

24 August 2007

Attention: Tracey Steel
Ministry of Fisheries
PO Box 1020
Wellington

Tracey.Steel@fish.govt.nz

Dear Tracey

Review of Regulatory Measures & Other Management Controls for 1 April 2008

1. Please find below The Northern Fisheries Management Stakeholder Company Limited (TNFMSCL) submission on the Initial Position Paper (IPP) dated 29 June 2007.

Representation

2. TNFMSCL is an established commercial stakeholder organization (CSO) formed from the amalgamation of The Snapper 8 Company Limited, The Pagrus Auratus Company Limited and The Northern Inshore Fisheries Company Limited to represent the interests of quota owners of inshore quota stocks in Fisheries Management Area's (FMA's) 1, 8 and 9. Geographically it extends from the tip of the North Island, down the Auckland (West) coast and continues down the Central (West) coast almost to Wellington, and from the tip of the North Island, down the Auckland (East) coast to Cape Runaway (FMAs 1,8 and 9). Including the West Coast harbours, such as the Kaipara harbour and the Hauraki Gulf.
3. The CSO is mandated to act on behalf of its shareholders at local, regional and national levels on issues affecting them. The dominant method for commercial catch of these stocks is by trawl. With other main methods including long line, dredge, and set netting.

Review of the Regulation that Permits Stalling of Nets in the Kaipara Harbour

Status Quo

4. TNFMSCL support option 1 of the IPP– to continue to permit stalling of set nets in the Kaipara harbour (status quo) for reasons outlined below. TNFMSCL support sustainable management of fish stocks, and management intervention where proven to be necessary and effective.

Unsubstantiated Claims

5. The IPP makes significant unsubstantiated statements. Paragraph 8 of the IPP specifically states that “*the practice of stalling causes significant amount of fish wastage....that fish is unfit for sale....that there are frequently discarded and not reported fish....large fish wastage could reduce the availability and abundance of fish in the Kaipara harbour*”.
6. The IPP provides no examination of the stalling method, nor an analysis undertaken to quantify these statements - this is quite unacceptable. In the absence of factual information included, the IPP presents misleading consequences of set net stalling on the sustainability of many Kaipara harbour fish stocks.

Unclear Rationale for Management Options

7. In analysing the IPP it is difficult for TNFMSCL to determine what the problem definition requiring the IPP management response is. TNFMSCL derive several possible interpretations from the IPP;
 - There are sustainability concerns with the FLA, GMU, SPO, or other Kaipara harbour fish stocks,
 - Stalling reduces availability and abundance of fish stocks in the Kaipara harbour,
 - There is wide spread non-compliance by fishers of the Fisheries Act to land and report catches, and
 - The IPP is responding to community perceptions rather than stock sustainability concerns.

All of these possible interpretations lack any supporting evidential substance in the IPP to convince us of the need for a management response.

Sustainability

8. There is no information presented in the IPP on the total allowable catches (TACs) for the fish stocks caught in Fisheries Management Area 1 (FMA1), which includes the Kaipara harbour. In most recent years the commercial catches (TACCs) for FLA, GMU and SPO have been undercaught, with no presented information in the IPP that is triggering sustainability concerns and required management intervention.
9. The TACCs have been undercaught from a combination of events, none of which are sustainability issues. Many fishers have left the Kaipara harbour fishery due to increasing costs, such as fuel prices, and regulatory complexities. The number of active nation wide fishing permits, and registered vessels is clearly reducing over time, this is seen in Table 1 below, and specifically Kaipara harbour (Stat Area 044), in Table 2.

Table 1 Active Fishing Permits and Registered Vessels, 2001 – 2007 (Source: FishServe)

