

Review of Sustainability Measures and other
management controls for 2007/08 (1 October)
fishing year

**Volume 1: Final Advice Papers and
Summary of Recommendations**

24 May 2007

TABLE OF CONTENTS

INTRODUCTION	3
FINAL ADVICE – NEW INSHORE LINING CATCH EFFORT RETURN	5
FINAL ADVICE – NEW INSHORE TRAWL CATCH EFFORT RETURN	12
FINAL ADVICE – TEMPORARY WAIVER FOR LICENSED FISH RECEIVER AUDIT REPORT REQUIREMENTS	21
FINAL ADVICE – A VESSEL MONITORING SYSTEM FOR THE SOUTHERN BLUEFIN TUNA FLEET	25
FINAL ADVICE – FOVEAUX STRAIT DREDGE OYSTER FISHERIES PLAN: LIMITING DREDGE SIZE IN NON-COMMERCIAL AREAS	34
FINAL ADVICE – DEVOLUTION OF AUTOMATIC LOCATION COMMUNICATOR REGISTRY SERVICES	39
FINAL ADVICE – PRAWN KILLER (PRK)	48
SUMMARY OF RECOMMENDATIONS	69

INTRODUCTION

1 This paper provides you with the Ministry of Fisheries (MFish) initial position, final advice and recommendations on those sustainability measures and other management controls reviewed for 2007/08 (1 October) fishing year.

2 The format of the final advice paper (FAP) includes:

Volume 1:

Final Advice Papers

Summary of Recommendations

Volume 2:

Initial Position Paper

Summary of Submissions

Submissions

Initial Position Paper

3 The initial position paper (IPP) was developed for consultation as required under the Fisheries Act 1996 (the Act) and it contained MFish's initial position on the issues for review. MFish emphasised that the views and recommendations outlined in the paper were preliminary and provided as a basis for consultation with stakeholders.

Consultation

4 On 21 February 2007, MFish provided copies of the IPP (Volume 2) to iwi, stakeholders and you. Stakeholders were asked to respond in writing by 13 April 2007.

5 A summary of the submissions received for each IPP, and the submissions (original versions) are included in Volume 2.

Final Advice Paper

6 This paper contains MFish's final advice to you on the proposals for the October 2007 regulatory round.

7 Each FAP section has MFish discussion (which contains an analysis of your statutory obligations in relation to each issue) and preferred options.

8 A summary of recommendations for all of the FAPs is included at the end of the document.

9 A copy of this advice paper will be made available to iwi and stakeholders who made a submission on these proposals following the announcement of your decisions.

Implementation of Decisions

- 10 Following your final decision on any changes to management controls for the 2007/08 (1 October) fishing year, officials will provide you with a draft letter to stakeholders outlining your decisions. In addition, s 12(2) of the Fisheries Act 1996 requires that after setting or varying any sustainability measure, you are required to write to sector groups advising them of the reasons for your final decisions.

INSHORE LINING CATCH EFFORT RETURN– FINAL ADVICE

Executive Summary

- 1 Unless otherwise advised by the Chief Executive, the Fisheries (Reporting) Regulations 2001 currently require vessels 28 metres and under in overall length to record fishing by bottom longlining, surface longlining (targeting species other than tuna or swordfish), and trot lining on Catch Effort and Landing Returns (CELRs).
- 2 The CELR is a multi-purpose form that is used to capture information from most kinds of commercial fishing. The CELR provides users of this information “low resolution” information (i.e. an overview of fishing activity, total number of shots/tows completed in a day) rather than a detailed account of each fishing event.
- 3 Important information such as high resolution catch and effort data is not collected on the CELR and the positions of vessels are often not available. “High resolution” information provides a detailed account of each fishing event (haul-by-haul) and the vessel position (latitude/longitude).
- 4 It is important that this information is collected to support accurate stock assessments and sustainable management of inshore fisheries.
- 5 An Initial Position Paper (IPP), released on 21 February 2007 proposed to amend the Fisheries (Reporting) Regulations 2001 to introduce a new lining catch effort return (“new trip reporting form”) for vessels between 6 and 28 metres in overall length.

Summary of Options

Initial Proposal

- 6 The IPP proposed the following options:
 - a) *Option one:* status quo (no action)
 - b) *Option two:* new trip reporting form - proposal to introduce a new lining catch and effort return to report fishing by the methods of lining for each fishing trip (MFish preferred option).

Final Proposal

- 7 MFish recommends that you agree to amend the Fisheries (Reporting) Regulations 2001 to allow the introduction of a new lining catch effort return for vessels between 6 and 28 metres in overall length who use the methods bottom longlining, surface longlining (targeting species other than tuna or swordfish), and trot lining (option two).

Submissions Received

8 Submissions regarding this proposal were received from:

- Challenger Finfisheries Management Company Ltd. (Challenger);
- New Zealand Federation of Commercial Fishermen Inc. (the Federation);
- Sanford Ltd. (Sanford);
- The New Zealand Seafood Industry Council Ltd. (SeaFIC).

Submissions summary

- 9 The Federation, Sanford and SeaFIC support gathering higher resolution catch and effort data than that provided by the generic CELR form. Challenger notes the value of improved spatial data. SeaFIC notes the support of higher resolution reporting data provided in Bentley et al. (2003)¹.
- 10 Challenger and SeaFIC note the collection of higher resolution commercial data would not necessarily ensure the accuracy of stock assessments without credible reporting from the non-commercial sector. SeaFIC expected the IPP to include an analysis of the current stock assessment information from all sectors.
- 11 Challenger, the Federation, and SeaFIC note the draft lining form that accompanied the Initial Position Paper (IPP) was not based on a development and review process via a working group. These submitters were also concerned the draft lining form had not been tested by real fishers and feedback from FishServe had not been sought. The Federation and SeaFIC note concern that input by fishermen and the working group into new form development was ignored.
- 12 Challenger, the Federation, Sanford, and SeaFIC note the importance of testing the draft lining form with real fishers to ensure it captures the required information accurately and is 'operationally functional.'
- 13 SeaFIC notes that new forms, including the draft lining form, are being developed in the 'absence of any wider and cohesive overview of catch effort reporting, requirements and reporting options'. They express concern that this will result in multiple forms being developed for 'increasingly smaller subsets of vessels and methods' and suggest that it would be better to review requirements by method and work towards a single form for that method. SeaFIC also notes that the IPP did not include an option to use the current Lining Catch and Effort Return for all long line fishing.
- 14 The Federation and SeaFIC note the IPP does not provide options for vessels that would be unable to meet the reporting requirements of the new form for various reasons. Specifically, concern was noted that vessels without GPS be allowed exemptions from reporting latitude/longitude data. SeaFIC notes the IPP did not include an analysis to determine the proportion of the fleet equipped to meet these new requirements.

¹ Bentley, N. et al. (2003). Options for finer scale reporting of catch and effort data in New Zealand commercial fisheries. Trophica/SeaFIC/Lat37.

- 15 SeaFIC notes concern that operators will need to complete separate forms for effort and landing (Catch Landing Return) which may create confusion, add costs, and reduce data usability by reducing the ability to link effort and landing data.
- 16 Challenger and SeaFIC note the IPP does not include provisions for education or awareness programmes to assist transition to new form. Challenger requests a review of all costs associated with implementation of new forms to be completed in consultation with working groups and industry.
- 17 The Federation and SeaFIC note support for implementation of an electronic system for reporting of catch, effort, and landing information, suggesting such a system would reduce costs, improve data quality, and increase timeliness of data.
- 18 Challenger and SeaFIC note concern that the management and control of reporting data is maintained by the government.
- 19 Of the provided options, Sanford notes preference for Option 2, the 'trip' reporting form. Sanford notes that their support is provisional on the further development, testing, and refinement of the draft lining form.

MFish Discussion

- 20 MFish notes the submitters support in regards to the collection of higher resolution catch effort information and improved spatial information and expresses appreciation for their feedback and involvement through their participation in working group and consultation processes.
- 21 MFish notes the concerns that high resolution commercial catch effort information alone will not ensure the accuracy of stock assessments, and agrees that increased reporting from the non-commercial sector may improve stock assessments. However, MFish believes that higher resolution commercial catch effort information is vital to improve the accuracy of stock assessments. MFish notes there is widespread support from industry representatives for the need to collect higher resolution catch effort data.
- 22 MFish notes concerns that the draft lining form that accompanied the IPP was not based on a development and review process via working groups and agrees that this process is warranted for the draft form. To begin this process, MFish has provided the working group that developed the Lining Catch Effort Return (LCER) with a draft form and requested consultation with the group to develop a final lining form. In conjunction with this consultation, MFish is also committed to testing the form with fishers to ensure its usability and functionality. MFish notes that the information fields on the draft lining form are very similar to the information fields on the LCER.
- 23 All input received from submitters into form development processes is considered by MFish, however ideas and suggestions are often not implemented for various reasons. Such reasons include: prioritisation of data needs, conflicting input, and the requirements of form design standards.
- 24 MFish notes SeaFIC's concern that new commercial catch effort forms be developed under a cohesive overview of catch effort reporting. A request for such a wider reporting and recordkeeping review was considered as part of the 2007/08 budget

process. Ministers declined to progress the review at this time. Until a wider review is undertaken MFish's current strategy is to facilitate the collection of higher resolution information by introducing new high resolution forms that shift data collection away from the CELR, which collects low resolution information. An important aspect of this strategy is to introduce as few forms as is possible to reduce complexity and costs. A major function of the working groups is to identify the largest scope of information that can be included on a given form. In this case, the working group that developed the LCER attempted to design a single form appropriate for all lining methods. This group determined that the LCER would be too onerous for smaller lining vessels to complete, and decided that a separate form should be developed. MFish believes that this strategy and the current working group process is consistent with SeaFIC's desires.

- 25 MFish notes the concerns from multiple submitters' regarding options for vessels that would be unable to meet the reporting requirements of the new form for various reasons. MFish acknowledges the possibility that some vessels may currently not be able to meet the reporting requirements. A process will be established to allow the fishers using these vessels to apply for an exemption from the new reporting requirements. A similar process was used successfully for the recently released Netting Catch, Effort, Landing Return (NCELR). MFish expects, based on the NCELR process, that most vessels that would be required to complete the new lining form would be able to meet the reporting requirements.
- 26 MFish notes SeaFIC's concern that having to complete separate effort and landing returns may create confusion and add costs. MFish agrees there is potential for confusion. The draft lining form was formatted as A4, a size considered appropriate for the size of vessels that will be using the form. Because of space limitations under this format, the form was designed to record effort only, and fishers would report landings on a separate CLR. MFish is committed to assessing this aspect through the working group and testing process. Mfish will consider moving to an A3 size form that will accommodate both effort and landing data if this is deemed appropriate through the working group and testing process.
- 27 MFish notes Challenger's and SeaFIC's concerns about education and awareness programmes and other potential costs associated with implementation of the new form. MFish intends to provide explanatory notes to help fishers to complete the lining form. The explanatory notes will contain more detailed information about how and when to complete each field on the form. Costs of implementing the new form are progressing with FishServe.
- 28 MFish notes SeaFIC's and the Federation's support for an electronic system for reporting of catch, effort and landing information. MFish has already carried out some work on the feasibility of allowing electronic provision of catch returns. Work is progressing with FishServe on options to progress electronic furnishing of catch effort forms.
- 29 MFish notes Challenger's and SeaFIC's concerns about government ownership and management of commercial catch effort data. MFish notes that this concern is outside the scope of this proposal and cannot be addressed here.

Rationale for Management Options

- 30 The Fisheries (Reporting) Regulations 2001 currently require vessels 28 metres and under in overall length to record fishing by bottom longlining, surface longlining (targeting species other than tuna or swordfish), and trot lining on Catch Effort, Landing Returns (CELR). The CELR is a multi-purpose form that is used to capture information from most methods of commercial fishing and has been used in the same format since it was introduced in 1989. It provides users with “low resolution information” (i.e. an overview of fishing activity, total number of shots/tows completed in a day).
- 31 The rationale for MFish’s preferred option (option two), is that the new lining trip reporting form will collect high resolution catch and effort data which will benefit fisheries managers, fishers, compliance officers, and scientists.
- 32 Some of the benefits of the new form include:
- Scientists will have an improved ability to examine the factors affecting fish distributions and stock abundance;
 - Fishers will have the ability to demonstrate fishing history for the purpose of establishing spatial property rights;
 - Fisheries managers will have an improved understanding of the fishery at a finer scale;
 - Compliance will have an improved ability to enforce spatial regulations.

Assessment of Management Options

Option one: status quo (no action)

- 33 The Fisheries (Reporting) Regulations 2001 currently require vessels 28 metres and under in overall length to record fishing by bottom longlining, surface longlining (targeting species other than tuna or swordfish), and trot lining on Catch Effort, Landing Returns (CELR). The CELR is useful because fishers are familiar with the form, it is relatively simple to fill out, and data processing costs are low. Also, because fishers are not required to record latitude and longitude, a navigational aid is not required to complete the form.
- 34 The disadvantage of the CELR is that it provides users of this information with an overview of fishing activity (e.g. total number of shots/tows completed in a day) rather than a detailed account of each fishing event and the vessel position (latitude, longitude). Also, the CELR only collects catch information for a small number of species.
- 35 The CELR does not collect high resolution information (set-by-set reporting with latitude and longitudes). The need to collect higher resolution catch effort information (than that available under the status quo) was supported by stakeholders in response to the IPP.
- 36 For these reasons, MFish believe that the status quo is not a desirable option.

Option two: new trip reporting form

- 37 The preferred option of MFish is to introduce a new trip reporting form to report fishing by the methods of bottom longlining, surface longlining (targeting species other than tuna or swordfish), and trot lining for each fishing trip.
- 38 A new trip-based catch effort return will reduce the uncertainty and inadequacy of the information that is currently provided by the CELR form. Users of lining information will be provided with a detailed account of each fishing event and the positions of vessels (latitude, longitude) instead of an overview of fishing activity. Also, the estimated catches of up to eight species will be captured per fishing event. MFish believe that a trip-based form is appropriate for lining vessels between 6 and 28 metres because fishing on multiple days can be recorded on each form, reducing the overall number of forms required.
- 39 Introduction of a new trip-based form that collects higher resolution information will increase the reporting effort for fishers, increase data processing costs, and may introduce confusion while the new form is introduced. It may require fishers to have a navigational aid to report latitudes and longitudes.
- 40 The Chief Executive has the power under Section 41 of the Fisheries (Reporting Regulations) to waive or suspend the reporting requirements of any forms required under these regulations where satisfied that it would cause undue hardship or would be duly impracticable.
- 41 A draft of a trip-based catch effort form was included with the IPP. MFish has adapted the draft form included in the IPP based on feedback from stakeholders. MFish will complete the form development and review process and thoroughly test the new form with fishers to ensure its effectiveness.

Statutory Considerations

42 In considering the issues and options outlined in this paper, the following statutory considerations have been taken into account:

43 **Section 9:** This section requires all persons exercising or performing functions, duties, or powers under the FA96, in relation to the utilisation or fisheries resources or ensuring sustainability, to take into account the following environmental principles:

- (a) Associated or dependent species should be maintained above a level that ensures their long-term viability:
- (b) Biological diversity of the aquatic environment should be maintained:
- (c) Habitat of particular significance for fisheries management should be protected.

MFish doesn't consider that these principles have a bearing on the proposed action in this case.

44 **Section 10:** This section requires all persons exercising or performing functions, duties, or powers under the FA96, in relation to the utilisation of fisheries resources or ensuring sustainability, to take into account the following information principles:

- (a) Decisions should be based on the best available information:
- (b) Decision makers should consider any uncertainty in the information available in any case:
- (c) Decision makers should be cautious when information is uncertain, unreliable or inadequate:
- (d) 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 the Act.

A new reporting form would reduce the uncertainty and inadequacy of the information that is currently provided by the CELR form. Users (e.g. fisheries managers, compliance officers and scientists) of lining information will be provided with a detailed account of each fishing event and the positions of vessels (latitude, longitude) instead of an overview of fishing activity (e.g. vessel positions at the statistical area level and total number of shots/tows completed in a day).

45 **Section 189:** This section provides for the keeping of accounts and records by certain parties including holders of fishing permits, special permits, licences or other authorities or approvals issued or granted under the FA96 entitling the holder to take fish, aquatic life, or seaweed; and owners, operators, notified users, and masters of vessels registered under the FA96. It also requires those parties to provide such returns and information, as may be required by regulations made under the FA96.

46 **Section 297(h):** This section allows the making of regulations relating to the accounts, records, returns and information required to be kept and provided under section 189.

