under Option 1 be set at 2,078 tonnes with a corresponding TACC of 1,974 tonnes.
- 72 The average catch of RBT7 for the past 5 years is 2,078 tonnes. MFish proposes to allocate 5% of the TAC to other sources of fishing-related mortality (104 tonnes). Under Option 1 the TACC for RBT7 would be 1,974 tonnes.
- 73 MFish notes that reported catches of RBT7 have exceeded the proposed Option 1 TACC (1,974 tonnes) for 2 of the past 5 fishing years. A TACC set using this approach may be expected to constrain catches of target species during some years.

### *Option 2*

- 74 MFish proposes that the initial TAC for RBT7 under Option 2 be set at 2,991 tonnes with a corresponding TACC of 2,841 tonnes.
- 75 The highest RBT7 catch reported to date was 2,719 tonnes in 2003/04. Using the approach of adding 10% to the highest reported catch over the past 5 years gives an initial TAC of 2,991 tonnes. MFish proposes that 150 tonnes (5% of the TAC) be allocated to other sources of fishing-related mortality. Under Option 2 the TACC for RBT7 would be 2,841 tonnes.
- 76 Rationale for the Option 2 TAC includes the biology of the species (relatively fast-growing and short-lived) and the fact that because catches to date have varied considerably by both location and target species the stock is likely to have been relatively lightly exploited. It is therefore likely that the biomass of the stock is above that which can support the maximum sustainable yield and can sustain additional fishing effort.

### *RBT10*

- 77 MFish proposes a TAC and a TACC of 0 tonnes for RBT10.
- 78 Redbait has not been reported from QMA10 and most of the area is deeper than 1,000m, which is outside the depth range where redbait occurs. Additionally QMA10 is subject to the Fisheries (Benthic Protection Areas) Regulations 2007, which means that bottom trawling is prohibited and restrictions are placed on mid-water trawling.

## **Other management measures**

### ***Amendments to reporting regulations***

- 79 The introduction of redbait into the QMS requires an amendment to the Fisheries (Reporting) Regulations 2001 to prescribe reporting codes for redbait stocks that commercial fishers must use when completing their statutory catch returns. Specifically, MFish proposes to amend Table 1 of Part 1 of Schedule 3 of those regulations to incorporate the following reporting codes in line with the QMAs for redbait: RBT1, RBT3, RBT7 and RBT10.

### ***Addition to Schedule 5 of Fisheries Act 1996 (aggregation limits)***

- 80 MFish proposes that redbait be added to Schedule 5 of the Act to allow a person to own up to 45% of the combined TACCs for redbait stocks.

- 81 The default restriction on quota aggregation is that no person may own quota for a species that is equivalent to more than 35% of the combined TACCs for that species. The only exceptions are for rock lobster, paua and bluenose (where stricter restrictions apply) as well as the species listed on Schedule 5 of the Act, for which the aggregation limit is 45%.
- 82 In 2006 the Minister of Fisheries agreed to add several additional species to Schedule 5. The Minister also agreed to an analytical process to be used in future assessments of a species' suitability for addition to Schedule 5. A diagram of that process is presented in Annex Two while the application of the process to redbait is presented below.
- 83 The process involves determining whether a species fits into one of three categories (Steps 1, 2 or 3) and then further examination to ensure that unwanted consequences are unlikely (Steps 4, 5 and 6).

### ***Application of analytical process to redbait***

#### *Step 1 – Does species require substantial investment to harvest or process?*

- 84 Most redbait is taken by the factory trawler fleet. For this reason MFish considers that redbait does require substantial investment to harvest or process and therefore fits into this category.

#### *Step 2 – Does species require substantial investment for science?*

- 85 Records of redbait catches extend back a number of years. MFish considers that redbait does not fit into this criteria as it is an existing fishery.

#### *Step 3 – Would quota aggregation benefit international competitiveness?*

- 86 MFish considers this criteria does apply to redbait, which is a bulk product where New Zealand producers may be competing with enterprises operating overseas that have access to subsidies, lower labour costs, reduced transportation costs or other advantages that reduce the per unit cost of production. Additionally, some New Zealand operators are attempting to develop a market for redbait overseas. Access to greater quantities of product may be advantageous for this process. The ability to harvest a greater proportion of a species may be required to cover these investment costs.