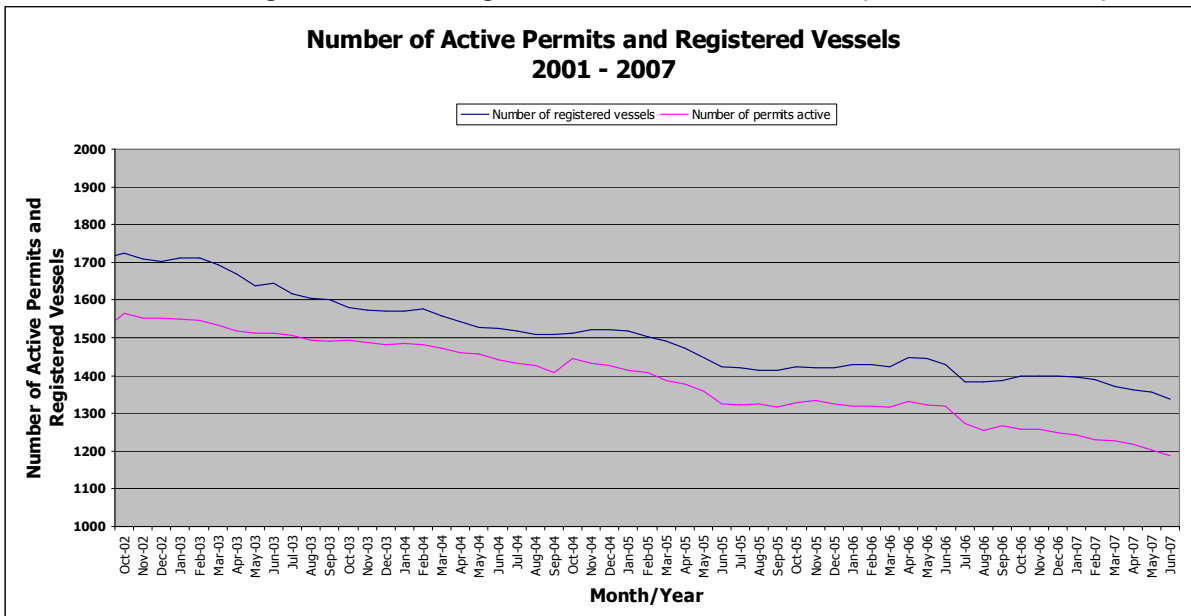
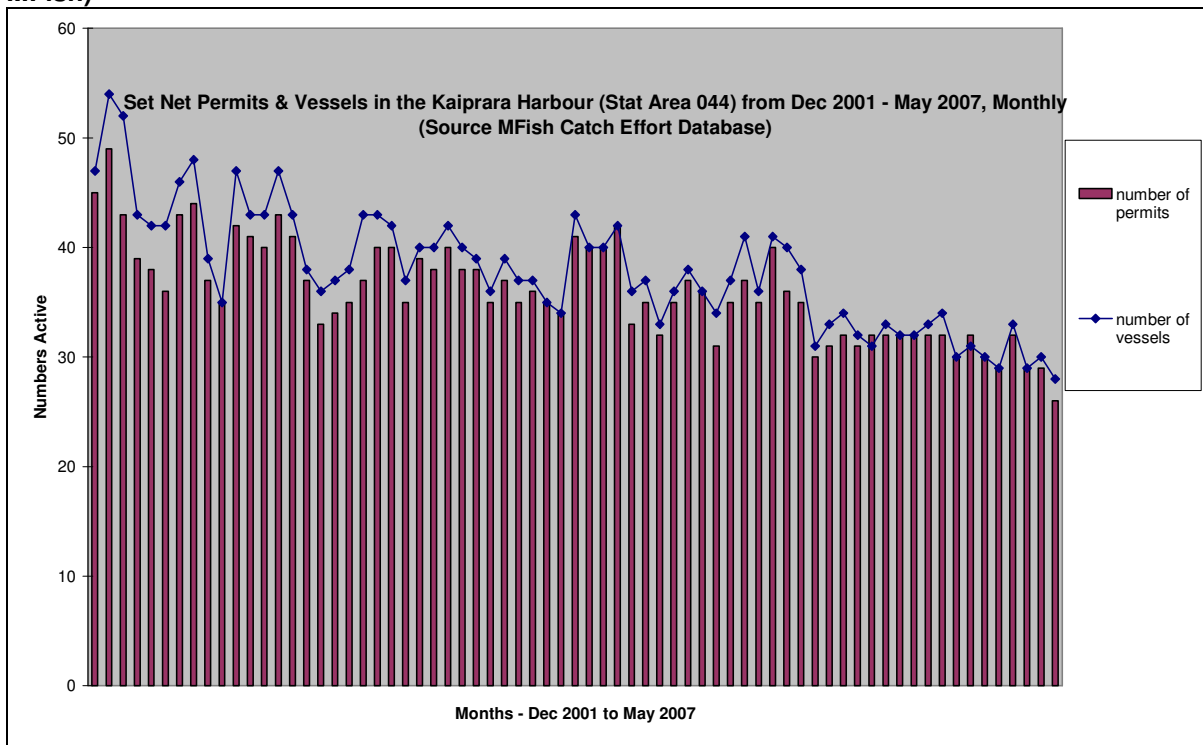


Table 2 Active Fishing Permits and Registered Vessels in the Kaipara harbour, 2001 – 2007 (Source: MFish)



Stakeholder Harvest Estimates

10. It is unknown what recreational and customary catches contribute to the TAC for the fish stocks caught in the Kaipara harbour, and whether they are contributing to any of the concerns raised in the IPP. The IPP is silent on the contributions of these stakeholders to catches within the TAC of many stocks caught in the Kaipara harbour, and any possible sustainability concerns that may arise.
11. It seems clear that a greater management priority is to collect catch and effort data on recreational and customary take before unnecessarily restricting commercial utilisation by removing the stalling provision.
12. MFish should also be reminded that the Kaipara harbour is just part of the overall catches that are managed at a stock level, or QMA. Any analysis, and management implementations should be considered at a QMA level. Fish stocks are using the harbour for only part of their life cycle, and are entering and exiting the harbour continually. There are significant implications in managing fish stocks as “substocks” and before any consideration is given to doing so, significant information and analysis would be required.

Compliance

13. The IPP implies that there is wide spread non-compliance of the quota management system (QMS) by fishers. Paragraph 8 claims fish are “*frequently discarded and not reported*”, but there are no presented examples, nor extent of such non-compliance claims in the IPP. The integrity of the QMS is founded on reporting requirements, which we support unconditionally. Unfounded IPP statements such as “*frequently discarded and not reported*”, are not helpful at all.

14. There is high demand for the key species taken in the Kaipara harbour. The returns to the fishers are the best that they have been for many years, as seen in the Auckland Fish Market and there is ample availability of ACE, so to table a proposition that fish is being "*frequently discarded and not reported*" is a nonsense and totally illogical. With the current high price of fuel a fisher needs to land every kilogram of fish to minimise costs and extract value out of the fishery.
15. If MFish considers there is a compliance issue regarding, retaining and reporting species as required by the Fisheries Act 1996 in this fishery, it should disclose the extent to which this is occurring in the IPP, and dispatch appropriate compliance methods to remind fishers of their legal obligations, and increase compliance efforts to catch offenders, and prosecute them accordingly.