47 The **Fisheries (Reporting) Regulations 2001** sets out the requirements for the reporting of catch and provides for matters associated with it.

INSHORE TRAWL CATCH EFFORT RETURN– FINAL ADVICE

Executive Summary

- 1 Unless otherwise advised by the Chief Executive, the Fisheries (Reporting) Regulations 2001 currently require vessels 28 metres and under in overall length to record fishing by bottom trawl, bottom pair trawl, mid-water trawl, and mid-water pair trawl on Catch Effort and Landing Returns (CELRs).
- 2 The CELR is a multi-purpose form that is used to capture information from most kinds of commercial fishing. The CELR provides users of this information “low resolution” information (i.e. an overview of fishing activity, total number of shots/tows completed in a day) rather than a detailed account of each fishing event.
- 3 Important information such as high resolution catch and effort data is not collected on the CELR and the positions of vessels are often not available. “High resolution” information provides a detailed account of each fishing event (tow-by-tow) and the vessel position (latitude/longitude).
- 4 It is important that this information is collected to support accurate stock assessments and sustainable management of inshore fisheries.
- 5 An Initial Position Paper (IPP), released on 21 February 2007 proposed to amend the Fisheries (Reporting) Regulations 2001 to introduce a new trawl catch effort return options for vessels between 6 and 28 metres in overall length.

Summary of Options

Initial Proposal

- 6 The IPP proposed the following options:
 - a) *Option one:* status quo (no action)
 - b) *Option two:* new trip reporting form - proposal to introduce a new Trawl Catch Effort Return (TCER) to report fishing by the methods of bottom trawl, bottom pair trawl, mid-water trawl, and mid-water pair trawl for each fishing trip (MFish Preferred option). A draft trip reporting form was included in the IPP.
 - c) *Option three:* new daily reporting form - proposal to introduce a new catch and effort return to report fishing by the methods of bottom trawl, bottom pair trawl, mid-water trawl, and mid-water pair trawl for each day, or part day of a fishing trip. A draft daily reporting form was included in the IPP.
 - d) *Option four:* requirement to report methods of bottom trawl, bottom pair trawl, mid-water trawl, and mid-water pair trawl on a Trawl Catch Effort Processing Return (TCEPR).

Final Proposal

- 7 MFish recommends that you agree to amend the Fisheries (Reporting) Regulations 2001 to allow the introduction of a new trip-based catch effort return for vessels between 6 and 28 metres in overall length who use the methods of bottom trawl, bottom pair trawl, mid-water trawl, and mid-water pair trawl (option two).

Submissions Received

- 8 Submissions regarding this proposal were received from:
- Area 2 Inshore Finfish Management Company Ltd. (Area 2);
 - Challenger Finfisheries Management Company Ltd. (Challenger);
 - New Zealand Federation of Commercial Fishermen, Inc. (the Federation);
 - Sanford Ltd. (Sanford);
 - The New Zealand Seafood Industry Council Ltd. (SeaFIC).

Submissions summary

- 9 The Federation, Sanford and SeaFIC support gathering higher resolution catch and effort data than that provided by the generic CELR form. Area 2 and Challenger note the value of improved spatial data. SeaFIC notes the support of higher resolution reporting data provided in Bentley et al. (2003)².
- 10 Challenger and SeaFIC note the collection of higher resolution commercial data would not necessarily ensure the accuracy of stock assessments without credible reporting from the non-commercial sector. SeaFIC expected the IPP to include an analysis of the current stock assessment information from all sectors.
- 11 Area 2, Challenger, the Federation, and SeaFIC note the draft TCER that accompanied the Initial Position Paper (IPP) was based on an incomplete development and review process. In particular, submitters were concerned the draft TCER had not been tested by real fishers and feedback from FishServe had not been sought. The Federation and SeaFIC note concern that input by fishermen and the working group into new form development was ignored.
- 12 Challenger, the Federation, Sanford, and SeaFIC note the importance of testing the draft TCER with real fishers to ensure it captures the required information accurately and is 'operationally functional.'
- 13 SeaFIC notes that new forms, including the TCER, are being developed in the 'absence of any wider and cohesive overview of catch effort reporting, requirements and reporting options.' They express concern that this will result in multiple forms being developed for 'increasingly smaller subsets of vessels and methods' and suggest that it would be better to review requirements by method and work towards a single form for that method.

² Bentley, N. et al. (2003). Options for finer scale reporting of catch and effort data in New Zealand commercial fishers. Trophic/SeaFIC/Lat37.

- 14 Area 2, the Federation, and SeaFIC note the IPP does not provide options for vessels that would be unable to meet the reporting requirements of the new form for various reasons. Specifically, concern was noted that vessels without GPS be allowed exemptions from reporting latitude/longitude data. SeaFIC notes the IPP did not include an analysis to determine the proportion of the fleet equipped to meet these new requirements.
- 15 Area 2 notes that vessels over 20m are likely to have adequate crew members (3) to support reporting lats/longs on a tow by tow basis. They suggest vessels > 20m complete existing Trawl Catch, Effort, Processing Returns (TCEPR) and vessels 6m to 20m complete CELRs with the requirement to record lats/longs rather than statistical areas. Area 2 also suggests that finfish statistical areas could be replaced by finer scale (PAU, CRA) statistical areas if lats/longs could not be provided.
- 16 SeaFIC notes concern that operators will need to complete separate forms for effort (TCER) and landing (Catch Landing Return; CLR) which may create confusion, add costs, and reduce data usability by reducing the ability to link effort and landing data. Area 2 recommends that small vessels continue to use a 'per trip' reporting form so that a CLR is not required.
- 17 Challenger and SeaFIC note the IPP does not include provisions for education or awareness programmes to assist transition to new form. Challenger requests a review of all costs associated with implementation of new forms to be completed in consultation with working groups and industry.
- 18 The Federation and SeaFIC note support for implementation of an electronic system for reporting of catch, effort, and landing information, suggesting such a system would reduce costs, improve data quality, and increase timeliness of data.
- 19 Challenger and SeaFIC note concern that the management and control of reporting data is maintained by the government.
- 20 Of the provided options, Challenger, Sanford and SeaFIC note preference for Option 2, the 'trip' reporting form. However, all parties note that their support is provisional on the further development, testing, and refinement of the draft TCER, and none are prepared to support the introduction of the TCER as it currently stands. Area 2 supported "Option 1 Modified", which includes requiring vessels 20m + to complete TCEPRs and vessels 6m to 20m to complete CELRs with lats/longs required.

MFish Discussion

- 21 MFish notes the submitters support in regards to the collection of higher resolution catch effort information and improved spatial information and expresses appreciation for their feedback and involvement through their participation in working group and consultation processes.
- 22 MFish notes concerns that high resolution commercial catch effort information alone will not ensure the accuracy of stock assessments and agrees that increased reporting from the non-commercial sector may improve stock assessments. However, MFish believes that higher resolution commercial catch effort information is vital to

improving the accuracy of stock assessments and notes the widespread support of higher resolution catch effort data from industry representatives.

- 23 MFish notes concerns that the draft TCER that accompanied the IPP was based on an incomplete development and review process and agrees that further review and testing of the draft form is warranted. To begin this process, MFish has provided the working group an updated draft form, based on feedback received, and is reinitiating consultation with the working group. MFish is also moving forward with plans to conduct testing of the draft form with fishers to ensure its functionality. MFish notes that the working group has previously been consulted on and has agreed to the choice of information fields that will be on the draft form. MFish also confirms that all input received into form development processes is considered; however, ideas and suggestions are often not implemented for various reasons, including prioritisation of data needs, conflicting input, and the requirements of form design standards.
- 24 MFish notes SeaFIC's concern that new commercial catch effort forms be developed under a cohesive review of catch effort reporting. A request for such a wider reporting and recordkeeping review was considered as part of the 2007/08 budget process. Ministers declined to progress the review at this time. Until a wider review is undertaken MFish's current strategy is to facilitate the collection of higher resolution information by introducing new high resolution forms that shift data collection away from the CELR, which collects low resolution information. An important aspect of this strategy is to introduce as few forms as is possible to reduce complexity and costs. A major function of the working groups is to identify the largest scope of information that can be included on a given form. In this case, the working group originally attempted to design a functional form that included trawling, dredging, and Danish seining for 6m to 28m vessels. When it became apparent that all these methods could not be accommodated on a single form, the working group decided to design a trawl-specific form for these vessels. MFish believes that this strategy and the current working group process is consistent with SeaFIC's desires.
- 25 MFish notes concerns from multiple submitters regarding options for vessels that would be unable to meet the reporting requirements of the new form for various reasons. MFish acknowledges the possibility that some vessels may currently not be able to meet the reporting requirements. A process will be established to allow the fishers using these vessels to apply for an exemption from the new reporting requirements. A similar process was used successfully for the recently released Netting Catch, Effort, Landing Return (NCELR). MFish expects, based on the NCELR process, that most vessels that would be required to complete the TCER would be able to meet the reporting requirements.
- 26 MFish appreciates Area 2's suggestion that vessels 20+ be required to complete a TCEPR and vessels 6-20m complete a CELR with lats/longs. MFish notes that similar options were considered by the TCER working group, and deemed to be less effective than moving all 6-28m vessels to a new form. While the CELR can be used to record lats/longs, it is essentially a low resolution form that currently allows fishers to aggregate data by day, and attempting to collect high resolution information on it is likely to be inefficient and error-prone.
- 27 MFish notes SeaFIC's concern that having to complete separate effort and landing returns may create confusion and add costs. MFish agrees there is potential for

confusion. The TCER working group determined that an A4 sized form was appropriate. Because of space limitations under this format, the working group also decided the form would be effort only, and fishers would report landings on a separate CLR. MFish is committed to assessing this aspect of the form with fishers through the testing process. If testing indicates possible issues, MFish will consult with the working group to consider moving to an A3 size form that will accommodate both effort and landing data.

- 28 MFish notes Challenger's and SeaFIC's concerns about education and awareness programmes and other potential costs associated with implementation of the new form. MFish intends to provide explanatory notes to help fishers to complete the TCER. The explanatory notes will contain more detailed information about how and when to complete each field on the form. Costs of implementing the new form are progressing with FishServe.
- 29 MFish notes SeaFIC's and the Federation's support for an electronic system for reporting of catch, effort and landing information. MFish has already carried out some work on the feasibility of allowing electronic provision of catch returns. Work is progressing with FishServe on options to progress electronic furnishing of catch effort forms.
- 30 MFish notes Challenger's and SeaFIC's concerns about government ownership and management of commercial catch effort data. MFish notes that this concern is outside the scope of this proposal.
- 31 MFish appreciates the submissions by Challenger, Sanford, and SeaFIC, offering provisional support for Option 2, the 'trip' based TCER form. MFish will focus on this option in its continued consultation with the working group and continue to develop and refine the 'trip' based form. MFish also notes Area 2's support for a modified Option 1. However, as noted above, this approach was considered by the working group and deemed less effective than developing a new high resolution form.

Rationale for Management Options

- 32 The Fisheries (Reporting) Regulations 2001 currently require vessels 28 metres and under in overall length to record fishing by trawling on Catch Effort, Landing Returns (CELR). The CELR is a multi-purpose form that is used to capture information from most methods of commercial fishing and has been used in the same format since it was introduced in 1989.
- 33 The rationale for MFish's preferred option (option two), is that a new trip reporting form will collect high resolution catch and effort data which will benefit fisheries managers, fishers, compliance officers, and scientists.
- 34 Some of these benefits of the new form include:
 - Scientists will have an improved ability to examine the factors affecting fish distributions and stock abundance;
 - Fishers will have the ability to demonstrate fishing history for the purpose of establishing spatial property rights;

- Fisheries managers will have an improved understanding of the fishery at a finer scale;
- Compliance will have an improved ability to enforce spatial regulations.

Assessment of Management Options

- 35 Following consultation with stakeholders, SeaFIC questioned the current MFish strategy for review of catch effort reporting, and suggested that new commercial catch effort form should be developed under a cohesive overview of catch effort reporting.
- 36 MFish's current strategy is to facilitate the collection of high resolution information by introducing new high resolution forms that shift data collection away from the CELR, which collects low resolution information. An important aspect of this strategy is to introduce the minimum number of forms as possible to reduce complexity and costs for industry.
- 37 A working group comprising MFish and industry representatives was set up to develop a form. A major function of the working groups was to identify the largest volume of information that can be included on a given form. In this case, the working group originally attempted to design a functional form that included trawling, dredging, and Danish seining for 6m to 28m vessels. When it became apparent that all these methods could not be accommodated on a single form, the working group decided to design a trawl-specific form for these vessels. MFish believes that this strategy and the current working group process are consistent with the submitters' desires.

Option one: status quo (no action)

- 38 The Fisheries (Reporting) Regulations 2001 currently require vessels 28 metres and under in overall length to record fishing by trawling on Catch Effort, Landing Returns (CELR). The CELR is useful because fishers are familiar with the form, it is relatively simple to fill out, and data processing costs are low. Also, because fishers are not required to record latitude and longitudes, a navigational aid is not required to complete the form.
- 39 The disadvantage of the CELR is that it only provides users of this information with an overview of fishing activity (e.g. total number of shots/tows completed in a day) rather than a detailed account of each fishing event including the vessel position (latitude, longitude). Also, the CELR only collects catch information for a small number of species.
- 40 The CELR does not collect high resolution information (set-by-set reporting with latitude and longitudes). The need to collect higher resolution catch effort information (than that available under the status quo) was supported by stakeholders in response to the IPP.
- 41 For these reasons, MFish believe that the status quo is not a desirable option.

Option two: new trip reporting form (MFish preferred option)

- 42 The preferred option of MFish is to introduce a new trip reporting form (the Trawl Catch Effort Return (TCER)) to report fishing by the methods of trawling for each fishing trip.
- 43 A new trip-based catch effort return will reduce the uncertainty and inadequacy of the information that is currently provided by the CELR form. Users of inshore trawl information will be provided with a detailed account of each fishing event and the positions of vessels (latitude, longitude) instead of an overview of fishing activity. Also, the estimated catches of up to eight species will be captured per fishing event. Mfish believes that a trip-based form is appropriate for inshore trawl vessels because fishing on multiple days can be recorded on each form, reducing the overall number of forms required.
- 44 Introduction of a new trip reporting form that collects higher resolution information will increase the reporting effort for fishers, increase data processing costs, and may introduce confusion while the new form is introduced. It may require fishers to have a navigational aid to report latitudes and longitudes.
- 45 The Chief Executive has the power under Section 41 of the Fisheries (Reporting Regulations) to waive or suspend the reporting requirements of any forms required under these regulations where satisfied that it would cause undue hardship or would be duly impracticable.
- 46 A draft of a trip-based catch effort form was included with the IPP. Several submissions noted provisional support for this option, conditional on completion of review and form testing processes. Since the IPP, MFish has consulted on and adapted the draft form based on feedback from stakeholders and testing by fishers and will finish fine-tuning the form in the near future.

Option three: new daily reporting form

- 47 Option three is for the introduction of a new daily reporting form to report fishing by the methods of trawling for each fishing day.
- 48 This option shares the advantages and potential disadvantages of option two (trip reporting form). However, because a daily form will likely force inshore trawl fishers to complete more forms overall than option two, MFish believe this is not the most desirable option.

Option four: report on a Trawl Catch Effort Processing Return

- 49 Option four involves an amendment to the Fisheries (Reporting) Regulations 2001. Under option four, vessels between 6 and 28 metres would be required to report methods of trawling on a TCEPR.
- 50 This option shares several advantages and disadvantages of option two (trip reporting form). It would allow inshore trawl vessels to report detailed information for each fishing event and the positions of vessels (latitude, longitude) instead of an overview of fishing activity. However, it only allows fishers to record estimated catches for five species rather than eight. Also, the TCEPR includes a processing section that is of little relevance to inshore trawling operations.

51 For these reasons, MFish believe this is not the most desirable option.

Statutory Considerations

52 In considering the issues and options outlined in this paper, the following statutory considerations have been taken into account:

53 **Section 9:** This section requires all persons exercising or performing functions, duties, or powers under the FA96, in relation to the utilisation or fisheries resources or ensuring sustainability, to take into account the following environmental principles:

- (a) Associated or dependent species should be maintained above a level that ensures their long-term viability:
- (b) Biological diversity of the aquatic environment should be maintained:
- (c) Habitat of particular significance for fisheries management should be protected.

MFish doesn't consider that these principles have a bearing on the proposed action in this case.

54 **Section 10:** This section requires all persons exercising or performing functions, duties, or powers under the FA96, in relation to the utilisation of fisheries resources or ensuring sustainability, to take into account the following information principles:

- (a) Decisions should be based on the best available information:
- (b) Decision makers should consider any uncertainty in the information available in any case:
- (c) Decision makers should be cautious when information is uncertain, unreliable or inadequate:
- (d) 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 the Act.

