

INITIAL POSITION PAPER - REVIEW OF THE REGULATION THAT PERMITS STALLING OF NETS IN THE KAIPARA HARBOUR

Executive Summary

- 1 Regulation 14 of the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986 permits stalling of nets by commercial fishers in the Kaipara Harbour. The Kaipara Harbour is the only area of New Zealand where the practice is permitted.
- 2 Stalling is the process whereby a net is set in such a manner that any fish enclosed or entangled by the net is left stranded by the falling tide; or is enclosed or entangled in such a manner that at any stage of the tide there is an insufficient depth of water at either end of the net to enable the fish to pass from the waters above the net to the waters below the net.
- 3 Stalling is a fishing practice that causes a significant amount of fish wastage. When fish are left out of the water in stalled nets for too long they deteriorate and become unfit for sale. They are then frequently discarded and not reported. There is no obvious reason to allow stalling of nets in the Kaipara Harbour as a special case above other tidal fishing areas.
- 4 The Ministry of Fisheries (MFish) proposes three options: to a) retain the status quo; b) require attendance at stalled nets in the Kaipara Harbour; or c) prohibit stalling in the Kaipara Harbour.
- 5 Stalling of nets is a practice in fisheries for flatfish, grey mullet and rig in the Kaipara Harbour. There are 50 commercial fishers that currently use set nets in the Kaipara Harbour. However, MFish has no clear information on how much stalling occurs in the harbour, or how much fish is lost due to wastage of fish in stalled nets.
- 6 Prohibiting stalling or requiring attendance at nets should improve the quality of catches and the abundance and availability of fish stocks within the Kaipara Harbour. However, there would be economic costs for commercial fishers who currently stall their set nets as they would need to change their fishing practices.

Summary of Management Options

- 7 MFish proposes to either:
 - a) **Option 1:** continue to permit stalling of nets in the Kaipara Harbour (status quo); OR
 - b) **Option 2:** require fishers to attend their stalled set nets at all times; OR
 - c) **Option 3:** prohibit stalling in the Kaipara Harbour.

Rationale for Management Options

Set-net stalling

- 8 Stalling of nets is a fishing practice that causes a significant amount of fish wastage. When fish are left out of the water in stalled nets for too long they deteriorate and become unfit for sale. They are then frequently discarded and not reported. The lack of reporting could lead to stocks being unknowingly fished above the level permitted under the quota management system. Large volumes of fish wastage could reduce the availability and abundance of fish in the Kaipara Harbour. Stalled nets could also attract other animals to predate on fish exposed at low tide which has the potential to cause non-fish bycatch.
- 9 Stalling is defined in regulation as the process whereby a net is set in such a manner that any fish enclosed or entangled by the net is left stranded by the falling tide; or is enclosed or entangled in such a manner that at any stage of the tide there is an insufficient depth of water at either end of the net to enable the fish to pass from the waters above the net to the waters below the net.
- 10 Stalling has been permitted in the Kaipara Harbour to help fishers who were not able to collect their nets easily due to the tidal nature of the harbour. However, other harbours are subject to substantial tidal effects and there is no obvious reason to allow stalling of commercial nets in the Kaipara Harbour as a special case above other tidal fishing areas.

Regulations

- 11 The Fisheries (General) Regulations 1950 permitted stalling in the Kaipara Harbour on condition that the mesh of the set nets used was not less than 108 mm and that the net was no more than 540 m in length. This legislation was replaced by the Fisheries (Vessel, Gear and Method) Notice 1983 which prohibited stalling everywhere in New Zealand.
- 12 The Kaipara Harbour was re-exempted from the stalling ban through the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986, with a reduced set net mesh size of 100 mm, and a requirement that a 90 metre space was provided between nets.
- 13 Stalling by non-commercial fishers is also prohibited everywhere, including the Kaipara Harbour, through regulation 10 of the Fisheries (Amateur Fishing) Regulations 1986.

Set net fisheries in the Kaipara Harbour

- 14 Stalling of nets is a practice in flatfish, grey mullet and rig fisheries in the Kaipara Harbour. Snapper, trevally, school shark, and kahawai are also important fisheries in the harbour and can be taken as bycatch in stalled nets.
- 15 When Total Allowable Catch limits for flatfish, grey mullet and rig stocks in the northern half of the North Island were reviewed in 2005, many

stakeholders with interests in the Kaipara Harbour raised concerns about wastage associated with set net stalling.