Maximising Returns from Catches

16. Common sense states that fisher practices will ensure that the maximum value is returned from their catches. The fishing behavior will reflect this, undertaken within the package of regulated measures set by MFish to ensure fish stock sustainability. Paragraph 3 of the IPP states that "*with the use of stalling fish deteriorate and become unfit for sale*". The IPP provides no evidence of this, and makes a very subjective, unquantified statement. Useful information for consideration might be for example the sale price variations for species from stalled versus non-stalled nets. However, even if the fish were unfit for sale, or fetch a lower economic return to the fisher, it is not a sustainability issue, and therefore not of MFish concern.

Kaipara Harbour Extreme Conditions

17. The Kaipara harbour is the largest harbour in the Southern Hemisphere. The harbour is subject to extreme weather conditions, which change with little warning. Low tides present navigational challenges within the harbour for small set net vessels, and coupled with extreme weather conditions make it impossible to retrieve nets on the harbour during low tides, or extreme weather conditions. We understand this is the reason why stalling has been permitted to continue in the Kaipara harbour, to provide for utilization of the resource.

Summary

18. TNFMSCL support option 1 of the IPP, status quo. We believe the IPP has not adequately identified the issue requiring management intervention, and has inadequately undertaken a nature and extent analysis of set net stalling in the harbour. In the absence of a robust analysis, many statements in the IPP are misleading, and incorrectly imply that the stalling provision jeopardises the sustainability of various stocks in the harbour. The IPP is absent of the best available information, and options 2 & 3 are inconsistent with the utilization principle of the Fisheries Act 1996 should they be implemented.
19. In conclusion, TNFMSCL welcome future discussions with MFish to implement 'best practice' codes of practice on the harbour to improve community perceptions of Kaipara harbour commercial fishers.

Kind Regards
TNFMSCL



Andrew Bond
Secretary



SEAFOOD INDUSTRY COUNCIL

The New Zealand Seafood Industry Council Ltd

Submission on the IPP for the Review of Regulatory Measures and Other Management Controls for 1 April 2008

24 August 2007

Summary

Process for prioritizing regulatory measures and management controls for review

SeaFIC believes that there would be better overall benefit to all stakeholders if the Ministry consulted on a regular basis on the full list of regulatory measures and management controls identified for review for stakeholder input into the prioritization process. SeaFIC further believes that more clarity on the process and evaluation criteria applied by the Ministry when identify regulatory requirements and measures for review would be constructive.

Review of the regulation that permits the stalling of nets in Kaipara Harbour

SeaFIC has considered the issues raised in the IPP and discussed the proposals with the fishers from the harbour and the relevant CSO. Our conclusions in relation to the IPP are that:

- There is currently insufficient information on the nature and extent of stalling to make sensible management decisions
- The problem definition requires further work. In particular the IPP does not make a case for a sustainability concern for the stocks caught in stalled nets rather it confuses community perception over acceptable fishing methods with a perceived need for more fish in the harbour and potential, unproven risks of protected species bycatch
- This matter would ideally be considered as part of a fishery planning process for the stocks at the QMA level.

Amendment to the recreational scallop season in FMA 9

SeaFIC has no direct view on the options proposed. Common sense prevails that the proposed management option to increase the spawning biomass in the fishery prior to harvest should result in positive management outcomes.

Surf clam dredge size

Due to the development of a flexible and agreed management approach and the demonstrated willingness for quota owners and the Ministry to work together to ensure effective management of the fishery, SeaFIC supports the exemption of the surf clam fishery from regulation 78 of the Fisheries (Commercial Fishing) Regulations 2001.

Review of regulations relating to fishing interactions with marine turtles

SeaFIC considers that the reporting regulations for turtles are no longer required following proposed amendments to the Wildlife Act 1953 and the proposed introduction of regulatory reporting requirements to complete non-fish bycatch forms. We recommend that the turtle reporting regulations be revoked in full from the Fisheries (Commercial Fishing) Regulations 2001.

Container type reporting for Schedule Six discards

SeaFIC supports the correction of the technical problem with reporting requirements for Schedule Six discards. We support management option 1.

Paddle crab: allowing for return to the sea

Following consultation with paddle crab quota owners who target paddle crab by potting and fishers where unavoidable bycatch of paddle crabs is problematical, SeaFIC proposes that interim measures should be put in place to provide incentives for the accurate reporting of paddle bycatch in set net and trawl fisheries and to better allow for utilization in the target potting fishery. We propose the following measures:

- Potting method – addition of paddle crabs caught by potting to the Sixth Schedule for return to sea of crabs likely to survive. Removal of MLS for crabs caught in pots.
- Set net method – addition of paddle crabs caught in set nets to the Sixth Schedule for return to sea dead or alive and discards reported against code X. Dead paddle crabs not to be counted against ACE. Removal of MLS for set net caught crabs. Distinction made between live and dead paddle crabs returned.

- Trawl method – addition of paddle crabs caught in trawl nets to the Sixth Schedule for return to sea dead or alive and discards reported against code X. Dead paddle crabs not to be counted against ACE. Removal of MLS for trawl caught paddle crabs. Distinction made between dead and live crabs returned.

SeaFIC further recommend the need for a further review of paddle crab after a period to see if the TACC needs adjustment and whether regulatory or management control changes are required.

Proposal to list deepwater crabs on Schedule 6

SeaFIC supports the listing of deepwater crab species caught with potting gear to the sixth schedule and future consideration of trawl caught crab for addition if evidence is presented to support a high likelihood of survival.