A new reporting form would reduce the uncertainty and inadequacy of the information that is currently provided by the CELR form. Users (e.g. fisheries managers, compliance officers and scientists) of inshore trawl information will be provided with a detailed account of each fishing event and the positions of vessels (latitude, longitude) instead of an overview of fishing activity (e.g. vessel positions at the statistical area level and total number of shots/tows completed in a day).

55 **Section 189:** This section provides for the keeping of accounts and records by certain parties including holders of fishing permits, special permits, licences or other authorities or approvals issued or granted under the FA96 entitling the holder to take fish, aquatic life, or seaweed; and owners, operators, notified users, and masters of vessels registered under the FA96. It also requires those parties to provide such returns and information, as may be required by regulations made under the FA96.

56 **Section 297(h):** This section allows the making of regulations relating to the accounts, records, returns and information required to be kept and provided under section 189.

57 The **Fisheries (Reporting) Regulations 2001** sets out the requirements for the reporting of catch and provides for matters associated with it.

TEMPORARY WAIVER FOR LICENSED FISH RECEIVER (LFR) AUDIT REPORT REQUIREMENTS – FINAL ADVICE

Executive Summary

- 1 The Quota Management System is underpinned by a compliance regime of prescribed source documents documenting product flow. With respect to Licensed Fish Receivers (LFRs) part of their regulatory requirements are managed within the Fisheries (Recordkeeping) Regulations 1990 ('Recordkeeping Regulations') and the Fisheries (Reporting) Regulations 2001 ('Reporting Regulations'). These help enable the Ministry of Fisheries (MFish) to trace the product flow from the point of origin to the point of consumption within the commercial sector.
- 2 Under reg 20 of the Reporting Regulations, LFRs must be audited annually and furnish an annual audit report. Some LFRs furnish identical annual audit reports each year that reflect generally compliant behaviour and relatively static business operations.
- 3 An Initial Position Paper (IPP), released on 1st of March 2007 for external consultation, proposed an amendment to the Reporting Regulations to allow for temporary annual audit report waivers, of up to two years, to be considered by the Chief Executive on application by a LFR.
- 4 Where such applications are approved, there are reduced compliance business costs for LFRs, increased incentives to comply with Reporting and Recordkeeping Regulations, and greater flexibility for MFish to control the annual audit process.

Summary of Options

Initial Proposal:

- 5 The IPP proposed the following options:
 - a) *Option 1:* Retain *status quo* with all LFRs required to submit annual audit reports granting waivers only in limited circumstances relating to hardship or impracticality.
 - b) *Option 2:* Amend Reporting Regulations to include an additional category of temporary waiver for annual audit reports. These will be issued by the Chief Executive, with appropriate conditions, if a LFR meets and complies with criteria for gaining the temporary waiver. The Chief Executive may revoke waivers if the LFR makes changes to its business affecting the basis on which approval was granted, for example, if changes are made to the nature of the LFRs business that affect the annual audit report information, or the LFR commits an offence.

Final Proposal:

- 6 MFish recommends that you agree to amend the Fisheries (Reporting) Regulations 2001 to allow for temporary annual audit report waivers, of up to two years, to be granted by the Chief Executive on application by a LFR (Option 2). The Chief Executive would have power to revoke the waiver.

Submissions Received

- 7 MFish received the following submissions on the temporary waiver for LFR audit report requirements IPP:
- Akaroa Harbour Recreational Fishing Club (Inc)
 - Peter Thomas Herbert
 - Sanford Ltd. and Auckland Fish Market Ltd.
 - The New Zealand Seafood Industry Council Ltd. (SeaFIC)
 - Sealord Fishing
 - South East Resources (2001) Ltd.
 - Talley’s Fisheries Ltd. – Andrew Talley and Doug Saunders-Loder
 - United Fisheries Ltd.
 - Whangamata Seafoods
- 8 No submissions in opposition to the temporary waiver proposal were received.

Rationale for Management Options

- 9 Within the compliance regime of the QMS, one of the biggest risks to the integrity of the system is fraudulent activity associated with records and returns. The Reporting and Recordkeeping Regulations address this risk by prescribing requirements for ‘source documents’ that a LFR must maintain. This allows MFish to track the product flow of fish received, processed and sold by LFRs right throughout the supply chain.
- 10 Regulations require annual audit reports to be filed by LFRs even if there have been no changes in business systems, related documentation or in compliance risks. The business compliance costs associated with furnishing these annual audit reports are both costly and time consuming for LFRs to file and MFish to process.
- 11 Experience with this regime has led MFish to develop this proposal to grant temporary waivers for compliant LFRs whose businesses do not pose a significant compliance risk in respect to the size and static nature of their LFR business. The industry has similarly proposed this option in the past to MFish as a means to reduce their compliance costs with little impact on MFish’s ability to monitor LFRs through recordkeeping documentation. This is the rationale for the proposal.
- 12 There are no significant advantages to retaining the status quo (Option 1), with the lost opportunity to promote voluntary compliance and reduce LFR business costs being a major disadvantage to the commercial sector.

Assessment of Management Options

Option 1-Status Quo.

- 13 There are no advantages to retaining the status quo.
- 14 Retaining the status quo would lose an opportunity to reduce LFR business costs which would disadvantage the commercial industry.

Option 2-Amend Reporting Regulations to include temporary waiver for LFR annual audit holiday.

- 15 MFish recommends amending the Reporting Regulations to include an additional category of temporary waiver for annual audit reports from LFRs (Option 2). This recommendation would reduce the business costs associated for LFRs furnishing similar annual audit reports from year to year, increase incentives to comply with regulations, while presenting little compliance risk.
- 16 All of the submissions received from commercial fishers and SeaFIC were unanimously in favour of introducing the proposal option for a temporary annual audit waiver for LFRs. MFish was commended for their initiative to attempt to reduce LFR business costs where possible, an outcome confirmed by industry in their submissions.
- 17 Only one submission was received from groups other than commercial fishers. That submission, from the Akaroa Harbour Recreational Fishing Club (Inc) stated they did not wish to provide a submission on the proposed temporary annual audit waiver.

Statutory Considerations

- 18 In considering the issues and options outlined in this paper, the statutory considerations set out in the following paragraphs are relevant.
- 19 Section 8 of the Fisheries Act 1996 (the Act) provides for the utilisation of fisheries resources while ensuring sustainability.
- 20 Section 9 of the Act requires all persons exercising or performing functions, duties, or powers under the Act, in relation to the utilisation of fisheries resources or enduring sustainability, to take into account the following environmental principles;
 - a) Associated or dependent species should be maintained above a level that ensures their long-term viability;
 - b) Biological diversity of the aquatic environment should be maintained;
 - c) Habitat of particular significance for fisheries management should be protected.
- 21 Section 10 states that all persons exercising or performing functions, duties, or powers under the Act, in relation to the utilisation of fisheries resources or ensuring sustainability shall take into account the following information principles:
 - a) Decisions should be based on the best available information:
 - b) Decision makers should consider any uncertainty in the information available in any case:
 - c) Decision makers should be cautious when information is uncertain, unreliable, or inadequate:
 - d) 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.
- 22 These three criteria require utilisation, sustainability and maintaining the best possible information of the fishery. They will not be affected by the proposed change to the LFR annual audit temporary waiver.

- 23 Section 297(1)(j) allows the Governor-General, from time to time, by Order in Council, to make regulations for all or any of the following purposes:
- a) Prescribing for the auditing of licensed fish receivers, including regulations –
 - i) Requiring every licensed fish receiver to provide one or more certificates of system audit in respect of the receiving, accounting, and other systems required by this Act to be maintained by the licensed fish receiver, and requiring every licensed fish receiver to provide a description and details of such systems operated by that person:
 - ii) Specifying the frequency with which certificates of system audit and other documentation should be provided to the chief executive:
 - iii) Specifying the type or class of persons who may be approved by the chief executive to conduct audits and issue certificates of system audit:
 - iv) Providing for the issuing of circulars and notices by the chief executive in relation to the processes and methods of system audit to be applied by approved persons.

A VESSEL MONITORING SYSTEM FOR THE SOUTHERN BLUEFIN TUNA FLEET– FINAL ADVICE

Executive Summary

- 1 The Commission for the Conservation of Southern Bluefin Tuna (CCSBT) has agreed to the development and implementation of a Vessel Monitoring System (VMS) for the fishing of Southern Bluefin Tuna (STN), including mandatory measures for vessels fishing in EEZs by 1 January 2008. Details are being worked through with the intent of a further draft resolution being put to the Commission for adoption at its next meeting in October 2007.
- 2 These requirements are intended to improve compliance with new sustainability measures introduced in 2007 by implementing an integrated package of monitoring, control and surveillance (MCS) for vessels in this fishery. The CCSBT considers an effective and fully operational VMS will help combat illegal unregulated and unreported (IUU) fishing for STN.
- 3 A VMS system uses electronic transmitters called Automatic Location Communicators (ALC) that are placed on fishing vessels to transmit information via satellite about the vessel's position to authorities. This information is useful in near real time for ascertaining the vessels' location and for inferring their fishing activity.
- 4 The CCSBT resolution did not initially specify VMS standards (eg vessel size) for the STN fishery within national jurisdictions. New Zealand considered such standards were needed and consulted on a range of its own options in the IPP for meeting monitoring requirements. These options were based on an assessment of the most suitable monitoring regime for applying potential international obligations within the context of the New Zealand STN fishery. At the same time options were considered that would most effectively support monitoring of the STN fishery as a whole.
- 5 Since the IPP was released for consultation, additional Regional Fisheries Management Organisation (RFMO) requirements are being considered that are relevant to the issue. The RFMO most applicable to New Zealand waters is the Western and Central Pacific Fisheries Commission (WCPFC). The WCPFC standard on VMS requirements for Highly Migratory Species (HMS), of which STN is one, is also currently under review.
- 6 There is uncertainty about what the future VMS requirements of both RFMOs will be. Accordingly, the preferred option is to retain the status quo while working with stakeholders to review VMS requirements and alternative technologies with the intention of requiring all vessels regardless of size taking HMS to carry and operate ALCs by 1 January 2009. The preferred option takes into account the stakeholder feedback from the Initial Position Paper (IPP).

Initial proposals

- 7 The options proposed for the STN fishery in the IPP were:
- i) Require vessels exceeding an overall length of 28 metres taking STN to operate ALCs (status quo);
- OR
- ii) Require vessels exceeding a minimum overall length (eg exceeding 15 metres overall length) that are targeting and/or taking STN to operate ALCs;
- OR
- iii) Require all vessels regardless of size, targeting and/or taking STN to operate ALCs.

Final proposal

- 8 **NOTE** that the CCSBT and WCPFC have agreed to the development and implementation of VMS, that details have yet to be finalised, and that New Zealand regulations meet current requirements.

- 9 And **AGREE** to

- i) Continue to require vessels exceeding an overall length of 28 metres taking STN to operate ALCs (status quo).

AND **DIRECT** MFish to review VMS requirements and alternative technologies to gather information on the option of requiring all vessels regardless of size taking HMS to carry and operate ALCs by 1 January 2009.

(MFish preferred option);

OR AGREE to

- ii) Require vessels exceeding a minimum overall length (eg exceeding 15 metres overall length) that are targeting and/or taking STN to operate ALCs;

AND amend the Fisheries (Satellite Vessel Monitoring Regulations) 1993;

OR AGREE to

- iii) Require all vessels regardless of size, targeting and/or taking STN to operate ALCs;

AND amend the Fisheries (Satellite Vessel Monitoring Regulations) 1993.

Submissions

- 10 MFish received submissions (summarised in Appendix Three) on the vessel monitoring system for the STN IPP from:

- The New Zealand Seafood Industry Council Limited (SeaFIC)
- Sanford Limited (Sanford)
- VMS proposals for the STN fleet were discussed at two meetings with the surface longline industry held at Mount Maunganui on 29 March 2007 and at Gisborne on 30 March 2007.

Rationale for Management Options

- 11 The CCSBT has agreed to the development and implementation of a VMS for STN³. The Commission agreed that members and cooperating non-members implement a mandatory VMS for fishing of STN inside their EEZs by 1 January 2008⁴. The detail of this resolution is being worked through with the intent of a further draft resolution being put to the Commission for adoption at its next meeting in October 2007. A WCPFC standard on VMS requirements for HMS, of which STN is one, is also currently under review.
- 12 Information from a VMS offers benefits to the sustainability of STN and other HMS as well as assisting with compliance. A VMS would provide near real time and retrospective information on vessel position and, by inference fishing activity. This type of information would assist MFish, and in turn RFMOs, in assessing compliance and research information and in evaluating any future requests for management change. In addition, a VMS can provide a method for real-time reporting of catch information in the future which can have additional uses for both science and compliance.
- 13 A VMS for widely dispersed fisheries is clearly an integral part of any monitoring, control and surveillance (MCS) strategy. An effective MCS regime in turn improves compliance and aligns the behaviour of the fleet with conservation and management measures, thus ensuring sustainability of the stock.
- 14 MFish considers that a VMS would provide additional management information about fleet patterns such as fishing, and vessel movements that do not appear on catch effort returns.
- 15 New Zealand has recognised the benefits of VMS since 1994 and is currently operating a VMS involving up to 200 fishing vessels. The New Zealand experience is that VMS is a cost effective means to monitor the activity of fishing vessels and assists with targeting compliance efforts in commercial fisheries for greatest effectiveness.
- 16 In relation to the domestic fishery for STN and HMS, MFish considers there are important compliance benefits associated with the introduction of a VMS but the need

³Report of the Thirteenth Annual Meeting of the Commission on the Conservation of Southern Bluefin Tuna (10-13 October 2006). The Commission agreed to the adoption of a draft resolution on the development and implementation of a Vessel Monitoring System.

⁴Report of the Thirteenth Annual Meeting of the Commission on the Conservation of Southern Bluefin Tuna (10-13 October 2006). The Commission agreed to the adoption of a draft resolution on the development and implementation of a Vessel Monitoring System.

to review VMS standards and alternative technologies favours a phased approach to any introduction of VMS to the wider HMS fleet.

- 17 STN and other HMS species are amongst the most valuable commercial species. Enabling people to provide for their economic needs is of particular importance for these fisheries as the species' can achieve very high export prices. STN and other HMS species are also taken on a non-commercial basis as a sports fish, highlighting their social value.

Assessment of Management Options

International (RFMO) Obligations

- 18 MFish provided wide ranging initial proposals in the IPP because of the open nature of the CCSBT resolution for implementing a VMS within areas of national jurisdiction. The resolution referred to members implementing a mandatory VMS for vessels above a specified size, but did not specify what the vessel size, if any, should be.
- 19 Consultation on the IPP and a subsequent decision on VMS options was to form the basis of the New Zealand position to CCSBT. A further consideration is the need for harmonisation with other RFMO plans for introducing VMS.
- 20 The RFMO most applicable to New Zealand waters is the Western and Central Pacific Fisheries Commission (WCPFC). The WCPFC has adopted the following applications to its VMS measure in the convention area around and including New Zealand waters⁵
- a) VMS shall apply to all vessels fishing for highly migratory stocks on the High Seas;
 - b) It shall apply (on the high seas) to all vessels in excess of 24 metres in length with an activation date of 1 January 2008, and it shall apply to all vessels 24 metres in length or less with an activation date of 1 January 2009;
 - c) Any member state may request, subject to the Commissions consideration and approval, that waters under its national jurisdiction be included within the area covered by the Commission VMS.
- 21 The Fisheries (Satellite Vessel Monitoring) Regulations 1993 (VMS regulations) require New Zealand vessels exceeding 28 metres in overall length to operate ALCs within New Zealand fisheries waters and **all** vessels regardless of size that are fishing on the High Seas. Accordingly, New Zealand already meets WCPFC applications a) and b), because all NZ vessels fishing on the High Seas are required to carry and operate an ALC.
- 22 It is optional for member states to consider asking the WCPFC to monitor vessels fishing within their own EEZs (WCPFC application c)). It is unlikely that New Zealand would pursue this option.
- 23 MFish notes that the WCPFC measures provide for the phasing in of VMS. Member states are required only to operate VMS on vessels in excess of 24 meters in length

⁵ Conservation and Management Measure 2006-07

fishing the High Seas from 1 January 2008 and then subsequently on all vessels regardless of size fishing the High Seas from 1 January 2009. Any plan for adopting VMS within an EEZ is at the member states discretion, however the WCPFC has signalled an intention to review and improve the system as required within two years of implementation.