- 16 At that time the Minister decided not to alter any TACs, but asked MFish to consider possible measures to improve fisheries management of west coast harbours. This review of set net stalling is one of those measures.
- 17 Table 1 shows catch taken of flatfish, grey mullet and rig by commercial set net in the Kaipara Harbour for the last two fishing years. MFish has no information to suggest how much of this catch is taken when using the practice of stalling of set nets, or how much fish might be lost due to wastage.

Table 1: Number of commercial set net fishers in the Kaipara Harbour and catch taken by commercial set net for the 2004/05 and 2005/06 fishing years.

		Catch taken by commercial set net (tonnes)		
Fishing year	Number of fishers using set nets	Flatfish	Grey mullet	Rig
2005/06	50	76	81	34
2004/05	54	91	110	65

- 18 MFish has received anecdotal information on set net stalling in the Kaipara Harbour from members of the Kaipara community, from all fishing sectors. They advise that stalling is a fairly regular practice for many commercial flatfish fishers in the Kaipara Harbour, who set nets of up to 540 metres in length. Soakage times vary but can be up to 18 hours which means that the nets can stall more than once before the fish are removed. The lack of MFish information on stalling is partly because these nets are poorly marked and are hard to see from the main channels, so few compliance records exist.

Assessment of Management Options

Option 1: Continue to permit stalling of nets in the Kaipara Harbour (status quo)

- 19 While it is clear that stalling causes wastage of fish, there is no clear evidence to suggest that stalling affects the sustainability of fish stocks found in the Kaipara Harbour. The extent of stalling and the extent of loss of fish due to wastage are unknown; therefore retaining the status quo is a valid option.
- 20 This option will not require any changes to current fishing practices. However, stalling of set nets causes wastage, dumping of fish and conflicts amongst stakeholders and this option would not resolve these problems.

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

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

Option 3: Prohibit stalling in the Kaipara Harbour

- 24 This option would ensure that fish are not stranded in nets out of the water at low tide. It may therefore benefit commercial fishers by improving the quality of catches. However, if commercial fishers need to stall their nets to be able to fish effectively, this option would reduce the incomes of those commercial fishers. The precise economic impact of this is unknown.
- 25 If this option reduces fish wastage in the Kaipara, it could benefit both commercial and non-commercial fishers as availability of fish in the harbour should increase.
- 26 A total prohibition on the practice of stalling set nets is likely to be much easier to enforce than option 2. As a result, benefits such as improving the quality of the catch are more likely to be realised under this option than under option 2.

Other issues

Compliance and resource considerations

- 27 MFish would need to inform fishers of any regulation change and the reasons for the change. There will be a cost involved for MFish produce brochures and signs to raise awareness among fishers of any changes.
- 28 Ongoing compliance resources will be required to ensure fishers work within the regulations. If attendance at stalled nets is required, there may need to be regular inspections to ensure that any stalled nets are attended. If there is a total ban of stalling, monitoring will be required to ensure that no stalling takes place.
- 29 Currently the main commercial offences in the Kaipara Harbour include fishers breaching soak times and other netting offences. Monitoring of stalling and attendance could be done in tandem with existing operations and therefore without a significant increase in resources.

Stakeholder views

- 30 MFish invites stakeholders to submit their views on the options presented in this paper and information about the costs and benefits of each option.
- 31 The Kaipara Harbour Sustainable Fisheries Management Study Group (a group of commercial, recreational and customary fishers and other interested parties from the Kaipara Harbour) has recommended that stalling be permitted only when the fisher is in attendance and actively working their net. In this way the fisher can immediately remove fish that have been stranded in the net.
- 32 Te Uri o Hau and Nga Rima (hapu of the Kaipara area) support prohibiting stalling as it would prevent fish wastage. Stalling is not a practice that their marae or papapakainga use as exposure of fish to the sun between tides damages the quality of the fish. Tangata whenua in general support attendance at nets and customary permits in the Kaipara area require attendance at nets to check when the target quantity of fish is caught.