Introduction

1. This submission is made by the New Zealand Seafood Industry Council Ltd (SeaFIC) on behalf of the seafood industry. The submission has been compiled by SeaFIC staff in consultation with our shareholders and the wider industry.
2. Our submission begins with a number of general points about the IPP. The remainder of the submission contains comments on the reviewed regulatory measures and other controls.
3. SeaFIC staff are available to discuss any of the matters raised in this submission. In the first instance, please contact Kate Bartram.

General comments

Process for prioritizing regulatory measures and management controls for review

4. SeaFIC would welcome more clarity on the process and evaluation criteria applied by the Ministry when identifying regulatory measures and management controls for review. Given the small number of regulations reviewed each year we would expect that priority would be given to measures and controls which either most restricted utilization or were urgently required to address sustainability concerns. SeaFIC believes there would be better overall benefit to all stakeholders if the Ministry consulted on the

full list of measures identified for review for input into the prioritisation process on an annual basis.

5. SeaFIC would welcome discussion with the Ministry at the earliest opportunity to talk about how industry engagement in the selection of regulatory and other management controls for review could be achieved. SeaFIC will call the Ministry in the near future to set up a meeting to explore this matter further.

Uneven quality of the IPP and need for clear problem definition

6. The reviews presented are of uneven quality, particularly in the levels of clarity, balance, careful analysis and supporting information provided in the commentary. Where analysis is weak this leads to poor advice. One of the issues that arises from several of the measures reviewed in the IPP is the lack of a clear problem definition. This is particularly apparent in the review that arose by way of request of the Minister. If the sustainability or utilization problem is not clearly defined in the IPP and supported by information and good analysis then it is difficult to make constructive comments on the various options if the management concerns are not clearly articulated in the IPP. Specific comments and suggestions are provided in Part B of this submission.
7. For several of the measures under review SeaFIC or other industry representatives have sought to clarify the concerns behind the IPP proposals through discussions with the relevant fisheries managers. These conversations, when they occurred, are inevitably helpful and illuminating and we appreciate the opportunity for discussion. Nevertheless the IPP should be able to be read as a stand alone document, without the need for additional information to be obtained by

Relationship of the IPP proposals to longer-term management objectives and the development of fisheries plans

8. Where the proposed management measures relate to specific stocks, SeaFIC believes that it would be helpful if the IPP management options and decisions could be presented in the context of likely longer term management of the fisheries to which the proposed controls would apply e.g. through a fisheries plan.
9. SeaFIC considers that the advice given and the decisions made on the management controls provides an opportunity to either embed

the fisheries plan approach and reinforce its credibility with stakeholders or alternatively distract from the fisheries plan process by pre-judging future management approaches, exacerbating tensions between stakeholders and reducing incentives to participate in collaborative processes.

10. We refer to our earlier comments on the lack of transparency of the selection criteria or priority of management controls to be considered on an annual basis. The development of fisheries plans should be directly linked to this prioritization process.
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Regulatory measures and other management controls for review

Review of the regulation that permits the stalling of nets in the Kaipara Harbour

11. SeaFIC is of the view that the IPP gives inadequate analysis and factual information to demonstrate that there is an actual sustainability problem for the IPP to address. The IPP has been prepared in response to a Ministerial directive to consider possible measures to improve fisheries management of west coast harbors. It suffers from the absence of a clear problem definition and information as to how this IPP addresses, as a priority, the problem identified. SeaFIC submits that further analysis needs to be undertaken to clarify a problem definition and develop a full range of relevant management options.
12. The aim of the IPP is unspecified beyond meeting a Ministerial directive. The IPP infers that the problem is that stalling results in discarding and non-reporting and that this causes some undesirable consequences for sustainability, yet much of the discussion of the implications for TACCs is not supported by evidence or analysis. Indirectly SeaFIC interprets the overall aim of the IPP is to increase the availability and abundance of fish in the Kaipara Harbour.
13. The premise of the IPP is then based around a notion of stakeholder community perceptions as to what is acceptable fishing practice rather than a consideration of the overall effects of fishing on the sustainability of the stocks. Whilst the Minister clearly has considerable discretion to decide what level of control is needed to ensure sustainability, we believe that he cannot restrict utilization for the reasons of community perception

14. SeaFIC considers this section of the IPP provides little real information or analysis on which management decisions can be based. The fundamental premise for reviewing stalling is based on sweeping unsubstantiated statements such as "*Stalling is a fishing practice that causes a significant amount of fish wastage that are then frequently discarded and not reported*"¹ despite the Ministry stating that they have no clear (if any) information on how much stalling occurs in the harbour or how much fish is lost due to wastage of fish in stalled nets².
15. Despite stalling being raised as an issue in 2004-05 it is not apparent what work, if any, the Ministry undertook to validate the anecdotal evidence presented at the time. No new scientific or compliance information has been made available. SeaFIC is of the view that there is currently insufficient information on the nature and extent of stalling in the Kaipara to make sensible management decisions. The management priority should be to improve information on the extent of compliance with reporting regulations and discard levels.
16. The IPP presents some stakeholder views on stalling. SeaFIC is disappointed that it failed to note the concerns made by commercial fishers (at an industry meeting to discuss proposed management measures), that accompanying nets whist stalling was not an option for all fishers due to access problems in certain parts of the harbour. The Kaipara Harbour is the largest harbour in the Southern hemisphere. Tidal effects of this much larger harbour significantly increase difficulties of access for fishers in the Kaipara to a far greater extent than in the much smaller estuaries which occur on the west coast. This is the primary reason, SeaFIC understands, why stalling has been allowed to occur in order to provide for *utilization* of the resource.
17. The Ministry makes several claims that the effects of stalling are (i) fish being discarded, and not reported, this lack of reporting could lead to stocks unknowingly be fished above the level permitted under the quota management system³ (ii) large volumes of fish wastage could reduce the availability and abundance of fish

¹ Review of the regulation that permits stalling of nets in the Kaipara Harbour
Paragraph 3

² Ibid Paragraph 5

³ Paragraph 8

in the Kaipara harbour⁴ (iii) the quality of the catch⁵ is reduced through exposure to the sun reducing value (iv) the potential for bycatch of protected species⁶ and (v) creation of conflict between stakeholders⁷. In response to these claims we make the following comments.