Option 1: Require vessels exceeding an overall length of 28 metres taking STN to operate ALCs (status quo)

- 24 The status quo option requires vessels greater than 28 metres overall length to operate VMS unless the requirements are separately specified. Three of the 54 vessels (see Table 1 in Appendix One) that reported fishing for STN during 2005/06 were above this overall length and therefore already subject to the VMS requirement.
- 25 However, 51 of the 54 vessels that reported fishing STN during 2005/06 were smaller than the 28 metre overall length and therefore not subject to the VMS requirement.
- 26 Consequently, retaining the status quo would mean that there would be no monitoring of these 51 vessels of the kind possible with VMS. The status quo therefore has limited coverage of vessels targeting STN in New Zealand fisheries waters.
- 27 There is uncertainty about what future RFMO requirements regarding mandatory VMS requirements will be. As the CCSBT has yet to finalise the details of any size specification for VMS requirements, the status quo may differ from any final size specification adopted.

Option 2: Require vessels exceeding a minimum overall length (e.g. 15 metres) that are targeting and/or taking STN to operate ALCs.

- 28 This option was based on an earlier CCSBT compliance committee suggestion for a rule similar to that implemented by the Indian Ocean Tuna Commission (IOTC). Accordingly this option was based on the IOTC standard to specify VMS for vessels exceeding 15 metres of overall length.
- 29 As for Option 3, mandatory ALC operation on smaller domestic vessels is limited by a number of impediments. These include: the limited number of approved equipment types, the ability of small vessels to carry and operate ALCs consistent with the current standards, VMS operating requirements, vessel coverage, and security of the system. MFish's ability to support any increased VMS requirements will also need to be ensured.
- 30 SeaFIC submitted that further analysis is necessary to assess the merits of the provisional 15m threshold suggested in option 2. The analysis would enable, a multi-phased implementation process aligned to technology options to extend VMS coverage to a greater proportion of the fleet.
- 31 SeaFIC submitted that in the absence of this research into technological alternatives, it would be difficult to justify the provisional 15m threshold suggested in the IPP.
- 32 MFish agrees with submitters that further information would strengthen its ability to assess the best available information regarding applicability of VMS to the domestic longline fleet. There is uncertainty about whether the ALC currently approved for use

are suitable for small vessels operating in the SBT and other HMS fisheries. There is also uncertainty about what future RFMO requirements regarding mandatory VMS requirements will be. As the CCSBT have yet to finalise the details of any size specification for VMS requirements, adopting a 15 metre standard may differ from any final size specification adopted.

Option 3: Requiring all vessels regardless of size, targeting and/or taking STN to operate ALCs.

- 33 Stakeholders do not believe that this option is currently feasible. The physical requirements (discussed in Option 2) of the current equipment permitted (approved ALCs) may be a serious impediment to extending VMS coverage to all vessels, particularly very small vessels.
- 34 SeaFIC considers that experience in Australia and the European Union has shown that smaller vessels have difficulty in meeting the constant operation requirement of VMS due to the limited electrical supply systems that can be fitted to these vessels and the drain on battery systems. This has cost, space, maintenance and safety implications. Fishers attending the Gisborne meeting agreed with SeaFIC about the limited ability to run approved ALCs using the battery systems currently installed on smaller surface longline vessels. Separate generator-based electrical supply systems would be required at considerable expense.
- 35 Submissions received suggest a phased approach to introducing any VMS to the domestic STN fleet. MFish agrees with submissions that a phased approach would lead to a much improved VMS. Accordingly, MFish recommends that you direct a review of VMS requirements and alternative technologies to gather further information on the option of requiring all vessels regardless of size taking STN and other HMS to operate ALC within two years (i.e. by 1 January 2009).
- 36 Postponing consideration of the option to introduce VMS to the entire domestic STN fleet for two years would provide the time necessary for MFish and Industry to evaluate more suitable VMS technology for domestic vessels. Any new technology needs to achieve the same monitoring purposes as current technology but overcome the operational problems listed above in paragraphs 29 and 34. Postponement would also give time to consider any necessary consequential legislative amendment to administer a revised system.

Statutory Criteria

- 37 Not all of the statutory criteria included in the IPP apply to the decision you are to make on the contents of this paper. Therefore, the correct statutory criteria applicable to your decision are attached in Appendix Two of this paper – Statutory Considerations.
- 38 The incorrect statutory criteria contained in the IPP were references to sections 11 and 12 of the Fisheries Act 1996.

APPENDIX ONE: PROFILE OF THE NEW ZEALAND HMS FLEET

Table 1 Number of vessels in four size ranges (metres overall length) that report target fishing for HMS species (bigeye tuna, southern bluefin tuna, swordfish, yellowfin tuna, albacore tuna and Pacific bluefin tuna) using the method of surface longline for the two most recent fishing years.

Fishing year	0-15 metres	15-24 metres	24-28 metres	28+ metres	Total
2004/05	12	40	3	2	57
2005/06	14	32	5	3	54

APPENDIX TWO – STATUTORY CONSIDERATIONS

- 39 In reviewing the proposed requirement to carry and operate VMS in the STN and potentially other HMS fisheries, the following statutory criteria applies. Under the Fisheries Act 1996 (FA96):
- 40 Section 5(a) requires all persons exercising or performing functions, duties, or powers conferred or imposed by or under the FA96 to act in a manner consistent with New Zealand's international obligations relating to fishing.
- 41 The CCSBT's thirteenth annual meeting created new international obligations, requiring New Zealand to develop and implement satellite-linked VMS systems for fishing vessels catching STN. The resolution includes mandatory VMS requirements for vessels fishing for STN in member and cooperating non-member states' EEZs. Once any requirement is specified, New Zealand will need to meet these new international obligations.
- 42 The WCPFC has VMS requirements for member states fishing for HMS on the high seas. New Zealand regulations currently meet these requirements.
- 43 Section 5(b) requires all persons exercising or performing functions, duties, or powers conferred or imposed by or under the FA96 to act in a manner consistent with the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.
- 44 MFish considers that any of the proposals contained in this IPP are consistent with the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.
- 45 Section 8. The purpose of the FA96 is to provide for the utilisation of fisheries resources while ensuring sustainability.
- 46 The review is intended to improve compliance with STN and potentially other HMS measures. Proposals should contribute to ensuring that the fishery is sustainable and the relationship with interdependent stocks is also improved.
- 47 Improved compliance with STN and other HMS catch limits is likely to better enable people to provide for their social, cultural and economic wellbeing, although the benefits may take time to materialise given the longevity of STN in general. Enabling people to provide for their economic needs is of particular importance for this fishery as the species can achieve very high export prices. The species is taken on a non-commercial basis as a sports fish, highlighting its social value
- 48 Section 9 requires all persons exercising or performing functions, duties, or powers conferred or imposed by or under the FA96, in relation to the utilisation of fisheries resources or ensuring sustainability, to take into account the following environmental principles: (a) Associated or dependent species should be maintained above a level that ensures their long-term viability: (b) Biological diversity of the aquatic environment should be maintained: (c) Habitat of particular significance for fisheries management should be protected.

- 49 Longline fisheries occasionally catch sea birds and turtles within New Zealand fisheries waters. There are therefore potential impacts on associated and dependent species, biodiversity and protected species that require monitoring and possibly future management action. The introduction of VMS monitoring of STN and other HMS species would improve the ability to address these issues by real time monitoring. There are no habitats of particular significance that will be affected by the proposals. Accordingly, MFish considers that the environmental principles set out in section 9 of the Act will be better met.
- 50 Section 10 requires all persons exercising or performing functions, duties, or powers conferred or imposed by or under the FA96, in relation to the utilisation of fisheries resources or ensuring sustainability, to take into account the following information principles:
- a) Decisions should be based on the best available information:
 - b) Decision makers should consider any uncertainty in the information available in any case:
 - c) Decision makers should be cautious when information is uncertain, unreliable or inadequate:
 - d) 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 that Act.
- 51 MFish considers that further information would strengthen the Minister's ability to assess the best available information. There is uncertainty about whether the ALC currently approved for use are suitable for small vessels operating in the STN and other HMS fisheries. There is uncertainty about what future CCSBT / WCPFC requirements regarding mandatory VMS requirements will be. For that reason when making a decision based on the available information you should be cautious, although it should not be a reason for postponing or failing to take any measure in respect of VMS requirements.
- 52 Improved information of fishing activity for STN and other HMS species by increasing the number of vessels required to operate VMS is likely to reduce uncertainty about fishing vessel activity and aid future decision making.
- 53 Section 297(ca) enables the Governor General to make regulations requiring the installation and maintenance of equipment to monitor fishing or transportation and the payment of any associated fees and charges.
- 54 Section 297(o) enables the Governor General to make regulations implementing any provisions of, or giving effect to, any convention, or agreement to which New Zealand is a signatory or a party, and any understanding concluded by the Government of New Zealand and the government of any other country; and declaring any such regulations to apply beyond the outer limits of New Zealand fisheries waters in respect of any New Zealand citizen, person entitled to reside in New Zealand indefinitely, body incorporated in New Zealand, or any New Zealand ship or vessel registered under the FA96.

FOVEAUX STRAIT DREDGE OYSTER FISHERIES PLAN: LIMITING DREDGE SIZE IN NON-COMMERCIAL AREA. FINAL ADVICE

Executive Summary

- 1 Under the draft fisheries plan for the Foveaux Strait Dredge Oyster Fishery, a limit on the dredge size for oystering in the non-commercial areas of the fishery (refer Figure 1) is proposed.
- 2 The non-commercial areas are the only parts of the fishery where small-boat dredging, or diving, can safely be used to harvest dredge oysters. There is currently no limit on the size of recreational oyster dredges, and the use of commercial-scale oyster dredges in this area adversely affects the ability of recreational fishers to obtain full value from this fishery.
- 3 MFish consulted on this proposal during development of the draft fisheries plan. This consultation suggested a bit bar length of 1m would be an appropriate limit. MFish's initial position paper (IPP) proposed this limit be implemented.
- 4 The only submission received on the IPP conditionally supports the proposal.

Summary of Options

Initial Proposal

- 5 Three options were considered under the plan for the Foveaux Strait Dredge Oyster Fishery and put forward in the IPP:
 - a) *Status quo* – no limit on the size of oyster dredges in the non-commercial areas.
 - b) *Non-regulatory options* – charter boat/voluntary agreements limiting oyster dredge size in the non-commercial areas.
 - c) *Regulated limit on dredge size* – implement a maximum bit bar length of 1 m for oyster dredges in the areas by regulation.

Final Proposal

- 6 MFish's recommends that you agree to the limit on oyster dredge size in the non-commercial areas of the fishery proposed in the Foveaux Strait Dredge Oyster Fisheries Plan. A regulated maximum bit bar length of 1 m is proposed.
- 7 MFish recommends that the regulation be included in the Fisheries (Southland and Sub-Antarctic Areas Amateur Fishing) Regulations 1991 with the same penalty/offence provisions as other gear restrictions (such as openings on rock lobster pots).

Submissions Received

- 8 Only one submission was received on the IPP. Graeme Metzger suggests recreational and customary fishers will support the proposal and suggests the measure be

implemented by banning the carrying on board of a larger dredge. He would, however, like to see issues associated with dredging in the commercial fishery dealt with first.

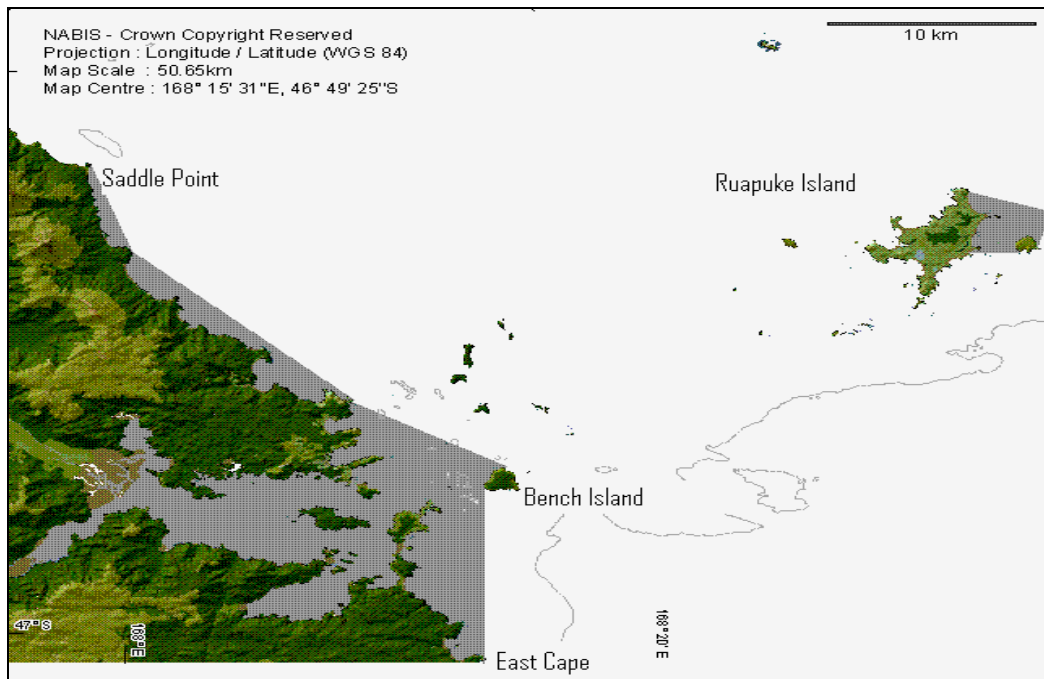
Rationale for Management Options

- 9 A draft fisheries plan for the Foveaux Strait Dredge Oyster Fishery has been developed collaboratively with stakeholders⁶. The plan is not scheduled to be formally approved until a full assessment against MFish standards is completed later this year⁷. In the interim, consultation has shown there is consensus around some of the more urgent elements of the plan, and initial steps can be taken to implement these.
- 10 Most of the proposed measures under the plan are non-regulatory. One regulatory element, scheduled for advancement in 2007, is a proposed sustainability measure to limit the size of oyster dredges in the non-commercial areas of the fishery (refer Figure 1). These relatively sheltered areas are the only parts of the fishery where small-boat dredging, or diving, can be safely used to take oysters. As there is currently no limit on the size of recreational dredges for oystering, commercial-scale oyster dredges employed elsewhere in the fishery (typically 2.5m bit bar length) can be used in these areas. These dredges are designed for the open waters of Foveaux Strait and their use in the recreational-only areas can cause localised depletion and benthic impacts, and prevent recreational fishers from obtaining full value from this fishery.

⁶ The plan can be viewed on MFish website (www.fish.govt.nz).

⁷ Fisheries standards will allow fisheries plans to be formally assessed against minimum levels of performance. Refer www.fish.govt.nz. Consultation Paper on Draft Fisheries Standards. 8 November 2006.

Figure 1: Map showing non-commercial areas (shaded) within the Foveaux Strait Dredge Oyster Fishery.



- 11 The wider impacts of dredging in the fishery are addressed in the draft fisheries plan for the Foveaux Strait Dredge Oyster Fishery under the 'Strategy to Minimise Harm and Enhance the Environment'. This strategy includes actions relating to research on the impacts of dredging and the evaluation of new dredge designs and methods in the commercial fleet. It does not, at this stage, include any regulatory proposals.

Assessment of Management Options

Option 1 - Status quo

- 12 Under the status quo option, there will be no limit on the size of recreational dredges for oystering. Non-commercial areas will remain at risk of depletion and recreational fishers will be unable to obtain full value from this fishery.

Option 2 - Non-regulatory options

- 13 Non-regulatory options, such as charter boat/voluntary agreements limiting dredge size, were considered in the plan. Development of the agreements would be led by the recreational sector (fishing clubs etc). While they were assessed as being lower cost than regulatory options, they were deemed to be potentially ineffective given the large number of recreational vessels operating in the areas.

Option 3 - Regulated limit on dredge size

- 14 The plan proposes a regulated oyster dredge size be implemented for the non-commercial areas of the fishery. This was considered to be the most effective management option to limit dredge size in the non-commercial areas. An advertised public meeting was held in November 2006 to discuss this, and other measures proposed in the plan. The proposal was also set out in a follow-up article in the Southland Times (newspaper). Feedback to recreational representatives on the planning group has been positive, and the consensus from the 20 or so people

attending the public meeting was that a maximum bit bar length of 1 m would be appropriate. This equates to the maximum oyster dredge size currently carried by smaller vessels in the recreational fishery.