Statutory considerations

- 33 MFish considers that the set net stalling provision in the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986 is a sustainability measure under section 11 of the Fisheries Act 1996 (the Act). Any amendment to the set net stalling provision would be made by regulation under section 298(a) of the Act which provides for regulations to implement or vary any sustainability measure set or varied under section 11 of the Act.
- 34 In reviewing the regulation that permits stalling in the Kaipara Harbour, the following statutory considerations under the Act have been taken into account.
- a) **Section 5(a) and (b)** – MFish is unaware of any international obligation that would be affected by the proposed management options. MFish considers that the options are consistent with the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.
 - b) **Section 8** – None of the management options are contrary to the purpose of the Act. Prohibiting stalling or requiring attendance at stalled nets should help increase catch efficiency, reduce fish spoilage and allow for bycatch and undersized fish to be returned to the water. This would help to ensure sustainability of stocks in the harbour.
 - c) **Section 9** – Prohibiting stalling or requiring attendance at nets would decrease the level of fish spoilage and wastage of undersized and non-quota bycatch species and may also reduce any incidental bycatch of sea birds and other animals that are attracted to stalled nets to feed on fish. The options will have no impact on habitats of particular significance for fisheries management.

- d) **Section 10** – MFish considers that the best available information indicates that the benefits of options 2 and 3 outweigh the costs.
- e) **Section 11(1)(a)** – Set net stalling is a fishing practice that causes significant amounts of fish wastage. Options 2 and 3 should therefore reduce the wastage of fish in the Kaipara Harbour.
- f) **Section 11(1)(b)** – Most stocks that are thought to be caught by stalled set nets are managed under the Quota Management System. As stalling can lead to dumping and under-reporting of fish, options 2 and 3 should lead to greater adherence to the Total Allowable Commercial Catch set for the stocks concerned.
- g) **Section 11(1)(c)** – MFish does not consider that the natural variability of the stocks caught by stalled set nets is relevant to the issues outlined in this paper.
- h) **Section 11(2)** – There are no provisions applicable to the coastal marine area known to exist in any policy statement or plan under the Resource Management Act 1991, or any management strategy or plan under the Conservation Act 1987, that are relevant to the setting or varying of any sustainability measure for this stock. The Hauraki Gulf Marine Park Act 2000 is not relevant to the Kaipara Harbour.
- i) **Section 11(2A)** – No conservation services or fisheries services or approved Fisheries Plan exist that are relevant to the Kaipara Harbour stalled set net fishery.

REGULATORY IMPACT STATEMENT

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

Executive summary

Regulation 14 of the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986 permits stalling of nets by commercial fishers in the Kaipara Harbour. Stalling (setting a net in a manner that fish caught are left stranded by the falling tide) is considered to be a particularly wasteful practice. Stalling is prohibited for all fishers everywhere else in New Zealand and for non-commercial fishers in the Kaipara Harbour.

Three options are proposed for consultation. These are:

- a) Option 1: continue to permit stalling of nets in the Kaipara Harbour (status quo); OR
- b) Option 2: require attendance at stalled nets in the Kaipara Harbour; OR
- c) Option 3: prohibit stalling of nets in the Kaipara Harbour.

Adequacy statement

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

Status quo and problem

Stalling is the process whereby a net is set in such a manner that any fish enclosed or entangled by the net is left stranded by the falling tide; or is enclosed or entangled in such a manner that at any stage of the tide there is an insufficient depth of water at either end of the net to enable the fish to pass from the waters above the net to the waters below the net.

Stalling is a fishing practice that causes a significant amount of fish wastage. When fish are left out of the water in stalled nets for too long they deteriorate and become unfit for sale. They are then frequently discarded and not reported. There is no obvious reason to allow stalling of nets in the Kaipara Harbour as a special case above other tidal fishing areas.

The local community have raised concerns that stalling affects sustainability of fish stocks in the Kaipara Harbour and causes conflicts between stakeholders.

Stalling of nets is a practice in commercial fisheries for flounder, grey mullet and rig in the Kaipara Harbour. Snapper, trevally, school shark and kahawai are other important fish stocks in the harbour that may be taken as bycatch in stalled nets. In the 2005/06 fishing year 76 tonnes of flounder were taken by commercial set net in the Kaipara Harbour, 81 tonnes of grey mullet and 34 tonnes of rig. Catches for the previous year (2004/05) were 91, 110 and 65 tonnes respectively.