#### *Step 4 – Would increased aggregation limit availability of bycatch ACE?*

- 87 The process states that no species should be listed in Schedule 5 if it is considered to be a significant bycatch species only, or is one target species in a multi-species target fishery, unless in either instance all major species in the catch mix are included on the Schedule.
- 88 Redbait is a significant bycatch species although there is a minor target fishery. However all species in the catch mix associated with redbait (BAR, JMA, SQU and HOK) are already included in the Schedule. Redbait therefore meets the “unless all major species in the catch mix are included in the Schedule” rule associated with this criteria; it would be inconsistent to not include redbait in the Schedule.

*Step 5 – Is the species a ‘nursery’ or ‘stepping stone’ species?*

89 MFish does not consider redbait to be a ‘nursery’ or ‘stepping stone’ species as it is not a species that requires a relatively low initial investment.

*Step 6 – Would increased aggregation markedly reduce the pool of willing purchasers of quota?*

90 MFish does not consider this criteria is relevant to redbait.

### **Conclusion**

91 MFish considers that redbait fits the categories detailed in Steps 1 and 3 and that the unwanted consequences detailed in Steps 5 and 6 are not relevant. Additionally, all other major species in the catch mix associated with redbait are already listed on Schedule 5 (Step 4). For these reasons MFish concludes that redbait is suitable for addition to Schedule 5 of the Act.

### **Deemed Values**

92 Under s 75 (1) of the Act, the Minister of Fisheries is required to set interim and annual deemed value rates for each quota management stock. Section 75 (2)(a) requires the Minister, when setting deemed value rates, to take into account the need to provide an incentive for every commercial fisher to acquire and hold sufficient annual catch entitlement (ACE) in respect of each fishing year that is not less than the total catch of that stock taken by the commercial fisher.

93 Redbait (RBT) falls under the “all other” fish stock category as set out in the deemed value review standard, which is available to view on the MFish website. Fishstocks in this category are to have their annual deemed value rate set above ACE price and below landed price to encourage fishers to balance their catch with ACE rather than pay deemed values. Currently redbait is not in the QMS, meaning that there is no ACE price information available that can be used to set deemed value rates.

94 Therefore, annual deemed value rates for species in this category will be set based on a proportion of the estimated landed price in the previous year. The estimated landed price used for redbait for this analysis is \$1.42 per kg, which is based on the reported market value for redbait at the Auckland Fish Market.

95 Rates will be adjusted, as required, when information about ACE price becomes available. Currently deemed values for all species are reviewed on an annual basis. When information becomes available on the ACE price for the redbait stocks, this will be fed into the annual deemed value review process to ensure the correct deemed value rates are set for all redbait stocks.

96 The proposed annual deemed value for the 2009/10 fishing year will be set at 50% of the estimated landed price (\$1.42 per kg). In adopting this approach, MFish proposes setting an interim deemed value of \$0.36 per kg (excluding GST) and an annual deemed value of \$0.71 per kg (excluding GST) for all redbait stocks for the 2009/10 fishing year.

97 MFish is also proposing to apply the differential annual deemed values set out below to all redbait stocks for the 2009/10 fishing year.

**Table 12: Proposed differential deemed value rates for RBT1, RBT3, RBT7 and RBT10**

Proposed differential rates	
Catch in excess of ACE holdings (%)	Proposed deemed value rates for RBT1, RBT3, RBT7 and RBT10 (\$/kg)
20	0.852
40	0.994
60	1.136
80	1.278
100	1.420

### *Environmental effects of harvesting methods for redbait*

- 98 MFish does not propose to introduce any additional measures to address specifically the environmental effects of the harvesting methods used to take redbait. Over 90% redbait is taken as bycatch in mid-water trawls, which is a method that does not significantly affect the benthic environment. At this stage, there are no known habitats of particular significance for fisheries management that are likely to require protection from fishing for redbait.
- 99 Most redbait is taken by large factory trawlers, all of which are required to deploy mandatory seabirds scaring devices and to follow Vessel Management Plans (VMPs). The purpose of VMPs is to detail the specific measures a vessel should take to avoid interactions with seabirds. Because of existing measures there is no need for additional seabird mitigation measures to be created specifically for the redbait fishery.
- 100 The vessels that take redbait are also subject to the Marine Mammal Operational Procedure (MMOP), the purpose of which is to reduce the risk of incidental captures of marine mammals during deepwater fishing operations.
- 101 MFish notes that capture of common dolphins by vessels targeting jack mackerel off the North Island west coast is sometimes a problem. Redbait is likely to be taken in that region as well. The MMOP contains specific measures that address common dolphin captures in the North Island west coast JMA fishery and MFish considers those measures are equally applicable to vessels targeting redbait. The MMOP will be updated to ensure vessels targeting redbait also adopt the measures that apply to the jack mackerel fishery. No additional measures in relation to marine mammals are proposed.
- 102 MFish notes that although there has been a limited amount of target fishing for redbait there appears to be little associated bycatch. Redbait aggregate, and operators appear to be able to take large “clean” bags of redbait. There may be small amounts of bycatch of QMS species such as BAR, JMA and EMA. The QMS provides mechanisms for ensuring sustainability of such bycatch.