- 15 Any additional time required to monitor dredge size in the non-commercial areas would need to be accommodated within existing fishery officer activities taking place in this fishery.
- 16 The only submission received supports this option and suggests the measure be implemented by banning the carrying on board of a larger dredge. The submission also refers to the impacts of commercial dredging. This issue is addressed in the draft fisheries plan for the Foveaux Strait Dredge Oyster Fishery under the 'Strategy to Minimise Harm and Enhance the Environment'. Ecologically sensitive areas are being identified and new dredge designs evaluated.

Statutory Considerations

- 17 Section 8: The non-commercial areas are the only parts of the fishery where small-boat dredging, or diving, can safely be used for dredge oysters. This proposal allows recreational fishers to capture more value from this fishery by ensuring oyster dredges are on a scale appropriate for the area.
- 18 Section 10: The proposal was developed using the information contained in the Foveaux Strait Dredge Oyster Fishery Plan. The plan was developed in collaboration with all stakeholder sectors, scientists and MFish representatives, and is considered by MFish to contain the best available information on the fishery.
- 19 Section 11(1)(a): Because smaller dredges are lighter and may impact less heavily on the seabed, the limit on oyster dredge size should reduce the benthic effects of dredging in the recreational-only fishing areas.
- 20 Section 11(2A)(b): The draft fisheries plan for the Foveaux Strait Dredge Oyster Fishery is not scheduled to be formally approved until a full assessment against MFish standards is completed later this year. In the interim, consultation has shown there is consensus around some of the more urgent elements of the plan, such as this proposal, and initial steps can be taken to implement these.
- 21 Other statutory considerations are set out in the appendix.

Appendix 1

Additional Statutory Considerations

- 22 In formulating the management options, the following additional statutory considerations have been taken into account:
- 23 Section 5 (a) and (b): There are a wide range of international obligations relating to fishing (including sustainability and utilisation of fish stocks and maintaining biodiversity). MFish considers issues arising under international obligations and the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 are adequately addressed in the management options.
- 24 Section 9(a), (b) and (c) and section 11(1)(a): Large commercial-scale dredges are designed for the open waters of Foveaux Strait. Because smaller dredges are lighter and may impact less heavily on the seabed, the proposal should reduce the benthic effects of dredging in the recreational-only fishing areas and may help to maintain associated or dependent species and biological diversity.
- 25 Section 11(1)(b): Relevant existing controls under the Act are a daily limit of 50 oysters per person per day, a prescribed recreational oyster season of 1 March to 31 August, and a minimum oyster size limit of 58 mm. These will not be affected by the proposed limit on dredge size, which is an additional measure relating to the gear that may be used by recreational fishers.
- 26 Section 11(1)(c): The natural variability of dredge oysters is usually low, except when mass mortality of oysters occurs during an outbreak of the oyster disease *Bonamia*. This proposal is unlikely to have any influence on the prevalence of *Bonamia*.
- 27 Section 11(2A) (a and c): MFish is not aware of any provisions applicable to the coastal marine area that exist in any policy statement or plan under the Resource Management Act 1991, or any management strategy or plan under the Conservation Act 1987, which are relevant to this proposal.

DEVOLUTION OF ALC REGISTRY SERVICES – FINAL ADVICE PAPER

Executive Summary

- 1 In March 2007 the Ministry of Fisheries (MFish) consulted on a proposal to devolve to the Approved Service Delivery Organisation (ASDO), functions, duties and powers associated with the registration of Automatic Location Communicators (ALC). This proposal was initially proposed by the New Zealand Seafood Industry Council Limited (SeaFIC), as the ASDO, in early 2006.
- 2 The proposal was to devolve to the ASDO the functions, duties and powers to register ALC Type Approvals and the function, duty and power to register ALCs. These functions, duties and powers can be devolved under Section 296A of the Fisheries Act (the Act) as they are primarily associated with the administration of commercial fisheries.
- 3 Certain functions, duties and powers of the Chief Executive of MFish were devolved to SeaFIC in the Fisheries (Transfer of Functions, Duties and Powers to the New Zealand Seafood Industry Council Limited) Order 2001 (The Transfer Order). This was renewed in October 2006 for a further five years.
- 4 If the Minister wants to revoke or amend the Transfer Order, SeaFIC, acting as the ASDO, has to agree to the recommendation by notice in writing under Section 296E of the Act (see Appendix I).
- 5 Currently, ALC registry functions, duties and powers are contracted from MFish to a Service Delivery Agency (SDA), Commercial Fisheries Services Ltd (FishServe).
- 6 The proposal by SeaFIC is a logical extension to the present situation, where all vessel registration functions, duties and powers (to which ALCs are linked) are currently devolved. As all contracted (SDA) and devolved (ASDO) services are managed by a single organisation⁸, the ASDO already has access to the data for the ALC and Type Approvals registers. Devolution of these registers would therefore not be problematic. There are no increased risks to management through this proposal. Under the proposal, the Chief Executive would retain the power to issue circulars specifying ALC standards and requirements and the power to condition ALC registrations.
- 7 MFish received one submission from SeaFIC in support of the proposal.

⁸ SeaFIC subcontracts the delivery of registry services to FishServe while still retaining overall responsibility.

Summary of Options

Initial Position

8 The IPP proposed the following options:

Option 1 – Status quo

9 Retain the status quo, where all ALC functions, duties and powers are with the MFish Chief Executive. ALC registry services are contracted to FishServe as the SDA.

OR

Option 2 – Devolve ALC registry services to the ASDO

10 The preferred option of MFish is to devolve to the ASDO the functions, duties and powers to register ALC Type Approvals and the function, duty and power to register ALCs.

11 To transfer the functions, duties and powers to register ALC Type Approvals and the function, duty and power to register ALCs to the ASDO, there are some key steps that would be necessary. Some are procedural and others require changes to regulations:

- Regulations 5(9), 6(1) and 6(3) (in relation to the cancellation of an ALC registration but excluding conditioning power) of the VMS Regulations would need to be added to the Fisheries (Transfer of Functions, Duties and Powers to the New Zealand Seafood Industry Council Limited) Order 2006 (the Transfer Order) (see Appendix II);
- The Fisheries (Registers) Regulations 2001 would need to be amended to add a regulation that specifies the required content of a Type Approvals Register;
- Section 16, Schedule 2 of the Fisheries (Commercial Fishing) Regulations 2001 would need to be revoked as the section relates to ALC application fees;
- The SDA and ASDO standards and specifications would need to be amended in relation to ALC registry services.

Final Position

12 MFish recommends that you agree to devolve to the ASDO the functions, duties and powers to register ALC Type Approvals and the function, duty and power to register ALCs (Option 2).

Submissions Received

13 MFish received one submission from The New Zealand Seafood Industry Council Limited (SeaFIC).

Rationale for Management Options

14 ALCs are required to be carried and operated on board certain classes of fishing vessels (e.g. foreign-owned New Zealand fishing vessels) that are specified in the VMS Regulations.

- 15 ALCs transmit information about the vessel's identification and position to MFish via satellite in near real-time. This information is useful for ascertaining the vessels' location and can, in some cases, infer the vessel's activity.
- 16 In order to ensure that information is effectively transmitted from the vessel to MFish, vessels are required by regulation to carry and operate ALC types that meet specific standards and requirements⁹. These are specified by the Chief Executive and are called "Type Approvals". Type Approvals are required to be recorded in a register.
- 17 ALC registration applications are currently processed by the SDA (FishServe) under contract to MFish. If an ALC registration application is for an ALC of the same type as a type approved by the Chief Executive, the SDA shall register the ALC subject to any conditions specified by MFish.
- 18 The accepted ALC registration certificate is forwarded to the ASDO, on an approved form, for issue with the vessel certificate of registration.
- 19 Although the SDA and ASDO are two different organisations, ALC and vessel registry services are both delivered by FishServe (i.e. fishers are required to pay two organisations for separate services, although the two are undertaken together by FishServe under contract/subcontract).
- 20 The rationale for the preferred option is to realise further efficiencies in the registration processes for ALCs and vessels. It is anticipated that the proposal would increase certainty and efficiency of delivery by grouping vessel and ALC registry services with the ASDO. The current registration process is no longer necessary in the fisheries management context, as vessel and ALC registrations are linked. The primary concern is to ensure that appropriate decisions are made about the vessel registration application with the ALC registration more mechanistic within the current VMS framework
- 21 Although the status quo is reasonably effective, further efficiencies could be realised through the linking of ALC and vessel registry services. If ALC registrations were also devolved, it would be possible for the ASDO to design joint application forms and provide online services, thereby removing some overlap.
- 22 The Chief Executive would retain the power to issue circulars specifying ALC standards and requirements. Standards and requirements ensure ALC compatibility with MFish's monitoring regime and therefore directly impact the ability of MFish to receive important information on the location of commercial fishing vessels. As the Chief Executive is required to consult with Industry to issue circulars, and the type approvals seek to manage risks associated with the use of unsuitable ALCs, it would be inappropriate to devolve such an arrangement.
- 23 The Chief Executive would also retain the power to make the registration of any ALC subject to such reasonable conditions as he may specify in writing to the applicant. This is a core fisheries management role relating to the monitoring of fishing vessels and such roles are not generally considered appropriate for devolved delivery.

⁹ Examples of ALC standards and requirements include: the place in which an ALC is to be installed, and method of installation; requirements as to the form, frequency and detail of information to be supplied in relation to vessels, including the place and time at which such information is supplied.

Assessment of Management Options

Option 1 – Status quo

- 24 The status quo provides the Chief Executive of MFish with control over all aspects of the management of ALCs. Chief Executive functions, duties and powers in relation to ALCs are listed in Appendix II.
- 25 The functions, duties and powers to register ALC Type Approvals, register ALCs, and cancel ALC registrations are contracted by MFish to the SDA (FishServe). The Chief Executive retains the functions, duties and powers to specify ALC standards and requirements, grant Type Approvals and condition ALC registrations.
- 26 The status quo is working reasonably effectively, but further efficiencies could be realised through the linking of ALC and vessel registry services.
- 27 The status quo is not convenient for the fishing industry, in that fishers have to apply on separate forms for vessel and ALC registrations and pay two separate organisations for these services. This situation is unnecessary, as vessels and ALCs are linked for the purposes of fisheries management, and would therefore be more efficiently registered together.

Option 2 - Devolve ALC registry services to the ASDO

- 28 Following analysis of the costs and benefits of the proposals, Option 2 is the preferred option of MFish. SeaFIC initially suggested Option 2 and have made a submission that reinforces their support.

Costs

- 29 Analysis of Option 2 reveals that there are no additional costs of production that MFish will have to outlay to devolve the functions, duties and powers to register ALC Type Approvals and the function, duty and power to register ALCs to SeaFIC.
- 30 MFish will not have to outlay capital for a computer system to manage the additional ALC registry services as there is an existing computer system that supports the flow of information from the ASDO to MFish. Costs are now covered by the industry through their levies to SeaFIC.
- 31 As ALC registration is a relatively small service, the impacts of the proposal on the costs charged to industry are anticipated to be negligible.

Benefits

- 32 It is anticipated that the proposal would increase efficiency of delivery by grouping vessel and ALC registry services with a single provider. Vessel registry functions, duties and powers are already devolved to the ASDO, and it is therefore a logical step to link vessel and ALC registrations more effectively by devolving ALC registry services.

- 33 Efficiency gains could be achieved through technological improvements (i.e. online services) and streamlining of registry services (i.e. joint vessel/ALC application forms). Efficiency is not anticipated to be a significant benefit in monetary terms, but will make vessel and ALC registration less complicated for the fishing industry.
- 34 The proposal is to devolve administrative functions, duties and powers of the Chief Executive, and therefore does not pose a risk to the fisheries management framework. The ASDO has shown since 2001 that it has the systems, expertise and processes to efficiently deliver these services.

Appendix I – Statutory Considerations

- 35 In considering the issues and options outlined in this paper the statutory criteria set out in paragraphs 36 to 42 below are relevant.
- 36 **Section 296A** of the Act defines 'specified functions, duties, or powers'-
- (a) Means any functions, duties, or powers of the chief executive, whether statutory or non-statutory in nature, that are—
 - (i) Exclusively associated with the administration of quota; or
 - (ii) Primarily associated with the administration of commercial fisheries; or
 - (iii) Principally associated with the administration of fish farming; and
 - (b) Includes the keeping of registers under sections 98, 124 and 186K; but
 - (c) Does not include—
 - (i) Any functions, duties, or powers of the Minister; or
 - (ii) Any power conferred on fishery officers, honorary fishery officers, or examiners by or under the Fisheries Act 1983 or by or under this Act.
- 37 The proposal to devolve to the ASDO the functions, duties and powers to register ALC Type Approvals and the function, duty and power to register ALCs can be devolved under Section 296A of the Fisheries Act (the Act) as they are primarily associated with the administration of commercial fisheries.
- 38 **Section 296B (3)** of the Act states that the Minister must not make a recommendation to transfer any specified function, duty or power to an ASDO unless the Minister is satisfied that—
- (a) The proposed approved service delivery organisation is representative of quota owners who have an interest in those functions, duties, or powers;
 - (ab) if the recommendation relates to a function, duty, or power associated with the administration of fish farming, the proposed approved service delivery organisation is representative of fish farmers who have an interest in the function, duty, or power; and
 - (b) The proposed approved service delivery organisation is a company incorporated under the Companies Act 1993; and
 - (c) The proposed approved service delivery organisation has the financial, management, and other resources to enable it to—
 - (i) Assume responsibility for the carrying out of the functions, duties, or powers that are specified in the order; and
 - (ii) Ensure that those functions, duties, or powers are carried out; and
 - (d) The proposed approved service delivery organisation—
 - (i) Has provided the chief executive with a monetary deposit or bond in accordance with section 296D; or
 - (ii) Has established and is maintaining an alternative arrangement in accordance with section 296D; and
 - (e) Standards and specifications have been issued in relation to the functions,

duties, or powers.

- 39 MFish believes that SeaFIC, as the ASDO, meets the requirements of Section 296B (3) of the Act.
- 40 **Section 296E** of the Act relating to the revocation of an order transferring functions, duties, or powers to approved service delivery organisation
- (1) The Governor-General may from time to time, by order in Council made on the recommendation of the Minister, revoke or amend an order made under section 296B.
 - (2) The Minister may not make a recommendation under subsection (1) unless—
 - (a) The approved service delivery organisation named in the order has agreed to the recommendation by notice in writing to the Minister; or
 - (b) The requirements of subsection (3) have been satisfied and the Minister has complied with the requirements set out in subsection (4).
 - (3) The requirements of this subsection are that the Minister must be satisfied that—
 - (a) The approved service delivery organisation has—
 - (i) Failed to comply with any applicable standards and specifications; or
 - (ii) Failed to comply with an applicable direction under section 296Q; or
 - (iii) Failed to maintain an alternative arrangement under section 296D (1(b)); or
 - (iv) Failed to comply with a requirement under section 296D (3) to increase the amount of a monetary deposit or bond; or
 - (b) There is a serious problem with the organisation within the meaning of section 296ZE(2).
 - (4) The Minister must—
 - (a) Give the approved service delivery organisation notice in writing of the Minister's intention to make the recommendation, accompanied by a statement of the Minister's reasons for the proposed recommendation; and
 - (b) Give the approved service delivery organisation a reasonable opportunity to make submissions to the Minister in relation to the proposed recommendation; and
 - (c) Consider any submissions made by the approved service delivery organisation.
- 41 The requirements of Section 296E of the Act have been met as the ASDO has agreed to the recommendation by notice in writing.
- 42 The requirements of Sections 4 (b and c) have both been met.
- 43 **Section 296O** of the Act states that the Minister may, from time to time, issue standards and specifications relating to the performance or exercise of specific

functions, duties or powers by approved service delivery organisations, and may amend or revoke any standards and specifications issued.

- 44 The proposal will require the Minister to approve amendments to the ASDO standards and specifications.
- 45 The **Fisheries (Satellite Vessel Monitoring) Regulations 1993** sets out the requirements for the authorisation and registration of ALCs. The proposal meets these requirements.
- 46 The **Fisheries (Registers) Regulations 2001** sets out the required content of a number of registers. This will need to be amended to include Type approvals if the proposal is implemented.
- 47 The **Fisheries (Commercial Fishing) Regulations 2001** sets out fees for ALC applications. Section 16, Schedule 2 of the Fisheries (Commercial Fishing) Regulations 2001 would need to be revoked as the section relates to ALC application fees;

Appendix II

48 The Chief Executive functions, duties and powers specified in the Fisheries (Satellite Vessel Monitoring) Regulations 1993 in relation to ALCs are:

- *Regulation 4:* The power to issue circulars specifying standards and specifications for approved ALC types;
- *Regulation 5:* The power to grant a Type Approval for an ALC if it meets the appropriate standards and specifications;
- *Regulation 5(9):* The requirement to record all Type Approvals in a register;
- *Regulation 6(1):* ALCs shall be registered if they are the same type as one of the types approved under regulation 5;
- *Regulation 6(3):* To make the registration of any ALC subject to reasonable conditions that he or she may specify in writing to the applicant, and the power to cancel the registration if it no longer complies with the standards and requirements.