50 and 54 commercial fishers using set nets reported catches in the harbour in the 2004/05 and 2005/2006 fishing years respectively. MFish does not know how much of this catch is taken when using stalled set nets or how much fish might be lost due to wastage. The Ministry of Fisheries has received anecdotal information on set net stalling in the Kaipara Harbour from members of the Kaipara community, from all fishing sectors. They advise that stalling is a fairly regular practice for many commercial flatfish fishers in the Kaipara Harbour, who set nets of up to 540 metres in length. Soakage times vary but can be up to 18 hours which means that the nets can stall more than once before the fish are removed. The lack of MFish information on stalling is partly because these nets are poorly marked and are hard to see from the main channels, so few compliance records exist.

When the TACs for FLA 1, GMU 1 and SPO 1 were reviewed in 2005, many stakeholders raised concerns about stalling in the Kaipara Harbour. In particular, concerns were raised about wastage associated with the practice, which could affect the sustainability of fish stocks in the harbour.

At that time the Minister decided not to alter the TACs, but considered a package of measures would be necessary to address the various concerns stakeholders had raised during the review. Reviewing the regulation that prohibits stalling in the Kaipara Harbour is one of those measures.

Option 1 (status quo) is to continue to permit the stalling of nets in the Kaipara Harbour. This option will not require any changes to current fishing practices. The extent of stalling and the extent of loss of fish due to wastage are unknown; therefore retaining the status quo is a valid option. However, stalling of set nets causes wastage, dumping of fish and conflicts amongst stakeholders and this option would not resolve these problems.

Objectives

The overall objective of the proposal is to ensure the sustainable utilisation of Kaipara Harbour fisheries resources. The specific objective is to prevent wastage and non-reporting of fish caught in stalled nets.

Alternative options

The alternative to the options proposed is to defer proceeding with the regulation review.

Preferred options

MFish has no strong preference between options 2 and 3 at this stage.

Option 2 requires fishers in the Kaipara Harbour to attend their stalled nets at all times. This would enable the fishers to immediately remove all fish that may be exposed by the falling tide and avoid spoilage and wastage. This option should therefore improve the quality of catches by reducing the time fish remain out of the water. However, this option is likely to have a direct cost for commercial fishers as they will be required to attend and work the nets, although they would still be able to

use stalled nets, unlike in option 3. The precise economic impact of this option is not known.

Option 3 is to prohibit stalling of nets in the Kaipara Harbour. This would ensure that fish are not stranded in nets out of the water at low tide. It may therefore benefit commercial fishers by improving the quality of catches. However, if commercial fishers need to stall their nets to be able to fish effectively, this option would reduce the incomes of those commercial fishers. The precise economic impact of this is unknown. If this option reduces fish wastage in the Kaipara, it could benefit both commercial and non-commercial fishers as availability of fish in the harbour should increase.

Many tangata whenua and stakeholders in the Kaipara Harbour area support amending the regulation to require attendance at nets, or removing the regulation to prohibit stalling.

If current requirements change there is a need to ensure fishers are adequately informed to maximise the potential for voluntary compliance. There is a cost in doing so. Monitoring and enforcement would be carried out within existing resources and involve at-sea inspection programmes.

Implementation and review

The regulation will come into force on 1 April 2008. Information, including new signs and pamphlets would need to be developed and distributed to inform people of the changes.

Consultation

MFish will carry out a consultation process required by section 25 of the Act. That section requires the Minister, before recommending the alteration of any regulation, to consult the persons and organisations considered by the Minister to be representative of those classes of persons having an interest in the relevant fisheries, including Maori, recreational, commercial and environmental interests. Submissions will be invited from stakeholders in the review consultation process. Any submissions will further inform the final advice to the Minister.

SUMMARY OF SUBMISSIONS - REVIEW OF STALLING OF NETS IN THE KAIPARA HARBOUR

- 35 The Ministry of Fisheries (MFish) received submissions on the review of the regulation that permits commercial fishers to stall set nets of a particular configuration in the Kaipara Harbour from:
- Environs Holdings Ltd, a subsidiary of Te Uri o Hau Settlement Trust (TUOH)
 - Farmers of New Zealand, Head Office, Whangarei
 - Kaipara District Fishery Sub-Committee
 - Kaipara Harbour Sustainable Fisheries Management Study Group (Kaipara Study Group)
 - New Zealand Recreational Fishing Council (NZRFC)
 - New Zealand Seafood Industry Council Ltd (SeaFIC)
 - Northland Non-Commercial Fishing Forum
 - The Northern Fisheries Management Stakeholder Company Limited (Northern Stakeholder Group)
 - Te Ohu Kai Moana Trustee Ltd (TOKM)
 - Sanford Limited (Sanford)
 - Peter Yardley (commercial fisher)
- 36 Environs Holdings Ltd (TUOH) is responsible for the implementation of activities that advance the well being of people and their environment within the Te Uri o Hau rohe. Te Uri o Hau is a hapu of the Ngati Whatua iwi descended from the tribal ancestor Haumoewaarangi whose descendants settled the northern Kaipara region. Under section 59 of the Te Uri O Hau Claims Settlement Act 2002 the Crown acknowledged the cultural, spiritual,