## Preliminary recommendations

103 MFish proposes that the Minister of Fisheries:

EITHER

### Option 1

- a) **Agrees** to set a TAC of 2.8 tonnes for RBT1 and within this set:
  - i) a customary allowance of 0 tonnes;
  - ii) a recreational allowance of 0 tonnes;
  - iii) an allowance for other fishing-related mortality of 0.1 tonnes; and
  - iv) a TACC of 2.7 tonnes.
  
- b) **Agrees** to set a TAC of 1,233 tonnes for RBT3 and within this set:
  - i) a customary allowance of 0 tonnes;
  - ii) a recreational allowance of 0 tonnes;
  - iii) an allowance for other fishing-related mortality of 62 tonnes; and
  - iv) a TACC of 1,171 tonnes.
  
- c) **Agrees** to set a TAC of 2,078 tonnes for RBT7 and within this set:
  - i) a customary allowance of 0 tonnes;
  - ii) a recreational allowance of 0 tonnes;
  - iii) an allowance for other fishing-related mortality of 104 tonnes; and
  - iv) a TACC of 1,974 tonnes.
  
- d) **Agrees** to set a TAC of 0 tonnes for RBT10 and within this set:
  - i) a customary allowance of 0 tonnes;
  - ii) a recreational allowance of 0 tonnes;
  - iii) an allowance for other fishing-related mortality of 0 tonnes; and
  - iv) a TACC of 0 tonnes.

OR

### Option 2

- a) **Agrees** to set a TAC of 6.4 tonnes for RBT1 and within this set:
  - i) a customary allowance of 0 tonnes;
  - ii) a recreational allowance of 0 tonnes;
  - iii) an allowance for other fishing-related mortality of 0.3 tonnes; and
  - iv) a TACC of 6.1 tonnes.
  
- b) **Agrees** to set a TAC of 2,305 tonnes for RBT3 and within this set:
  - i) a customary allowance of 0 tonnes;
  - ii) a recreational allowance of 0 tonnes;

- iii) an allowance for other fishing-related mortality of 115 tonnes; and
  - iv) a TACC of 2,190 tonnes.
- c) **Agrees** to set a TAC of 2,991 tonnes for RBT7 and within this set:
- i) a customary allowance of 0 tonnes;
  - ii) a recreational allowance of 0 tonnes;
  - iii) an allowance for other fishing-related mortality of 150 tonnes; and
  - iv) a TACC of 2,841 tonnes.
- d) **Agrees** to set a TAC of 0 tonnes for RBT10 and within this set:
- i) a customary allowance of 0 tonnes;
  - ii) a recreational allowance of 0 tonnes;
  - iii) an allowance for other fishing-related mortality of 0 tonnes; and
  - iv) a TACC of 0 tonnes.

OR

**Option 3 (RBT1 only)**

- e) **Agrees** to set a TAC of 20 tonnes for RBT1 and within this set:
- i) a customary allowance of 0 tonnes;
  - ii) a recreational allowance of 0 tonnes;
  - iii) an allowance for other fishing-related mortality of 1 tonne; and
  - iv) a TACC of 19 tonnes.

AND

- f) **Agrees** to amend the Fisheries (Reporting) Regulations 2001 to include the redbait reporting codes to be used by commercial fishers when completing their statutory catch returns: RBT1, RBT3, RBT7 and RBT10;
- g) **Agrees** to add redbait to Schedule 5 of the Fisheries Act 1996 to enable a person to own quota equivalent to 45% of the combined total allowable commercial catches for redbait; and
- h) **Agrees** to set an annual deemed value rate of \$0.71/kg (excluding GST), an interim deemed value rate of \$0.36/kg (excluding GST), and the differential deemed value rates detailed in the table below for all redbait stocks from 1 October 2009.