PRAWN KILLER (PRK) – FINAL ADVICE

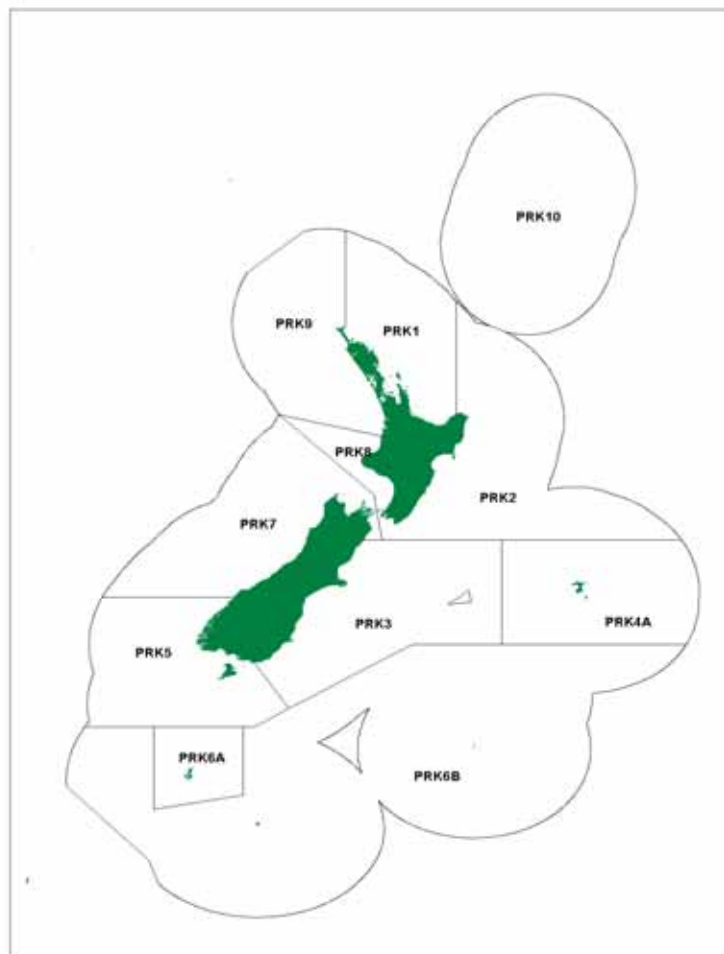


Figure 1. Map showing prawn killer (PRK) QMAs

Executive summary

- 1 Prawn killer will be introduced into the Quota Management System (QMS) on 1 October 2007. Prior to that date you are required to make decisions on the total allowable catch (TAC) and allowances for all prawn killer stocks, and to set an appropriate deemed value. The minimum net mesh size appropriate for a prawn killer target fishery will also need to be considered.
- 2 Prawn killer has historically been taken as a bycatch in the scampi fishery, largely from the SCI 1 and SCI 2 Quota Management Areas (QMAs). There are no stock assessments for any prawn killer stock and no estimates of biomass, stock status or sustainable yield.
- 3 MFish proposes that the TAC for prawn killer stocks should be set under s 13 of the Fisheries Act 1996 (the Act). One submitter questioned whether management under s

14 was appropriate but MFish does not consider that prawn killer satisfies the criteria for management under this section.

- 4 In the absence of stock assessment information, MFish has used the level of historical catch as a basis for deriving TAC proposals for prawn killer, in line with MFish guidelines. Submissions were split as to whether the TACs proposed in the IPP were too conservative or not conservative enough. On balance, MFish considers that the proposed TACs meet your statutory obligations.
- 5 There is no known non-commercial take of prawn killer and it is unlikely that a non-commercial fishery will develop in the future. Accordingly no allowances are recommended for recreational and customary fishers. Allowances for other sources of fishing related mortality have been determined to reflect adverse effects of trawling on prawn killer and their habitat, and the mortality of discarded animals.
- 6 One submitter considered that prawn killer may be suitable for inclusion on Schedule 6 of the Act, thereby allowing animals taken as bycatch to be released alive and not counted against ACE. MFish acknowledges that this may be appropriate and intends to consider including prawn killer on Schedule 6 in the future.
- 7 As is the case with scampi, a target fishery for prawn killer will require regulation to enable the use of finer net mesh than is currently allowed. MFish recommends that mesh sizes consistent with the scampi fishery be allowed when targeting prawn killer. One submitter raised concerns that the use of fine mesh would have an adverse effect on juvenile fin-fish stocks. While MFish acknowledges that this cannot be discounted, many of the fin-fish stocks likely to be taken are managed within the QMS which provides mechanisms for ensuring the sustainability of such bycatch.
- 8 Interim and annual deemed values have been proposed based on the deemed value standards. One submitter considered that the deemed values proposed in the IPP were too low to provide an incentive for fishers to balance their catch with ACE. MFish considers that the deemed values at the level proposed in the IPP are reasonable.

Summary of options

Initial and final proposals

- 9 MFish recommends that the TAC for prawn killer stocks be set under s 13 of the Act as listed in Table 1.
- 10 MFish recommends that the TACC and allowances for recreational and customary fishers, and other sources of fishing-related mortality for prawn killer stocks be set under s 21 of the Act as listed in Table 1.

Table 1. Proposed TACs (tonnes), TACCs (tonnes), and allowances (tonnes) for prawn killer stocks.

Stock	TAC	Customary allowance	Recreational allowance	Other sources of fishing-related mortality	TACC
PRK 1	25.7	0	0	1.2	24.5
PRK 2	3.7	0	0	0.2	3.5
PRK 3	1	0	0	0	1
PRK 4A	1	0	0	0	1
PRK 5	1	0	0	0	1
PRK 6A	1	0	0	0	1
PRK 6B	1	0	0	0	1
PRK 7	1	0	0	0	1
PRK 8	1	0	0	0	1
PRK 9	1	0	0	0	1
PRK 10	0	0	0	0	0

- 11 MFish recommends the amendment of the Fisheries (Reporting) Regulations 2001 to define prawn killer stock codes to be used by commercial fishers when completing their prawn killer statutory catch returns.
- 12 MFish recommends the use of net mesh smaller than 100 mm be allowed when targeting prawn killer. Regulation 71(5) of the Fisheries (Commercial Fishing) Regulations 2001 prescribes a general minimum trawl net mesh of 100 mm. There is, however, an exception in place for the scampi fishery that allows a mesh of 80 mm in the body of the net and not less than 55 mm in the cod end. MFish intends to amend those regulations to allow the same trawl net mesh size to be used in the prawn killer target fishery.
- 13 MFish recommends the setting of an annual deemed value of \$0.20 per kilogram (excluding GST) and an interim deemed value of \$0.10 per kg (excluding GST) for the 2007/08 fishing year.

Submissions received

- 14 Submissions on proposed management options for prawn killer were received from:
 - Aotearoa Fisheries Ltd. (AFL)
 - New Zealand Seafood Industry Council Ltd. (SeaFIC)
 - Sanford Ltd. (Sanford)

Rationale for management options

- 15 Prawn killer will be introduced to the QMS on 1 October 2007. Prior to that date you are required to make decisions on the TAC, TACC and allowances for all prawn killer stocks, and to set an appropriate deemed value. The minimum net mesh size for this species will also need to be considered.

Assessment of management options

Total Allowable Catch

Management under section 13

- 16 Section 13(2) requires the TAC to be set 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) Moves stock biomass that is below B_{MSY} towards or above that level, having regard to the interdependence of stocks; and 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) Moves stock biomass that is above B_{MSY} towards or above that level, having regard to the interdependence of stocks; and within a period appropriate to the stock, having regard to the biological characteristics of the stock and any environmental conditions affecting the stock.
- 17 The current status of prawn killer stocks in relation to B_{MSY} is unknown. Given the absence of a target fishery for prawn killer and the relatively low reported historic catch, MFish considers that prawn killer stocks are likely to be at a level that is at, or above, B_{MSY} . MFish considers that it is appropriate to set the TACs under s 13(2)(a) of the Act.
- 18 Alternative options for setting the TACs are available. The Act allows TACs to be set under s 14 if the quota management stock is listed in the Third Schedule. A stock can be added to the Third Schedule provided it satisfies one of the following four criteria specified in s 14(8)(b):
- i) It is not possible, because of the biological characteristics of the species, to estimate maximum sustainable yields; or
 - ii) A national allocation for New Zealand has been determined as part of an international agreement; or
 - iii) The stock is managed on a rotational or enhanced basis; or
 - iv) The stock comprises one or more highly migratory species
- 19 The latter three criteria are not relevant considerations for prawn killer.
- 20 **SeaFIC** contends in their submission that the first criteria may have implications for prawn killer management. They submit that prawn killer exhibit highly variable recruitment caused by variable oceanic/environmental conditions and as a consequence it is not possible to estimate B_{MSY} . SeaFIC considers that greater consideration needs to be given to s 14 management and listing on Schedule 3.
- 21 While MFish acknowledges that B_{MSY} has not been determined for prawn killer at this time, we do not consider that the biological characteristics of the species precludes the possibility of estimating maximum sustainable yield when better information is available. It is possible that highly variable recruitment could explain some of the high variation in the annual commercial catch, particularly in PRK 2 which is located at the southern extent of the species' primary geographic range and may therefore be

more susceptible to variations in oceanic temperatures. However it is more likely that the variation in catch across PRK 1 and PRK 2 is due to fishing practices where, in the absence of an established market for prawn killer, discarding of unwanted catch may have taken place. MFish therefore considers that based on the information currently available, management under s 14 is not appropriate in this case. Regardless of whether prawn killer is managed under s 13 or s 14, the TACs must be set at a level that ensures that the utilisation of the stock is sustainable.

- 22 Section 14B of the Act provides another management option for setting the TACs. This section 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 s 14B is to ensure the harvest of a target stock is not constrained by the TAC of an associated bycatch species. MFish acknowledges that prawn killer is taken as bycatch in the scampi fishery. Constraint on prawn killer catch could therefore have the potential to constrain scampi catch. MFish notes, however, that although the bottom depth distributions of scampi and prawn killer stocks overlap, the more productive scampi grounds are generally deeper than those of prawn killer. This should enable industry to manage bycatch issues should they arise.

Deriving TACs

- 23 The recommended TAC levels (Table 1) provide opportunities for the sustainable utilisation of prawn killer but reflect the absence of stock assessment information, the variation in commercial catch history, potential uncertainty in the accuracy of the historic catch data, and the biological characteristics of prawn killer.
- 24 There are no stock assessments for any prawn killer stock. Consequently, there are no estimates of biomass, stock status, and sustainable yield for any prawn killer stock

MFish guidelines

- 25 There are MFish guidelines for determining TACs for new species introduced into the QMS where stock assessments or yield estimates are unavailable. These 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).
- 26 Under these guidelines, a fishery that exhibits a consistent historic catch, or where the catch level has fluctuated over time, is referred to as 'stable'. For stable fisheries it is appropriate to set a TAC at a level equivalent to the average total landings. In contrast a 'developing' fishery is one where catch rates are increasing as a fishery develops. In this situation an average of recent catch levels may be used to derive appropriate TAC options.
- 27 Under either scenario an average of historical landings is used to avoid the resulting TAC recommendations being skewed by one off events.

Commercial catch history

- 28 The reported commercial landings of prawn killer for the fishing years 1992/93 – 2005/06 is summarised in Table 2. When considered in conjunction with the statutory

obligations regarding sustainability, utilisation, environmental issues, and the biological characteristics of prawn killer, the catch data provide general guidance in setting the introductory PRK stock TACs.

Table 2: Reported landings (greenweight kgs) of prawn killer from the Fisheries Information System (FIS).

Year	PRK 1	PRK 2	PRK 3	PRK 4	PRK 5	PRK 6	PRK 7	PRK 8	PRK 9
1990/91	11,589								
1991/92	3,344	482							
1992/93	42,237	6,863					16		
1993/94	10,946	30							
1994/95	518								
1995/96	1,782								
1996/97	23,125								
1997/98									
1998/99		192							
1999/00	80						4		
2000/01									2
2001/02	6,052	367							
2002/03	20,987	8,392				6			
2003/04	24,352	260	10	10					
2004/05	3,254	1,148							
2005/06	2,255	218					134		10

- 29 Catches are most abundant from stocks PRK 1 and PRK 2 where prawn killer is taken as a bycatch of the SCI 1 and SCI 2 fisheries although there are years for which no catch of PRK 1 or PRK 2 stocks has been reported. For those years in which catch is reported, catch levels vary markedly between single years or between 2-year intervals. Reported catches are believed to vary more in response to changes in fishing practices than to changes in biomass.
- 30 Stocks PRK 3, PRK 4, PRK 6, PRK7, and PRK 9 have no catch reported for most years and for those years in which catch is reported, catch levels are insignificant. Stocks PRK 5 and PRK 8 have no reported catch in any year.
- 31 On the basis of the historic catch data, the primary stocks likely to be commercially utilised are PRK 1 and PRK 2. Future commercial catch of stocks PRK 3, PRK 4, PRK5, PRK 6, PRK 7, PRK 8, and PRK9 are likely to be small or non-existent.

Recreational and customary catch history

- 32 There is no known prawn killer catch for customary Maori purposes or by recreational fishers, and no prawn killer catches were recorded in the three national telephone/diary surveys of recreational fishers during 1996, 2000 and 2001. Non-commercial catches of prawn killer are likely to be negligible due to their depth distribution and that the method of extraction is not used within the non-commercial fishery.

Other sources of fishing related mortality

- 33 Some level of fishing-related mortality is likely given that prawn killer is taken by trawling. Adverse effects on the animals, their habitat, and the mortality of discarded

animals can be expected, although there is no quantitative information on the level of other sources of mortality.

Additional considerations

- 34 Prawn killer have a relatively short-lived larval stage and do not travel far until settlement, so localised distribution is maintained. This characteristic renders the species susceptible to localised depletion, and is a factor in determining the introductory TACs.

Proposed TACs, TACCs and other allowances

- 35 The proposed TACs must enable PRK stocks to be managed at, or above, a level that can produce the MSY. They should also allow for utilisation and investigation to develop the fisheries in PRK 1 and PRK 2. The proposed initial TAC levels can be reviewed as new information becomes available, whether from the fishery or via directed research¹⁰. Adjustment to the TACs would require supporting information on stock size and yield. Additional information on the environmental impacts of the harvesting method (discussed in more detail later in this paper) might also be required.
- 36 The allocation of rights to harvest prawn killer should provide a more secure basis for investment in the utilisation and development of the fishery, including directed research or monitoring aimed at improving knowledge of the nature and extent of the resource. Additional biological data and other information from the fishery, including directed efforts to inform stock assessment, would facilitate a future review of the TAC.
- 37 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. In determining these allowances, you should consider how the allowances will enable people to provide for their social, economic and cultural wellbeing (as provided for in the purpose of the Act).
- 38 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 appropriate allowances for various sectors based on the best available information.
- 39 MFish proposes no allowance be made for non-commercial fishing interests for any of the prawn killer stocks, given that the best estimate of the current non-commercial catch is zero.
- 40 While there is no quantitative information on the level of other sources of mortality, MFish proposes to set an allowance of approximately 5% of the average of the five

¹⁰ MFish notes that the development of underwater photographic methods for surveying scampi abundance also hold promise for prawn killer. Appropriate modifications to survey design and implementation could deliver estimates of prawn killer abundance in association with scampi survey work at relatively low additional cost. Such estimates could provide potentially valuable new information on prawn killer stock size and yield.

highest yearly commercial landings in PRK 1 and PRK 2 to account for other sources of fishing-related mortality. This equates to the allowance for other sources of fishing related mortality that have been set in scampi. Allowances for other sources of fishing related mortality are not recommended for the remaining PRK stocks at this time.