18. The claims of large amounts of discarded and unreported fish are not elaborated or substantiated in the IPP. Even if there was evidence provided of the quantum of the unreported discards it is not clear that they create a sustainability risk or that these could usefully be addressed through a change in regulation. If practices are a sustainability risk then they should be addressed through increased compliance and through discussion with the relevant CSO to establish appropriate good practice. Discarding of fish depends on a range of factors including the TACCs and the deemed values set for bycatch species and the compliance regimes that are operating in the FMA 9 region.
19. Catch from the Kaipara of all three target stocks is only a sub-component of the catch for the stock at the QMA level. As stalling only occurs in one sub-area of the QMA and the Ministry has no data on the quantum of alleged discards and non-reporting in a single sub-area it is hard to know what, if any, the actual risk of the sub-area non-reporting is to catches exceeding the levels set under the quota management system. If the management concern is whether total catches exceed the levels set by the Minister then it would appear that a greater management priority would be the collection of full data on recreational and customary take across the entire QMA as well as a compliance regime to provide robust estimates of commercial underreporting. Again greater clarity on the management problem is required.
20. It makes no economic sense to assume that discarding and non-reporting is a widespread practice by commercial fishers who generally seek to optimize the value of their catch in order to make an adequate return from the costs of deploying and retrieving nets.
21. There are multiple variables that affect the availability and abundance of fish in the Kaipara Harbour. If this is the management aim then it needs to be treated holistically and form

⁴ Paragraph 23

⁵ Paragraph 26

⁶ Paragraph 8

⁷ Paragraph 20

part of an integrated management plan. There are a range of other variables that could and should be considered including, levels of recreational and customary catch, environmental considerations, mesh sizes, return of pregnant fish and pups for rig, environmental management on land and within the harbour, etc.

22. The IPP alludes to stalling potentially affecting the sustainability of stocks in the harbour⁸. This statement assumes that the Kaipara is a closed system and a separate management unit. This is clearly not so. The main set net target species are all part of larger stock units of the QMA and are known to migrate in and out of the harbour to breed and spawn.
23. Catch quality is not a relevant consideration for the IPP. The QMS creates the framework for fishers to seek to maximize the value of the ACE held by understanding what the market requires and for quota owners to make conditions on the lease of ACE for the quality of fish they require. The total removals from the stock rather than the market value of the removals should be the relevant consideration.
24. SeaFIC supports measures to avoid remedy or mitigate the adverse effects of fishing on protected species. However, the nature and extent of by-catch of protected species scavenging from stalled nets is not elaborated on or substantiated. Even if there was evidence of incidental by-catch of protected species, it is not clear that they would constitute a sustainability issue. If the purpose of the proposed regulatory change is to manage fishing related mortality of wildlife then we would expect to see more comprehensive analysis and consultation supported by robust information as required under Section 15 of the Fisheries Act.
25. Stakeholder conflict is raised as a problem in the IPP in the absence of any analysis or information as to nature and extent of the conflict and the cause of conflict. Rather statements are made that stakeholders do not like the method due to perceived wastage and spoilage. This does not necessarily in our view equate to conflict that requires active management of resolution.

⁸ Paragraph 34 (b)

26. SeaFIC notes that it is in the interests of the industry itself to undertake its fishing practices where possible in a manner that is responsive to societal values and community perceptions
27. More generally we believe that there needs to be greater investment by the Ministry in the education of community groups in the fundamental principles of the QMS and the management approach taken at a stock level so that expectations for community management are kept within realistic boundaries.
28. Discussions with a sample of commercial fishers on the Kaipara indicate that a prohibition of stalling is not workable. Due to the shifting tides and channels it is inevitable that nets will on regular occasion get stalled due to problems of access. This proposed option sets fishers up to fail and face financial penalties. This option was not supported by any fisher contacted.
29. Attendance at nets was discussed at an industry meeting of commercial fishers from the Kaipara in October 2004⁹. Due to geographic variation in the harbour not all fishers feel that they can comply with an obligation to attend nets. Set net fishers use small boats that offer no protection from prevailing weather and sea activity. In some conditions it is not safe to attend nets and therefore attendance at nets should be guided more by best practice. Other fishers would face problems of falling tides stranding them in certain areas of the harbour particularly where muddy substrates prevail. Net attendance also adds additional time to the activity of fishing, increasing costs and therefore diminishing returns. Most commercial fishers contacted state that they currently attend nets where they can.
30. SeaFIC reiterates that there is inadequate information and an absence of a clear problem definition to make a sensible management decisions. We recommend that the Ministry gathers more information as to the extent of this practice and the constraints on net attendance for fishers in order to refine any management measures they put in place to be at least cost to existing users. We also encourage them to work with the CSO to develop best practice guidelines for commercial fishers in the Kaipara to improve community perceptions.