Proposed differential rates	
Catch in excess of ACE holdings (%)	Proposed deemed value rates for RBT1, RBT3, RBT7 and RBT10 (\$/kg)
20	0.852
40	0.994
60	1.136
80	1.278
100	1.420

# **REGULATORY IMPACT STATEMENT**

## **Regulatory amendments to support introduction of redbait into the Quota Management System**

### **Executive summary**

Redbait stocks will be introduced into the Quota Management System (QMS) on 1 October 2009. MFish proposes two consequential regulatory amendments in order to support the introduction of redbait into the QMS. First, the Fisheries (Reporting) Regulations 2001 need to be amended to incorporate the reporting codes to be used by commercial fishers when redbait comes into the QMS. This is an administrative regulation that applies to all other stocks in the QMS. Secondly, MFish is proposing that redbait be added to Schedule 5 of the Fisheries Act 1996 (the "Act"), which will allow a person to own quota equivalent to 45% of the combined total allowable commercial catches (TACC) for redbait stocks. Many of the species that are associated with redbait are already in this Schedule. Addition of redbait is consistent with the policy relating to addition of further species to this Schedule.

### **Adequacy statement**

This Regulatory Impact Statement has been reviewed by MFish's Regulatory Impact Analysis Review Committee and is considered adequate according to the criteria agreed by Cabinet.

### **Status quo and Problem**

Redbait stocks will enter the QMS on 1 October 2009. The reporting codes to be used by commercial fishers from that date will be different from those currently in use. Reporting codes are specified in the Fisheries (Reporting) Regulations 2001 and it is necessary to update these regulations. Reporting codes for all QMS species are specified in the regulations.

Unless a species is added to Schedule 5 of the Act the default is that a person will only be allowed to own quota equivalent to 35% of the combined TACCs. Many of the species that are associated with the redbait fishery are already listed in Schedule 5. It would be inconsistent with the policy guiding the addition of additional species to Schedule 5 if redbait were not also added to this Schedule.

### **Objectives**

The objective is to ensure that the regulatory framework in place when redbait stocks enter the QMS on 1 October 2009 is consistent with all other QMS species.

### **Alternative options**

There are no alternative options.

### **Preferred option**

With regard to reporting codes, MFish's preferred option is that the codes for redbait are specified in the Fisheries (Reporting) Regulations 2001. The reporting codes for all other QMS species are specified in those regulations and it would be inconsistent if redbait reporting codes were not added.

With regard to quota aggregation, MFish's preferred option is that redbait is added to Schedule 5 of the Act. This option is preferred because redbait meets the policy criteria developed by MFish and agreed to by the Minister of Fisheries in 2006 relating to addition of species to this Schedule.

There are no compliance costs associated with either of these proposals and no existing rules that become redundant.

### **Implementation and review**

Review of the Fisheries (Reporting) Regulations 2001 in relation to reporting codes for redbait will only be necessary if the quota management areas for redbait change at some point in the future.

Once listed on Schedule 5 of the Act it is possible to review whether retaining a species on that Schedule is appropriate. A review would likely be initiated by stakeholders.

MFish proposes that both regulatory amendments come into effect at the same time as redbait stocks enter the QMS i.e. 1 October 2009. Stakeholders will be informed on the outcome of these proposals once decisions have been made by Cabinet.

### **Consultation**

Stakeholders are aware of the Minister's decision to introduce redbait stocks into the QMS. However no specific preliminary consultation on these proposals has been undertaken.

This IPP will be available for comment on MFish's website. Notification of its release will also be sent to MFish's wider stakeholder list.

# ANNEX ONE

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## Statutory Considerations

The following statutory considerations have been taken into account in evaluating the management options as proposed in this document.

- a) The purpose of the Act (s 8) is to provide for the utilisation of fisheries resources while ensuring sustainability. The management proposals seek to ensure sustainability of the stocks by setting for each a TAC and other appropriate measures. Utilisation is provided for by way of setting appropriate allowances for commercial, recreational and customary fishers. Section 8 also requires that social and economic effects be considered. This document proposes setting TACs to provide for utilisation of the redbait resource, while taking an approach that reflects the absence of information on stock status and yield and the uncertainty in the available commercial catch data.
- b) Section 10 sets out information principles that are to be taken into account when setting a sustainability or utilisation measure, such as TACs and TACCs for redbait. Section 10 states that all persons exercising or performing duties, or powers under this Act, in relation to the utilisation of fisheries resources or ensuring sustainability, shall take into account the following information principles:
  - i) Decisions should be based on the best available information.
  - ii) Decision makers should consider any uncertainty in the information available in any case.
  - iii) Decision makers should be cautious when information is uncertain, unreliable, or inadequate.
  - iv) The absence of, or any uncertainty in, any information should not be used as a reason for postponing or failing to take any measure to achieve the purpose of this Act.

The information principles are particularly important in relation to redbait stocks considered in this document as the status of these stocks remains unknown. MFish has adopted the best available information and adhered to the principles of caution in the face of uncertain or inadequate data in considering the management options for these stocks.