historic and traditional association of Te Uri O Hau with the Kaipara Harbour. The statutory acknowledgement reaffirms Te Uri O Hau's status as kaitiaki of the area.

- 37 Farmers New Zealand represents farmers in the Kaipara District and nationally.
- 38 The Kaipara District Fishery Sub-Committee is a sub-committee of the Kaipara District Council.
- 39 The Kaipara Harbour Sustainable Fisheries Management Study Group (Kaipara Study Group) comprises knowledgeable and interested fishers from the Kaipara community who are iwi, commercial and recreational fishers. The initiative to form this group in response to increased pressure on the harbour was supported by the Minister of Fisheries in 2000 who wrote that a "steering committee would be formed for the purpose of generating proposals for an overall Fisheries Management Strategy for the Kaipara Harbour".
- 40 The New Zealand Recreational Fishing Council (NZRFC) represents the New Zealand Angling & Casting Association, the New Zealand Big Game Fishing Council, the New Zealand Trailer Boat Federation, the New Zealand Marine Transport Association, the New Zealand Sports Industry Association and the New Zealand Underwater Association. The Council also supports the MFish-led and funded recreational forums.
- 41 The New Zealand Seafood Industry Council Ltd (SeaFIC) works on behalf of the New Zealand seafood industry which is made up of about 2,500 participating enterprises. SeaFIC promotes the interests of all sectors of the fishing industry.
- 42 The Northland Non-Commercial Fishing Forum is made up of members of the recreational fishing community in the north of the North Island. The Forum acts as an advisory body to MFish on recreational fishing issues.
- 43 The Northern Fisheries Management Stakeholder Company Limited (Northern Stakeholder Group) is an established commercial stakeholder organisation (CSO) formed from the amalgamation of the Snapper 8 Company Limited, the Pagrus Auratus Company Limited and the Northern Inshore Fisheries Company Limited. The Northern Stakeholder Group represents the interests of quota owners of inshore quota stocks in Fisheries Management Areas (FMAs) 1, 8 and 9. Geographically it extends from the tip of the North Island, down the Auckland (West) coast and continues down the Central (West) coast almost to Wellington, and from the tip of the North Island, down the Auckland (East) coast to Cape Runaway (FMAs 1, 8 and 9). This includes the West Coast harbours such as the Kaipara Harbour, and the Hauraki Gulf. This CSO is mandated to act on behalf of its shareholders on issues affecting them.
- 44 Te Ohu Kai Moana Trustee Ltd (TOKM) is a statutory body established under the Maori Fisheries Act 2004 to advance the interests of iwi individually and collectively, primarily in the development of fisheries, fishing and fisheries-related activities. TOKM states that Maori, through the Deed of Settlement

and the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 have rights and interests in both commercial and non-commercial fishing.

- 45 Sanford is a large commercial fishing company that carries out harvesting, farming, processing, storage and marketing of sea foods and aquaculture products in New Zealand.
- 46 Peter Yardley has been a commercial flounder fisher on the Kaipara Harbour for 33 years.

Submissions

General Comments

- 47 The Northern Stakeholder Group and Sanford believe that the IPP has not adequately identified the issue requiring management intervention, that it has inadequately analysed set net stalling in the harbour, and that many statements are misleading and incorrectly imply that the stalling provision jeopardises the sustainability of fish stocks in the harbour. The Northern Stakeholder Group and Sanford state that the IPP is absent of the best available information, and options 2 & 3 are inconsistent with the utilisation principle of the Fisheries Act 1996.
- 48 Sanford is a shareholder of the Northern Stakeholder Group and supports their submission.
- 49 SeaFIC submits that there is currently insufficient information on the nature and extent of stalling to make sensible management decisions, that the problem definition requires further work, and that this matter would ideally be considered as part of a fishery planning process for the stocks at the QMA level.
- 50 SeaFIC interprets that the aim of the IPP is to increase the availability and abundance of fish in the Kaipara Harbour. SeaFIC believes that the Minister cannot restrict utilisation for the reasons of community perception.
- 51 SeaFIC states that it has not been able to ascertain what effort MFish has undertaken to assess any economic impacts of the options proposed. Therefore SeaFIC disagrees with MFish that the benefits of options 2 and 3 outweigh the costs and that it is unknown if the benefits of any options outweigh the costs.