⁹ The Northern Inshore Fisheries Company Ltd. Minutes of a meeting held on 18th October 2004 at Kaiwaka Memorial Hall

31. SeaFIC has not been able to ascertain what effort the Ministry has gone to in order to explore how many fishers are reliant on stalling provisions to allow them to catch fish on the Kaipara. We are not aware of any survey the Ministry has undertaken to ascertain likely economic impact of the options proposed. Given the relatively small number of set net fishers this would have been an obvious and simple starting point. It is surprising therefore that the IPP states that on the best available information the benefits of option 2 or 3 outweigh the costs. The correct conclusion is that for any option it is not known whether the benefit outweighs the costs.

Amendment to the recreational scallop season in Fisheries Management Area 9.

32. SeaFIC has no direct view on the options proposed. In general comment the paper clearly defines the management problem relating to scallop growth and the proposed option relating to measures to allow more spawning scallops to recruit to the fishery with minimum disturbance appear sensible. Ideally such statements should be supported with evidence from the fisheries of growth information to inform decisions on the opening of the season.

Surf Clam Dredge Size

33. Due to the relatively small number of quota owners, the developmental nature of the fishery, the presence of an objective based management plan for the fishery and the demonstrated willingness for quota owners and the Ministry to work together to ensure effective management of the fishery, SeaFIC supports the option to exempt the surf clam fishery from regulation 78.

34. The development of a flexible and agreed management approach for the fishery as described above should remove the requirement for input controls such as dredge size and allow for innovation of catch methods to maximize value from the fishery and minimise environmental effects.

Review of regulations relating to fishing interactions with marine turtles

35. SeaFIC supports the collection of information on the incidental bycatch of turtles consistent with the resolution of the Western Central Pacific Fisheries Commission.
36. The review of these regulations in the IPP in SeaFIC's view is narrow and limited to an alignment of regulations with requirements under regional fisheries obligations rather than a deeper and more meaningful consideration of the management purpose of the regulations and fit with proposed amendments of the Wildlife Act 1953 and the proposed new non-fish bycatch reporting regulations.
37. Discussions between the Ministry, the Department of Conservation and industry in 2005 supported the development of a single reporting requirement for protected species through amending the Fisheries (Reporting) Regulations 2001 to require all commercial fishers, irrespective of method to require incidental catch of protected species (which includes marine turtles) on a separate return and making amendments to the Wildlife Act to remove requirements for parallel reporting under that legislation. It would appear that at this stage the reporting requirements for turtles under the Fisheries (Commercial Fishing) Regulations 2001 were overlooked.
38. The existing requirements of the Wildlife Act and new requirements of the non fish bycatch reporting requirements and proposed amendments to the Wildlife Act (if executed appropriately)¹⁰ make most of the existing turtle regulations redundant. There are a small number of anomalous requirements in the turtle regulations that SeaFIC has raised with Department and Ministry officials the current and future relevance of the regulations.
39. The IPP proposes to retain regulations relating to delivering injured turtles to approved institutions for care¹¹ and the offering of dead turtles to the Museum of New Zealand Te Papa Tongarewa¹². In constructive discussions with officials we can see no management purpose to retain these requirements in regulation. They are inconsistent with the treatment of incidental catch of other

¹⁰ The New Zealand Seafood Industry Council Submission on proposed legislative amendments to incidental catch reporting requirements for fishing operators July 2007

¹¹ Fisheries(Commercial Fishing) regulations 2001 regulation 47

¹² Ibid regulation 48

protected species, immediately place skippers in breach of the Wildlife Act through possession of protected species, create vessel, crew and seafood safety issues as well as unnecessary stress to injured animals. We prefer that any return of marine turtles be carried out by Ministry of Fisheries observers only.

40. The turtle regulations also include specific instructions relating to reporting of turtle catch. We believe that these should now be reviewed and transferred to the new non-fish bycatch reporting regulations and reporting guidelines for the purposes of clarity and consistency.
41. Taking and possession of marine turtles is prohibited under the Wildlife Act 1953 and therefore should be removed from the fishing regulations¹³. The Wildlife Act also requires uninjured and injured turtles to be returned to the sea and therefore regulation 46 should also be removed from the regulations.
42. We conclude that the turtle regulations should be revoked in full to provide for a single regulatory framework for reporting the incidental catch of turtles and the provisions of the Wildlife Act 1953 to guide the taking and possession of marine turtles.

Container type reporting for schedule 6 discards

43. SeaFIC supports the correction of a technical problem for the recording of Schedule Six discards through the removal of the requirement to report "container type" details.

Paddle crab: allowing for return to sea

44. SeaFIC has considered the issues raised in the IPP and discussed the proposals with key quota holders and target fishers in the different FMAs. SeaFIC believes that following these discussions a wider approach to paddle crab harvest should be considered.
45. There are two different fisheries for paddle crab; a target fishery based on potting that creates value, and a fishery based on unavoidable and unwanted bycatch in set nets and trawls that creates costs. In terms of management of the stock both fisheries have different issues that need to be addressed. The variability in

¹³ Fisheries(commercial Fishing) Regulations 2001 Regulation 45

regulations between FMAs such as MLS and harvest of berried crabs adds further complications to the management of paddle crabs