- c) The Act prescribes three possible harvest strategies in setting a TAC. MFish considers it appropriate to manage redbait stocks under s 13(2)(a). This requires the TAC to be set at a level that maintains stock biomass, or moves it towards, a level that is at or above the level that can produce the maximum sustainable yield (MSY), having regard to the interdependence of stocks. There is currently no stock assessment information to indicate whether or not redbait stocks are at, above, or below a level that can produce MSY. However, given the species' biology and catches to date, MFish considers that redbait stocks are likely to be at a level that is at or above the level that can produce the MSY. Given the limited information available, MFish considers that the proposed TACs reflect the appropriate level of catch to maintain redbait stocks at or above the  $B_{MSY}$  level.

- d) In regard to the interdependence of stocks (s 13(2)), redbait are no doubt associated with other species within the benthic ecosystem. However, MFish is not aware of any particular species inter-relationships that affect the setting of TACs at this time.
- e) Section 11(1)(c) requires that the natural variability of the stock concerned is taken into account when setting or varying a sustainability measure such as a TAC. Apart from catch information, MFish does not have information on the natural variability of redbait stocks. However, MFish has proposed two approaches to setting TACs that are both likely to be cautious, as described previously. Both approaches should ensure harvesting levels will not contribute to a sustainability risk if there is high natural variability of redbait stocks due to natural fluctuations and environmental conditions.
- f) Section 9 requires the Minister to take into account the following environmental principles:
  - i) Associated or dependent species should be maintained above a level that ensures their long-term viability (s 9(a)).
  - ii) Biological diversity in the aquatic environment should be maintained (s 9(b)).
  - iii) Habitat of particular significance for fisheries management should be protected.

The available information does not suggest that past fishing or future fishing at the proposed TAC levels is likely to pose risks to the viability of any associated or dependent species, or to the maintenance of biodiversity of the aquatic environment. Habitats of particular significance for fisheries management have not been identified within the areas and depths where fishing for redbait is considered likely.

- g) There is a wide range of international obligations relating to fishing (including sustainability and utilisation of fishstocks and maintaining biodiversity). MFish considers the s 5 considerations arising from New Zealand's international obligations and the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 are adequately addressed by the management proposals for redbait stocks, particularly with the introduction of TACs to ensure sustainable use of the resource. MFish is not aware of any issues concerning international obligations and the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 that will result from the proposed TACs and TACCs for redbait.
- h) Section 11(1)(b) requires that existing controls be taken into account when setting or varying a sustainability measure such as a TAC. There are no existing controls that are relevant to setting the TACs for redbait stocks (no size limits, bag limits, catch limits, or other controls).
- i) Section 11(2) requires the consideration of various other matters relating mainly to planning documents. MFish is not aware of any considerations in any regional policy statement, regional plan or proposed regional plan under the Resource Management Act 1991 or any management strategy or management plan under the Conservation Act 1987 that are specifically relevant to setting TACs for redbait stocks. Similarly, in terms of section 11(2A), MFish is not aware of any fisheries or conservation services, relevant

fisheries plans, or any decisions not to require conservation or fisheries services, that are relevant to setting TACs for redbait stocks.

- j) As required under s 11(2)(c), MFish considers that the proposals for redbait meet the requirements of ss 7 and 8 of the Hauraki Gulf Marine Park Act 2000. Implementation of catch limits and associated measures for redbait stocks on entry into the QMS will allow for the sustainable utilisation of the species.
- k) Sections 21(1)(a) & (b), 21(4)(a) & (b) and 21(5) require the Minister to allow for non-commercial fishing interests (recreational and customary), and other mortality to the stock caused by fishing. The proposed TACs reflect the likelihood that there is no customary and recreational fishing for redbait, and certainly there is no information to suggest otherwise.
- l) Section 21(4) requires that when considering the proposed allowances for customary non-commercial interests, the Minister must take into account any mātaītai reserve or s186A closure in the relevant QMA. The proposed zero allowances for customary non-commercial fishing reflect the absence of any knowledge of customary fishing for redbait. MFish does not consider the zero allowances proposed for customary harvest will detract from the intent of any mātaītai or s 186A closures presently in place.
- m) Section 21(5) requires that when considering the proposed allowances for recreational interests, the Minister must take into account any regulations that prohibit or restrict fishing under s 311 (area closures). Closures under s 311 have not been implemented to date.

## ANNEX TWO

### Analytical process to assess species' suitability for addition to Schedule 5 of Fisheries Act 1996.