PRK 1 and 2

- 41 MFish recommends that the initial TACs for PRK 1 and PRK 2 be set at 25.7 tonnes and 3.7 tonnes respectively.
- 42 As shown in Table 2, reported commercial landings of prawn killer in PRK 1 and PRK 2 have varied considerably over the period 1990-91 to 2005-06. The reasons for such variability in both stocks are not well understood although it is likely that reported catches might not represent the full extent of catches or may reflect changes in fishing practices. In the case of PRK 2 it is also possible that it could in part be explained by recruitment variability as this stock is at the southern extent of the prawn killer geographic range and recruitment may vary in response to changes in oceanic temperature.
- 43 In the absence of other information, previous catch levels provide a guide to setting the TAC. The prawn killer catches in PRK 1 and PRK 2 best fit the criteria for a 'stable' fishery, where catches have been reported for an extended period, although varying considerably between years. In the IPP MFish proposed an introductory TAC guided by the average of the five highest yearly commercial landings during the period 1990-91 to 2005-06 for both of these stocks which equates to 24.5 tonnes¹¹ tonnes for PRK 1 and 3.5 tonnes for PRK 2.
- 44 A further consideration in setting the TAC is that some level of fishing-related mortality is likely, given that the species is taken by bottom trawling. Adverse effects on the animals, their habitat, and the mortality of discarded animals can be expected. While there is no quantitative information on the level of other sources of mortality, MFish proposed in the IPP to include in the TAC an additional allowance of 5% of the average of the five highest yearly commercial landings to account for other sources of fishing-related mortality which equates to 1.2 tonnes¹² for PRK 1 and 0.2 tonnes for PRK 2.
- 45 **Sanford** supports the approach of basing TACs for species introduced to the QMS on known or estimated catch. However they consider that, given the uncertainty in the best available information, a more conservative approach than that proposed in the IPP should be taken. Accordingly Sanford suggests a TAC for PRK 1 of 18.0 tonnes although they support the proposed TAC for PRK 2.
- 46 In contrast **SeaFIC** contends that the approach taken in the IPP is too conservative and that there needs to be higher TACs than those proposed to allow for investigation of the extent of the fisheries. Their rationale is explained in the summary of submissions attached as Annex 4. SeaFIC submits that catch levels should not be set

¹¹ There was a small arithmetic error in the IPP which stated that average of the five highest yearly commercial landings during the period 1990-91 to 2005-06 for PRK 1 was 22.5 tonnes rather than the correct figure of 24.5 tonnes used in this FAP.

¹² The arithmetic error noted above produced a figure of 1.1 tonnes for other sources of fishing related mortality in PRK 1 rather than the correct figure of 1.2 tonnes used in this FAP.

lower than the highest annual catch from PRK 1 and PRK 2 (42.2 tonnes and 8.4 tonnes respectively).

- 47 On balance, MFish considers that the proposals in the IPP are appropriate for PRK 1 and PRK 2. In adopting this position MFish acknowledges that there is substantial uncertainty around the level of current catch and that the reported catches may understate actual catch levels as suggested by SeaFIC. We note however that it is not possible to quantify the degree to which reported catches reflect the actual catch. For this reason we consider using the average of the five highest yearly commercial landings as a guide reflects a cautious approach in light of incomplete information. MFish considers that, if the TAC was set at the highest historical catch level, there is a significant risk that the TAC would not maintain PRK 1 at, or above, a level that can produce the MSY. The risk to the sustainability of PRK 1 and PRK 2 stocks would be not be acceptable, as the TAC would be substantially skewed by the high one off catches reported in the 1992/93 fishing year for PRK 1 and the 2002/03 fishing year for PRK 2.
- 48 MFish considers that the recommended TAC levels take into account the best available information on past catches (including the relatively brief history of catches and little evidence of targeted fishing). They also provide for the utilisation of the PRK 1 and PRK 2 stocks and should, on the balance of probabilities, ensure sustainability. MFish considers that the proposed TACs should enable these stocks to be managed at, or above, a level that can produce the MSY. The reporting requirements for QMS stocks will ensure that better catch information is collected in future enabling the TAC to be adjusted if information suggests that this is required.

PRK 3, PRK 4A, PRK 5, PRK 6A, PRK6B, PRK 7, PRK 8, PRK 9

- 49 MFish recommends a TAC of 1 tonne for PRK 3, PRK 4A, PRK 5, PRK 6A, PRK 6B, PRK 7, PRK 8 and PRK 9 in the IPP and this position was supported by both **Sanford** and **SeaFIC** in their submissions. **AFL** did not discuss these TACs.
- 50 Commercial landings of stocks PRK 3, PRK 4A, PRK 6A, PRK6B, PRK 7, and PRK 9 have been small and infrequent. Catches have been reported only in one to three years over the period 1990-91 to 2005-06 and total reported landings from each stock have not exceeded 134 kilograms. Stocks PRK 5 and PRK 8 have no reported catch in any year.
- 51 Prawn killer is considered to be more abundant in northern waters, and substantial catch from southern stocks is unlikely. The potential for development of target fisheries for PRK in these areas is therefore low with the possible exception of PRK 9.
- 52 MFish considers that the recommended TAC of 1 tonne for these stocks will provide for utilisation by facilitating the balancing of incidental catches by trawl fisheries targeting other species within the depth range of prawn killer. Incidental catches have been occurring for many years but are not considered to pose sustainability risks to prawn killer if maintained at historical levels.
- 53 Given that it is unlikely that targeted prawn killer fisheries will develop in these stocks, MFish proposes that no allowance be made at this time for other sources of fishing-related mortality.

- 54 While the recommended TACs and TACCs may not support viable economic fisheries in the short-term, the ability to balance the likely low level of incidental catches is provided for and the incentive to land and report catches is enhanced. Fishery participants will be able to investigate the fisheries, including the collection of appropriate stock assessment and biological information to facilitate future reviews of the TACCs.

PRK 10

- 55 MFish proposed a TAC of 0 tonnes for PRK 10 in the IPP and this position was supported by both **Sanford** and **SeaFIC** in their submissions. **AFL** did not address this point. MFish recommends that TAC be set at 0 tonnes for PRK 10.
- 56 The TAC for scampi in QMA 10 was proposed at zero tonnes on the basis that no previous scampi catch had been noted in the area. It was subsequently set at the proposed level. The bottom range suitable for prawn killer habitat is also limited within QMA 10 as most of the area is deeper than 1 000 metres.
- 57 QMA 10 has also been identified as an area to be protected from bottom trawling under industry's Benthic Protected Area proposal. The closure of QMA 10 to bottom trawling will likely be put into effect through regulation by the end of 2007.

Other management controls

Inclusion on Schedule 6

- 58 **Sanford** notes that the IPP did not consider prawn killer for inclusion on Schedule 6 of the Act. The inclusion of a species on this schedule allows it to be returned to the sea or open waters in accordance with stated requirements. Sanford contends that this would be appropriate for prawn killer for reasons outlined in the summary of submissions.
- 59 MFish acknowledges that prawn killer, like many of the more robust crustaceans, are an ostensibly hardy species and that they may be suitable for inclusion on Schedule 6. We note that there is some evidence from tagging studies that scampi may survive through trawl capture and release and prawn killer may be similarly robust. However, as there is little available information to support this contention directly in the case of prawn killer, MFish considers that it would be unwise to adopt this management strategy at the present time. Inclusion on Schedule 6 was not discussed in the IPP and therefore this management control should be subject to additional consultation, information gathering, and consideration. MFish is open to the consideration of this proposal in the future.

Deemed values

- 60 There is limited information by which to set deemed value rates. There is no port price for prawn killer and an analysis of catch levels during the 2005-06 fishing season implied that the bulk of prawn killer catch was discarded. Such information suggests that a market for this species has yet to be developed. Market prices for similar species (Balmain Bug and Moreton Bay Bug) were sourced from Australia as part of this process, but given the apparent absence of a New Zealand-sourced market for prawn killer, it is considered inappropriate to set deemed values based on Australian market prices.

- 61 Deemed value rates have been evaluated using the new deemed value standards recently developed by MFish. On this basis, MFish proposed in the IPP to set the following deemed value rates (excluding GST) for prawn killer stocks from 1 October 2007:
- interim deemed value at \$0.10/kg;
 - annual deemed value at \$0.20/kg;
 - no differential deemed value (ramping).
- 62 **Sanford** considers that the proposed deemed values are too low to deter, or provide incentives to encourage, fishers to reduce or avoid taking prawn killer without ACE. They propose that the interim deemed value be increased to \$0.20/kg and the annual deemed value to \$0.50/kg.
- 63 MFish considers that the application of the new deemed value standards are appropriate in this case and that the levels proposed by Sanford will provide little meaningful change in the likely operation of the fishery. The development of the prawn killer fishery will provide additional information including port price on which to base a more informed deemed value. MFish will also monitor the effect that the proposed deemed value rates have on ensuring that reported catch of prawn killer remain within the confines of the TACs and individual ACE holdings.
- 64 The new deemed value standards have set out criteria for review of deemed value rates. An annual review is appropriate when a stock has recently entered the QMS and information is limited. The proposed deemed value rates for prawn killer stocks will therefore be reviewed on an annual basis and adjusted accordingly.
- 65 MFish does not propose to apply differential deemed value rates. As the fishery develops, and if required, the matter of differential deemed values can be re-assessed.

Mesh size

- 66 Scampi trawling uses small mesh gear (approximately 60 mm cod-end mesh) and trawling for prawn killer is likely to require similar gear. Although, prawn killer are taken from shallower depths than scampi, their habitat overlaps, and it is likely that a prawn killer fishery will take similar bycatch species to the scampi fishery.
- 67 Concerns were raised in the past by inshore trawl operators, specifically in FMA 2, that a target fishery for prawn killer would adversely affect finfish stocks by catching juveniles in the fine mesh trawl nets. **AFL** has reiterated these concerns in relation to the proposal to use fine mesh trawl nets to target prawn killer. Specifically their concerns relate to the impact on pre-recruit inshore stocks that may be taken as a bycatch of the prawn killer fishery. They contend that this is already occurring in the scampi fishery resulting in an impact on the sustainability of such inshore stocks.
- 68 MFish notes that while there has been no detailed examination of existing data to address these concerns, the size structure of QMS finfish bycatch in scampi trawls is not substantially different from that taken in trawls targeting other species in similar areas. One exception to this is ling in area 6 where those taken in the scampi fishery tend to be small. Commercially important bycatch species taken in the scampi fishery

are likely to also form part of the bycatch of targeted trawling for prawn killer. Those species (such as hoki, ling, sea perch, and tarakihi,) are managed within the QMS, which provides mechanisms for ensuring their sustainability.

- 69 MFish considers that the possibility of an impact of prawn killer trawl fishing on juvenile finfish cannot be discounted at this time and should be evaluated as the fishery develops. This will also apply to the potential for a target prawn killer fishery to take a bycatch of small, immature scampi. If a substantive prawn killer fishery develops observer coverage to address this issue may need to be considered.

Additional environmental considerations

Associated and dependent species

- 70 Prawn killer are reported to occur around the North Island and South Island at bottom depths of about 80 to 300 metres. The species occurs on soft sediment seafloor where it digs into the substrate and covers itself with sand and mud. The species' diet is reported to consist mainly of molluscs and polychaete worms. MFish is not aware of reports detailing interactions between PRK and other species.

Benthic impacts

- 71 In New Zealand, the landings of prawn killer are reported mostly as a bycatch in targeted scampi trawls in SCI 1 and SCI 2. Scampi trawls use relatively light gear with smaller trawl net mesh sizes than standard finfish trawl gear. Target fishing for scampi within the constraints of existing scampi TACCs is relatively localised within the respective QMA boundaries, which has been considered to provide mitigation of the adverse effects of fishing and to ensure the maintenance of biodiversity at the QMA scale. At this stage, there are no known habitats of particular significance for fisheries management that are likely to require protection from fishing for prawn killer.
- 72 However, MFish notes that prawn killer is likely to be a relatively important species within the soft sediment benthic fauna within its depth range. Cryer et al. (2002)¹³ showed evidence that trawling might generally change the benthic community structure and reduce biodiversity over broad spatial scales. That study inferred a negative impact of trawling on prawn killer and several other species.
- 73 MFish notes that there are various approaches under development to ensure that any adverse effects of fishing generally are avoided, remedied, or mitigated. These include the development of the Marine Protected Area Strategy and the Benthic Impact Strategy. The future management of any directed fishery for prawn killer will be influenced by those strategies.

Protected species bycatch

- 74 Scampi trawling is known to take some protected species such as sea lions, fur seals, and various seabird species, and trawling for prawn killer with similar gear could have similar effects. Controls on trawling are in place to partially mitigate the impact on marine mammals and seabirds, including prohibitions on net sonde cables and

¹³ Cryer, M.; Hartill, B.W.; O'Shea, S. (2002). Modification of marine benthos by trawling: toward a generalization for the deep ocean? *Ecological Applications* 12: 1824–1839.

requiring the compulsory reporting of captures. MFish will continue to monitor these interactions and take appropriate action as required.

- 75 In addition, MFish and the Department of Conservation have developed a National Plan of Action (NPOA) for seabirds that includes measures that will apply to all New Zealand fishing vessels. In association with the NPOA, an active programme is underway to monitor and mitigate the capture of seabird species in commercial fisheries. Codes of practice to mitigate seabird captures and fishing-related mortality are being implemented on most vessels involved in the scampi fishery, and in trawl fisheries generally there is a mandatory requirement to use seabird mitigation devices.

General conclusions

- 76 MFish acknowledges that the introduction of prawn killer into the QMS might result in participants exploring new fishing grounds. The proposed TACs/TACCs are likely to represent a cautious approach, being based upon reported catches from a non-target fishery, and should act to limit the effects of fishing (trawling) on the environment. MFish will monitor the distribution of fishing grounds to assess the extent to which new grounds are affected. MFish would expect participants to consider the effects of fishing on the benthic environment as part of any proposal to review the TACs.

Hauraki Gulf Marine Park Act 2000

- 77 Under s 11(2)(c) of the Act you are required to have regard to the provisions of sections 7 and 8 of the Hauraki Gulf Marine Park Act 2000 when setting any sustainability measure, including the implementation of catch limits. Those sections require the Minister to take into account, if relevant, the national significance of the Hauraki Gulf, its islands and catchments, including their capacity to provide for the “social, economic, recreational, and cultural well-being of people and communities” (s 7) and a number of objectives of the management of the Gulf, its islands and catchments (s 8).
- 78 While there may be some areas within the Hauraki Gulf Marine Park that have a depth range suitable for prawn killer, it is not anticipated that prawn killer will be targeted here. It is considered more likely that a prawn killer fishery would develop alongside the established scampi fisheries off the Alderman Islands and around the Bay of Plenty.

Other management issues

Amendments to regulations

- 79 The introduction of prawn killer into the QMS requires amending the Fisheries (Reporting) Regulations 2001 to prescribe reporting codes for prawn killer stocks when commercial fishers are completing their statutory catch returns (see Annex 2).
- 80 As noted above, it is likely that target fishing for prawn killer will require the use of similar fine mesh nets as used for scampi. MFish recommends the amendment of the commercial fisheries regulations to authorise the use of mesh smaller than 100 mm to take prawn killer (see Annex 2).

ANNEX ONE

Statutory Considerations

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

- 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 prawn killer stocks by setting TACs and other appropriate measures. Utilisation is provided for by way of setting appropriate allowances for commercial, recreational and customary fishers. Section 8 requires that the effect on the social, economic and cultural wellbeing of people be considered. This document proposes setting TACs to provide for utilisation of the prawn killer resource, while taking a relatively cautious approach to reflect 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 prawn killer. 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 prawn killer stocks considered in this document as the status of these stocks remains unknown. MFish considers it has relied on the best available information for considering the management options for prawn killer stocks and adopted a cautious approach in the face of the uncertainties or inadequacies in this information.

- c) The Act prescribes three possible harvest strategies in setting a TAC. MFish considers it appropriate to manage prawn killer stocks under s 13(2)(a). This requires the TAC to be set at a level that maintains stock biomass at 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 prawn killer stocks are at, above, or below a level that can produce MSY. However, given the absence of a targeted fishery for prawn killer and the relatively low catches over each fishing year, MFish considers that the prawn killer 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 an appropriate level of catch to maintain prawn killer stocks at or above the B_{MSY} level. In regard to the interdependence of stocks, prawn killer 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.

- d) 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. MFish does not have information on the natural variability of prawn killer stocks. However, MFish has proposed an approach to setting TACs that is likely to be cautious, as described previously. This approach should ensure harvesting levels will not contribute to a sustainability risk if there is high natural variability of prawn killer stocks due to natural fluctuations and environmental conditions.
- e) 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 ensure 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 recommended 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 prawn killer is considered likely.

- f) 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 prawn killer 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 recommended TACs and TACCs for prawn killer.
- g) 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 prawn killer stocks (no size limits, bag limits, catch limits, or other controls). MFish has taken account of controls on fishing methods that might affect the ability of fisheries to utilise prawn killer stocks, and addresses those matters in the attached regulatory proposals.