Sustainability

- 52 NZRFC submits that it has long been recognised that harbours and estuaries contain high levels of juvenile fish and these need protection, which stalling does not give. The Minister when setting the TACC does not allow for this

mortality, which given the probable high juvenile death rate, must be significant. Information on the level of the use of stalling is also unknown.

- 53 NZRFC submits that fisheries management pays scant regard to the productivity of relatively discrete areas such as the Kaipara Harbour. It states that it is simply lumped in with the whole top half of the North Island and significant overfishing is the result. Prohibiting the stalling of nets may not change the amount of fish landed.
- 54 The Northern Stakeholder Group and Sanford state that there is no information presented in the IPP on the total allowable catches (TACs) for the fish stocks caught in FMA 1, and that total allowable commercial catches (TACCs) for flatfish (FLA 1), grey mullet (GMU 1) and rig (SPO 1) have been under-caught in recent years, meaning that there is no sustainability concern.
- 55 The Northern Stakeholder Group and Sanford state that the under-catch of flatfish, grey mullet and rig is due to a combination of commercial fishers leaving the Kaipara Harbour fishery because of increased fuel costs, and regulatory complexities. The Northern Stakeholder Group and Sanford state that the number of fishing permits and registered vessels has clearly reduced over time both nationally and in the Kaipara Harbour general statistical area. Tables 1 and 2 (Appendix 1) show the number of fishing permits and registered vessels nationally and in the Kaipara Harbour. Table 3 shows the FLA 1, SPO 1 and GMU 1 commercial catches and fishing permits issued from 1994/1995 – 2006/2007.
- 56 The Northern Stakeholder Group and Sanford state that even if fish caught in stalled nets are unfit for sale or fetch a lower economic return to the commercial fisher, it is not a sustainability issue, and therefore, in their view, not of MFish concern.
- 57 TOKM states that the relevance of Kaipara fish catches to the management of northern inshore fishstocks is omitted from the IPP. TOKM states that there is no information in the IPP on the extent of stalling in the Kaipara, or if the fish losses show a clear sustainability problem.
- 58 SeaFIC states that the IPP does not make a case for a sustainability concern for the stocks caught in stalled nets.
- 59 SeaFIC states that reports of discarding of fish and unreported bycatch are not substantiated in the IPP, and that even if there was evidence of these activities, that they do not necessarily create a sustainability risk. SeaFIC states that any sustainability risk may not be addressed by a change in regulation and that discarding of fish depends on deemed values, TACCs and compliance regimes within the region.
- 60 SeaFIC states that it is difficult to see what sustainability risk would occur if there was non-reporting and discarding of fish in the Kaipara Harbour, being a sub-area of the quota management area.

- 61 SeaFIC submits that catch quality is not a relevant consideration for the IPP because the QMS provides for commercial fishers to maximise the value of the ACE depending on market requirements.
- 62 SeaFIC states that there is no evidence of bycatch of protected species and any bycatch of protected species in stalled nets would not necessarily cause a sustainability risk.
- 63 TUOH states that there is anecdotal evidence that some commercial fishers are stalling their nets for extended periods resulting in fish being stranded out of the water and significantly affecting their quality. This also prevents the return of live juvenile fish and bycatch species. TUOH states that the tributaries of the Kaipara Harbour provide extremely important nursery habitats for fish.
- 64 The Kaipara Study Group reports that some commercial fishers are allowing their nets to stall in a way that leaves fish stranded for hours. This has a significant effect on fish quality and prevents the live return of juvenile and bycatch fish to the water.