46. Most paddle crabs landed are recorded as being caught by potting. Potting allows for the harvest of crabs in a live whole (undamaged) state. The market sets the size for crabs. Different regions experience varying market requirements but typically crabs are required that exceed a 110mm carapace width size limit. Potting catches paddle crabs that cover a wide size range. In discussions with potters the proportion of catch that is below desired market size is between 80-90%.
47. Persons with quota and who are targeting paddle crabs by potting support the return to sea of live crabs. They view it as a sensible sustainability measure to return to the sea crabs in a live state, and provides a mechanism for quota and ACE holders to maximize value from the catch without the need for deemed value penalties for small sized crab with no market value. There is strong support from quota holders for the listing of paddle crab caught by potting on the Sixth Schedule and removal of all MLS limits for crabs caught by potting.
48. There is an unknown amount of paddle crab caught by trawling. Discussions with quota owners who land paddle crab by trawl method, particularly in the southern FMAs indicate that a significant proportion of crabs survive in good condition. Estimates of crab survivability were put at greater than 75%. As with potting many of the crabs caught by trawl are of less than marketable size. As with the crabs caught by potting, listing of paddle crabs caught by trawl on the Sixth Schedule will improve both utilization and sustainability of the stocks.
49. The absence of value for crabs caught by trawl creates disincentives for the reporting of mortality by these methods. Management of these stocks would be significantly improved if the amount of crab discarding whether dead or alive was recorded. SeaFIC propose that the Schedule Six listing should include the return of paddle crab dead or alive with an indication as to the percentage of dead crabs returned. We do not propose in the first instance that the return of dead crabs should be counted against ACE. In this case the MLS could be removed.
50. Paddle crabs are also caught in set nets as unavoidable and unwanted bycatch species. From time to time they can reach pest

proportions. Discussions with set net operators in the northern and southern FMAs indicates that it is not possible to remove the paddle crabs in a live state. The crabs tend to be broken in order to disentangle them from nets which results in product that is not acceptable to the market and many crabs at a size below market demand.

51. Fishers describe the entanglement issue as similar to hedgehogs caught in netting. The finer the mesh the harder to disentangle (e.g. nets targeting flounder). The time taken to remove whole crabs from the nets would remove any value from the fishing trip to target species such as rig and flat fish.
52. As with trawl bycatch the consequence for the management of the fishery is that there are no incentives for these fishers to land damaged and small product. Licensed fish receivers will not accept it. As QMS species, in regions where there is no MLS, fishers cannot discard any of it and in areas where there is a MLS fishers can only discard specimens under the MLS. Fishers currently have no mechanism to record set net or trawl unwanted bycatch of paddle crabs if a LFR refuses to accept the catch. This places them in an unusual position.
53. The by catch of set net paddle crabs and will not have been reported for catch history purposes used to set the TACC on introduction to the QMS due to discarding and non-reporting, and most probably set net removals and a significant proportion of trawl bycatch removals are currently not reported as there are no incentives to do so. There is therefore no accurate management information on total commercial removals from the stock. Notwithstanding, based presumably on evidence from the target potting fishery, the Ministry in the IPP has stated that there are currently no sustainability concerns for paddle crab stocks.
54. In making our submission on the setting of sustainability and management controls for paddle crab¹⁴ SeaFIC alluded to the no-win situation that introduction created for fishers who took paddle crab as bycatch and the inevitable promotion of non-compliance. This seems to be the current situation for bycatch crabs.

¹⁴ The New Zealand Seafood Industry Council 5th July 2007. Setting of Sustainability and other Management Controls for Stocks to be introduced into the QMS on 1 October 2002. Submission to the Ministry of Fisheries

55. Quota owners support the ability of set net fishers to return unwanted bycatch to the sea without penalty. They believe that the catch has not contributed to catch history and there has been no expansion of the target fisheries in which paddle crab are taken as bycatch. In order to improve information gathering on bycatch in the set net fishery and to remove incentives for non compliance SeaFIC proposes that paddle crabs caught by set nets should be listed on Schedule 6 for return to the waters dead or alive with the requirement that catch be reported against code X. Dead crabs should not be counted against ACE. In this instance the MLS for paddle crab caught by set net could be removed.
56. SeaFIC further recommend the need for a further review of paddle crab after a period to see if the TACC needs adjustment and the need for regulatory or management control changes.

Proposal to list deepwater crabs on Schedule 6 of the Fisheries Act 1996

57. SeaFIC notes that the owners of deepwater crab quota support the addition of deepwater crab species to Schedule 6 to enable their return to sea following capture.
58. As crabs caught in pots in the exploratory target fishery are likely to survive return to the sea, SeaFIC supports Schedule 6 listing for crabs caught with potting gear. This will enable operators in the target fishery maximize the value of the targeted catch by letting the market set the size for deepwater crabs. SeaFIC therefore supports option three.
59. SeaFIC supports future consideration of trawl caught crab for addition to the sixth schedule if evidence is presented to support a high likelihood of survival. SeaFIC notes that the Ministry invites the introduction of information relevant to trawl-caught crab survivability or the submission of proposals for a collaborative data collection process if such information is not available. We would encourage the relevant CSOs to engage in this process should they support listing of trawl-caught deepwater crabs on Schedule 6.

ENVIRONS HOLDINGS LTD

Level 3, 3-5 Hunt Street, PO Box 657 Whangarei
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24 July 2007

Tracey Steel
Ministry of Fisheries
PO Box 1020
Wellington

Tena Koe Tracey,

RE: REVIEW OF REGULATORY MEASURES AND OTHER MANAGEMENT CONTROLS FOR 1 APRIL 2008

Environs Holdings Ltd ("EHL") is the subsidiary of the Te Uri O Hau Settlement Trust which is responsible for the implementation of activities that advance the wellbeing of people and their environment within the Te Uri O Hau ("TUOH") rohe. TUOH is a hapu of the Ngati Whatua iwi descended from the eponymous ancestor Haumoewaarangi whose descendants settled the northern Kaipara region. On 17 October 2002, the historical claims of TUOH were settled by way of the Te Uri o Hau Claims Settlement Act 2002. Under Section 59 of the Te Uri O Hau Claims Settlement Act 2002 the Crown acknowledged the cultural, spiritual, historic and traditional association of Te Uri O Hau with the Kaipara and Mangawhai Harbour's. The statutory acknowledgement reaffirms Te Uri O Hau's status as kaitiaki of the area. The Kaipara Harbour is a source of mana and pride for all te Iwi o Ngati Whatua, recognised not only for its cultural and spiritual connection to Ngati Whatua, but also its important physical and economic attributes.