- h) 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 prawn killer stocks. Similarly, in terms of s 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 prawn killer stocks.
- i) In respect of s 11(2)(c), MFish considers that the proposals for prawn killer are consistent with ss 7 and 8 of the Hauraki Gulf Marine Park Act 2000. Those considerations are discussed further in the body of the paper, but it is not anticipated that prawn killer will be targeted within the Hauraki Gulf Marine Park.
- j) Sections 21(1)(a) & (b) and 21(4)(i) & (ii) 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 prawn killer, and certainly no information to suggest otherwise.
- k) Section 21(4) requires that when considering the proposed allowances for customary non-commercial interests, the Minister must take into account any mātaihai 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 prawn killer. MFish does not consider the zero allowances proposed for customary harvest will detract from the intent of any mātaihai or s 186A closures presently in place.
- l) 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

Amendments to regulations

Consequential amendments to the Fisheries (Commercial Fishing) Regulations 2001 - Regulating net mesh sizes for prawn killer

Background

- 82 It is recommended that the Fisheries (Commercial Fishing) Regulations 2001 be amended to allow the use of 80 mm net mesh in the body and 55 mm net mesh in the cod-end of trawl nets used when fishing for prawn killer.
- 83 It is likely that, as for the scampi trawl fishery, a trawl fishery for prawn killer would not be able to operate effectively without the ability to use smaller than the standard regulated minimum trawl net mesh size of 100 mm. Smaller mesh is required to adequately select for prawn killer, given that the animals are relatively smaller in size than those finfish species generally targeted by trawling. Smaller mesh sizes have been authorised for use in the scampi fishery since the early development of the fishery.

Problem definition

- 84 Unless the use of small mesh nets is authorised for prawn killer fishing, prospective fishers will be constrained by the normal net mesh restrictions. Larger mesh sizes are likely to be ineffective for catching prawn killer.
- 85 Regulation 71(5) of the Fisheries (Commercial Fishing) Regulations 2001 provides for a commercial fisher to use a trawl net with mesh sizes of not less than 80 mm in the body of the net and not less than 55 mm in the cod-end if the fisher is fishing for, or intends to fish for, scampi. The regulation also requires a fisher to notify the Chief Executive of the Ministry of intention to fish for scampi in that fishing year.
- 86 It is recommended that prawn killer be included in regulation 71(5), which is associated with the offence provisions under regulation 84(3).
- 87 Inappropriate use of small mesh trawl nets can have implications for the sustainability of stocks and adverse effects on the aquatic environment. MFish recommends that the existing category of offence for breaching trawl net requirements, with a maximum penalty of a fine up to \$ 100 000, continue to apply.

Consultation

- 88 Stakeholders have been consulted on this proposal. The proposal seeks to facilitate fishing for prawn killer.

Options

Non-regulatory measures

- 89 Non-regulatory alternatives are not considered to be appropriate.

Regulatory Measures

- 90 Regulating the mesh size for prawn killer provides the required authorisation, in the appropriate format, to use fishing methods that are effective at taking prawn killer.

Costs and benefits of the proposal

- 91 Regulating the net mesh requirements for prawn killer trawling might alter current fishing practices, and increase enforcement requirements. Some associated costs can be expected in addition to those for the administrative functions of constructing the necessary regulatory amendment.
- 92 There is a risk that fishers not genuinely targeting prawn killer could use small mesh trawls when targeting other species, but claim to be fishing for prawn killer. MFish considers that the risk is low, both in terms of the likelihood of occurrence, and the severity of impact, at least in the short term.
- 93 The bycatch of unwanted species could increase generally and therefore increase the on-deck time required for catch sorting. MFish's assessment is that clear incentives for fishers generally to use small mesh sizes cannot be established at this time. However, should the risk assessment change in the future, MFish notes that it will act appropriately to mitigate any practice that might result in an increase in sustainability risks.

Administrative implications

- 94 There are no ongoing administrative implications associated with these recommended changes.

Conclusion

- 95 Regulating the authority to use specified mesh sizes in trawl nets used to take prawn killer will facilitate the sustainable utilisation of the resource and will have administrative efficiency benefits.

Recommendation

- 96 It is recommended that the Fisheries (Commercial Fishing) Regulations 2001 be amended to include the authority to use specified mesh sizes in trawl nets used to take prawn killer and bycatch species taken as a consequence, and create an offence for inappropriately using a prawn killer trawl net. Fishers wishing to trawl for PRK will be required to notify MFish of that intention prior to the start of each fishing year.

Consequential amendments to the Fisheries (Reporting) Regulations 2001

Background

- 97 It is recommended that the following consequential amendments be made to the Fisheries (Reporting) Regulations 2001:
- a) Table 1 of Part 1 of Schedule 3 of those regulations that specifies the codes to be used when completing returns which must be furnished to the Chief

Executive. This amendment will incorporate codes which reflect the QMAs for prawn killer;

- b) Part 1 of Schedule 3 of those regulations to insert a table specifying that the areas referred to by name in the table are the quota management areas for prawn killer.

98 The Fisheries (Reporting) Regulations 2001 provide the framework for the completion and provision of statutory returns by fishers to the Chief Executive. Information contained in these returns is used for research, stock assessment, enforcement and administrative reasons (including balancing catch against ACE). It will be appropriate to amend these regulations to ensure that they reflect the QMAs for prawn killer.

Problem definition

99 The obligations for fishers to report their catch and the codes used to complete these returns should reflect the Ministers decisions on QMAs for each species to be introduced into the QMS on 1 October 2007.

Consultation

100 Stakeholders have been consulted on the need to amend these regulations which is a consequential amendment flowing from the Minister's QMA decisions.

Options

101 As the reporting framework is contained in regulations, there is no other option than to amend these regulations.

Costs and benefits of the proposal

102 The recommended amendments clarify the obligations for fishers when completing their statutory returns. Regulatory clarification means fishers are aware of their reporting obligations and complete their returns in the simplest fashion possible.

Administrative implications

103 There are no administrative implications associated with these recommended changes.

ANNEX THREE

Species Information

Species Biology

- 104 The species ‘prawn killer’ or ‘shovel-nosed lobster’ (*Ibacus alticrenatus*¹⁴) is a member of the family Scyllaridae or ‘slipper lobsters’.
- 105 ‘Prawn killers’ are reported to occur around the North and South Islands of New Zealand in relatively deep water from depths of about 80 to 300 metres. The species occurs on soft sediment seafloor where it digs into the substrate and covers itself with sand and mud (it is not reported whether or not it forms distinct burrows as do scampi). The species’ diet is reported to consist mainly of molluscs and polychaete worms. MFish is not aware of reports detailing interactions between PRK and other species.
- 106 Little information on the species’ biology is available from New Zealand reports, although larval development was documented by Atkinson & Boustead (1982)¹⁵. Information about the same species in eastern Australian waters¹⁶ suggests that:
- The prawn killer is a relatively small lobster (carapace lengths for egg-bearing females ranged from 38.2 to 52.0 mm);
 - Individuals of other *Ibacus* species reach maximum average length within 5 to 7 years;
 - females of other *Ibacus* species reach maturity 1.7 to 2 years after settlement;
 - brood fecundity (egg numbers) was size dependent and the lowest (from 1 734 to 14 762) in *I. alticrenatus* compared with two other species;
 - the egg is relatively large and hatches at an advanced stage (egg size ranged from 0.94 to 1.29 mm);
 - the relatively short-lived larval stages do not travel far until settlement, so localised distribution is maintained;
 - information from other *Ibacus* species suggested that moulting occurs 3 to 4 times within the first year after recruitment.

¹⁴ While *Ibacus alticrenatus* is thought to be the primary species in the catch taken in New Zealand waters, at least three other members of the family Scyllaridae might be involved, although thought to be uncommon in the New Zealand catch (*Ibacus brucei*, *Antipodarctus aoteanus*, *Antarctus mawsoni*).

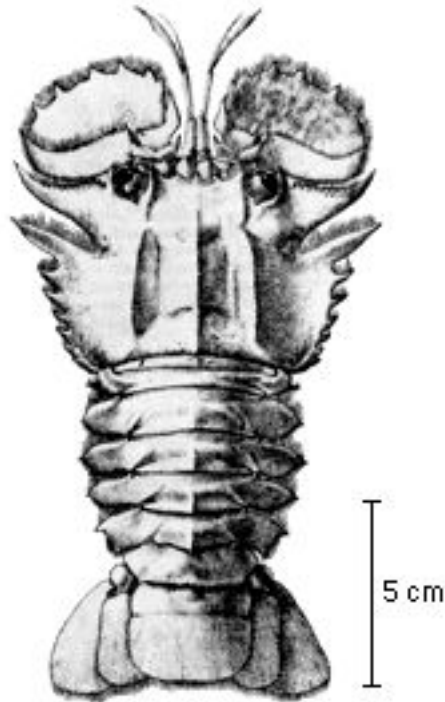
¹⁵ Atkinson, J.M. and Boustead, N.C., 1982, “The complete larval development of the scyllarid lobster *Ibacus alticrenatus* Bate, 1888 in New Zealand waters”. *Crustaceana* 42: 275-287.

¹⁶ Haddy, J.A., Courtney, A.J., & Roy, D.P., 2005, “Aspects of the reproductive biology and growth of Balmain bugs (*Ibacus* spp.) (Scyllaridae)” *Journal of Crustacean Biology*, 25(2): 263-273.

Regulatory framework

- 107 There are no existing regulations that specify catch limits or other sustainability measures for prawn killer. There is no minimum size limit for amateur or commercial fishers for this species. There is no species-specific bag limit restriction on prawn killer for amateur fishers.

FAO • Fisheries Department



from Holthuis, 1985

SUMMARY OF RECOMMENDATIONS

New Inshore Lining Catch Effort Return

108 MFish recommends that you:

- a) **Agree** to amend the Fisheries (Reporting) Regulations 2001 to introduce a new Inshore Lining Catch Effort Return form for reporting fishing by lining;
- b) **Note** that the new lining form will collect data from vessels 6m to 28m in overall length, about fishing using the methods bottom longlining, surface longlining (targeting species other than tuna or swordfish), and trot lining;
- c) **Note** that fishers using vessels less than 6m or greater than 28m in overall length will continue to report bottom longlining, surface longlining (targeting species other than tuna or swordfish), and trot lining on the Catch Effort Landing Return (CELR).
- d) **Note** that the Chief Executive has the power under regulation 41 of the Fisheries (Reporting) Regulations 2001 to waive or suspend the reporting requirements of any forms required under these regulations where satisfied that the requirement would cause undue hardship or would be unduly impracticable, and the waiver or suspension would not unduly prejudice the management of any fisheries resource.

New Inshore Trawl Catch Effort Return

109 MFish recommends that you:

- a) **Agree** to amend the Fisheries (Reporting) Regulations 2001 to introduce a new Trawl Catch Effort Return (TCER) for reporting fishing by trawling;
- b) **Note** that the new TCER will collect data from vessels 6m to 28m in overall length, about fishing using the methods bottom trawl, bottom pair trawl, mid-water trawl, and mid-water pair trawl;
- c) **Note** that fishers using vessels less than 6m or greater than 28m in overall length will continue to report bottom trawl, bottom pair trawl, mid-water trawl, and mid-water pair trawl on the Catch Effort Landing Return (CELR) at this stage;
- d) **Note** that the Chief Executive has the power under regulation 41 of the Fisheries (Reporting) Regulations 2001 to waive or suspend the reporting requirements of any forms required under these regulations where satisfied that the requirement would cause undue hardship or would be unduly impracticable, and the waiver or suspension would not unduly prejudice the management of any fisheries resource.

Temporary Waiver for Licensed Fish Receiver Audit Report Requirements

110 MFish recommends that you:

- a) **Agree** to amend the Fisheries (Reporting) Regulations 2001 to allow the Chief Executive to grant temporary annual audit waivers of up to two years for Licensed Fish Receivers;
- b) **Note** the Chief Executive would have the power to revoke the waiver.

A Vessel monitoring System for the Southern Bluefin Tuna Fleet

111 **Note** that the CCSBT and WCPFC have agreed to the development and implementation of VMS, that details have yet to be finalised, and that New Zealand regulations meet current requirements.

112 **AND Agree** to

- i) Continue to require vessels exceeding an overall length of 28 metres taking STN to operate ALCs (status quo).

AND Direct MFish to review VMS requirements and alternative technologies to gather information on the option of requiring all vessels regardless of size taking HMS to carry and operate ALCs by 1 January 2009.

(MFish preferred option);

OR Agree to

- ii) Require vessels exceeding a minimum overall length (eg exceeding 15 metres overall length) that are targeting and/or taking STN to operate ALCs;

AND amend the Fisheries (Satellite Vessel Monitoring Regulations) 1993;

OR Agree to

- iii) Require all vessels regardless of size, targeting and/or taking STN to operate ALCs;

AND amend the Fisheries (Satellite Vessel Monitoring Regulations) 1993.

Foveaux Strait Dredge Oyster Fisheries Plan: Limiting Dredge Size in Non-Commercial Area

113 MFish recommends that you:

- a) **Agree** to a limit on oyster dredge size in the non-commercial areas of the fishery proposed in the Foveaux Strait Dredge Oyster Fisheries Plan. A regulated maximum bit bar length of 1 m is proposed.
- b) **Agree** to amend the Fisheries (Southland and Sub-Antarctic Areas Amateur Fishing) Regulations 1986 to require a maximum bit bar length of 1 m, with the same penalty/offence provisions as other gear restrictions (such as openings on rock lobster pots).

Devolution of ALC Registry Services

114 MFish recommends that you:

- a) **Agree** to transfer the functions, duties and powers to register ALC Type Approvals and the function, duty and power to register ALCs to the ASDO (“the Transfer”) under Part 15A of the Fisheries Act 1996;
- b) **Agree** to add regulations 5(9), 6(1) and 6(3) (in relation to the cancellation of ALCs) of the Fisheries (Satellite Vessel Monitoring) Regulations 1993 to the Fisheries (Transfer of Functions, Duties and Powers to the New Zealand Seafood Industry Council Limited) Order 2006 to transfer the additional ALC registry functions, duties and powers to the ASDO;
- c) **Agree** to amend the Fisheries (Registers) Regulations 2001 to add a regulation that specifies the required content of a Type Approvals Register;
- d) **Agree** to revoke Section 16, Schedule 2 of the Fisheries (Commercial Fishing) Regulations 2001 as the section relates to ALC application fees.

Prawn Killer (PRK)

115 MFish recommends that you:

- a) **Agree** to set a TAC of 25.7 tonnes for PRK1 and within that TAC set:
 - i) A customary allowance of 0 tonnes;
 - ii) A recreational allowance of 0 tonnes;
 - iii) An allowance for other fishing-related mortality of 1.2 tonnes; and
 - iv) A TACC of 24.5 tonnes.

- b) **Agree** to set a TAC of 3.7 tonnes for PRK2 and within that TAC set:
 - i) A customary allowance of 0 tonnes;
 - ii) A recreational allowance of 0 tonnes;
 - iii) An allowance for other fishing-related mortality of 0.2 tonnes; and
 - iv) A TACC of 3.5 tonnes.

- c) **Agree** to set a TAC of 1 tonne for each of PRK3, PRK4A, PRK5, PRK6A, PRK6B, PRK7, PRK8 and PRK9, and within the TAC for each of those prawn killer stocks set:
 - i) A customary allowance of 0 tonne;
 - ii) A recreational allowance of 0 tonne;
 - iii) An allowance for other fishing-related mortality of 0 tonne; and
 - iv) A TACC of 1 tonne.

- d) **Agree** to set a TAC of 0 tonnes for PRK10 and:
 - 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.

- e) **Agree** to amend the Fisheries (Reporting) Regulations 2001 to define prawn killer stock codes to be used by commercial fishers when completing their prawn killer statutory catch returns.

- f) **Agree** to amend the Fisheries (Commercial Fishing) Regulations 2001, so that commercial fishers, who intend to fish for prawn killer and have notified the chief executive in writing of that intention in that fishing year, can use vessel trawl nets with a mesh of not less than 80 mm in the body of the net, and not less than 55 mm in the cod end of the net – as is currently the case under the Fisheries (Commercial Fishing) Regulations 2001 in relation to commercial fishers fishing for scampi.
- g) **Agree** to set an annual deemed value of \$0.20 per kilogram (excluding GST) and an interim deemed value of \$0.10 per kg (excluding GST) for the 2007/08 fishing year.

Russell Burnard

Manager Regulatory and Information

APPROVED / NOT APPROVED / APPROVED AS AMENDED

Hon Jim Anderton

Minister of Fisheries

/ 05 / 2007