Submission:

Review of the regulation that permits stalling of nets in the Kaipara Harbour

1. The Kaipara Harbour is the only area of New Zealand where stalling of nets is permitted. This has been in recognition of the extreme tidal nature of this location. However there is anecdotal evidence that some fishers are stalling their nets for extended periods resulting in fish being stranded out of the water and significantly affecting their quality. This also prevents the return of live juvenile fish (the tributaries of the Kaipara provide an extremely important nursery habitat) and by catch species.
2. Te Uri O Hau are committed to the restoration of the harbor to a healthy and productive state. Therefore we support the Ministry's proposed option (b) – requiring attendance at

stalled nets in the Kaipara as a minimum , and would welcome further discussion on option c (prohibit stalling in the Kaipara Harbour) which we tentatively support.

Amendment to the Recreational Scallop Fishing Season in Fisheries Management Area 9

3. The current scallop season from July 15 to 14 February each year results in harvesting pressure on the scallops when they are in poor condition due to the early start of the season. Moreover, towards the end of the season they tend to be undersized as most of the legal-size scallops have already been removed. Environs strongly support the introduction of both options (b) and (c) proposed by the Ministry, that is a later opening of the scallop season, and an earlier closure. Environs representatives liaise with the Kaipara Harbour Sustainable Fisheries Management Group (KHSFMG), and through that forum and our local Kaipara Communities have a good understanding of what the local community desires in terms of the season's length. We recommend the annual open scallop season be from October 1 to January 14th inclusive.
4. It should be noted that research is currently being undertaken on the scallops in the Kaipara Harbour which should give the Ministry and tangata whenua some useful information on the status of the Scallop beds in the Kaipara. Environs, Te Runanga O Ngati Whatua and KHSFMG have proposed that the rahui on scallops in the Kaipara (expired on 14th July 2007) be reinstated for 12 months to allow further recovery of the stocks. The Ministry has indicated that the rahui could be reinstated during the month of August. We would expect that a second round of research would take place towards the end of the 186a closure period to ascertain the levels of recovery in the beds.

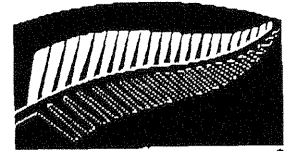
Thank you for the opportunity to make comment on these proposals. We look forward to further consultation from the Ministry on these matters.

Naku noa, na

Juliane Chetham

Environs Manager on behalf of

Environs Holdings Limited Board of Directors



**Farmers of
New Zealand**

PO Box 484 Whangarei 0140

23 August 2007

Bill Guest,
National Operations Director,
Farmers of New Zealand Inc.,
P.O. Box 484,
WHANGAREI.

Tele: (09) 439 1775
Fax: (09) 439 1887
Mobile: (0274) 882 995

Ian Ferguson,
Ministry of Fisheries,
P.O. Box 19747,
Avondale,
AUCKLAND.

Dear Sir,

**RE: REVIEW OF REGULATION THAT PERMITS STALLING OF NETS IN
THE KAIPARA HARBOUR**

On behalf of Farmers of New Zealand Inc. I forward our submission supporting Option 2.

Require fishers in the Kaipara Harbour to attend their stalled set nets at all times.

21. *If fishers attended their stalled set nets at all times, they could immediately remove all fish that may be exposed by the falling tide and avoid spoilage and wastage. This option should therefore improve the quality of catches by reducing the time fish remain out of the water.*
22. *However, this option is likely to have a direct cost for commercial fishers as they will be required to attend and work the nets. The precise economic impact of this is not known. This option may also be difficult to enforce.*
23. *If this option reduced fish wastage in the Kaipara, it could benefit both commercial and non-commercial fishers as the availability of fish in the harbour should increase.*

Yours faithfully,

Bill Guest
NATIONAL OPERATIONS DIRECTOR

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23 August 2007

Ian Ferguson
Ministry of Fisheries
P O Box 19 747
Avondale
Auckland

Dear Ian

Review of Stalling of Nets in the Kaipara Harbour

I am pleased to forward to you, on behalf of the Northland Non-Commercial Fishing Forum, our submission supporting Option 2 as set out in the Regulatory Impact Statement; part of the paper entitled Review Of The Regulation That Permits Stalling Of Nets In The Kaipara Harbour.

“Option 2: Require fishers in the Kaipara Harbour to attend their stalled set nets at all times

- 21 *If fishers attended their stalled set nets at all times, they could immediately remove all fish that may be exposed by the falling tide and avoid spoilage and wastage. This option should therefore improve the quality of catches by reducing the time fish remain out of the water.*
- 22 *However, this option is likely to have a direct cost for commercial fishers as they will be required to attend and work the nets. The precise economic impact of this is not known. This option may also be difficult to enforce.*
- 23 *If this option reduced fish wastage in the Kaipara, it could benefit both commercial and non-commercial fishers as the availability of fish in the harbour should increase.”*

Yours faithfully

Des Subritzky
**On behalf of the
Northland Non-Commercial Fishing Forum**