Use and Value

- 65 NZRFC submits that stalling encourages wasteful fishing practises with significant amounts of fish caught in the stalled nets being unfit for sale and human consumption due to lice attacking the fish.
- 66 The Northern Stakeholder Group, Sanford and SeaFIC state that it is unknown how much recreational and customary catch contributes to the TAC for the fish stocks caught in the Kaipara Harbour, and whether catches are contributing to the sustainability concern raised in the IPP.
- 67 The Northern Stakeholder Group and Sanford state that collecting catch and effort data on recreational and customary take is a greater management priority than restricting commercial utilisation by removing the stalling provision.
- 68 SeaFIC states that the IPP describes the Kaipara Harbour as a closed system which it is not when fish are migrating in and out of the harbour. The Northern Stakeholder Group and Sanford state that the Kaipara Harbour catch is only part of the overall catch that is managed at a QMA level, that management should be considered at a QMA level, and that fish stocks are only using the harbour for part of their life cycles.
- 69 The Northern Stakeholder Group and Sanford state that there is high demand for the key species taken in the Kaipara Harbour and that the returns to the commercial fishers are the best they have been for many years, as seen in the Auckland Fish Market. The Northern Stakeholder Group states there is ample availability of ACE and that reports of discarding and not reporting fish are not logical. SeaFIC states it makes no economic sense to assume commercial fishers discard fish when they are seeking to optimise their catches.
- 70 The Northern Stakeholder Group, Sanford and SeaFIC state that there is no evidence in the IPP that the use of stalling causes fish to deteriorate and become unfit for sale, and information on sale prices for species from stalled versus non-stalled nets would be useful.
- 71 Sanford states that the IPP is responding to community perceptions rather than stock sustainability concerns. The Northern Stakeholder Group welcomes future discussions with MFish to implement 'best practice' codes of practice on the harbour to improve community perceptions of Kaipara Harbour commercial fishing activities.
- 72 SeaFIC states the IPP confuses community perception over acceptable fishing methods with a perceived need for more fish in the harbour and potential, unproven risks of protected species bycatch.
- 73 Peter Yardley submits that deliberate stalling of nets happens on the Kaipara Harbour on a regular basis with no apparent thought about loss of quality and loss of juvenile fish.

Compliance

- 74 The Kaipara Study Group submits that the existing regulation allows for stalling of commercial set nets on the Kaipara Harbour provided these are not longer than 540 m.
- 75 The Northern Stakeholder Group and Sanford state that there are no presented examples of widespread non-compliance of the QMS as stated in the IPP, and that the integrity of the QMS is founded on reporting requirements, which they support unconditionally.
- 76 The Northern Stakeholder Group and Sanford state that if MFish considers there is a compliance issue regarding retaining and reporting species, then this should be disclosed in the IPP and that effort should be increased to address this non-compliance.
- 77 Peter Yardley submits that the current laws allow for the stalling of nets no longer than 540 m. With few fishery officers who come occasionally and always at high tide stalling is seldom observed. Stalling usually happens at late evening or early morning.
- 78 Recently Peter Yardley observed nets of about 800 m length that were set on a Saturday at 9.00am and stalled at 5.30pm with no commercial fisher present, and again at 6.00am also unattended. They were finally retrieved at 9.00am on the Sunday, having been allowed to stall twice over a soakage time of 24 hours with no commercial fisher in attendance. Peter Yardley states that the effect of this on fish quality, the slaughter and dumping of juvenile and unwanted species is immeasurable. Peter Yardley states that this activity is legal on the Kaipara and happens almost daily in some areas.

Kaipara Harbour Conditions

- 79 The Kaipara Study Group submits that there is a case for allowing stalling of nets on the Kaipara because of the harbour's extreme tidal nature. Changes in weather conditions can lead to significant alterations in the tides which mean that even the most careful commercial fishers can be caught out at times. However there is also a need to ensure that fish quality is enhanced, and that juvenile and bycatch mortality is reduced.
- 80 The NZRFC submits that the Kaipara is a large harbour with vast areas of tidal mudflats and stalling was permitted because commercial fishers were unable to retrieve their nets on the tide. This practise was allowed when commercial fishers had slow fishing launches towing flat bottom rowing punts. Technology has come a long way with faster launches and dories making it now possible to access nets during the tide. This coupled with the fact that the nets used then were multi-strand web nets which when full of weed and jelly had to be walked at low tide to clean. This is no longer the case with the monofilament nets that are now used.
- 81 The Northern Stakeholder Group and Sanford state that low tides present navigational challenges within the harbour for small set net vessels, and make it impossible to retrieve nets on the harbour during low tides or extreme weather conditions. They understand this is the reason why stalling has been

permitted to continue in the Kaipara Harbour, to provide for utilisation of the resource.

- 82 TOKM states that the Kaipara Harbour is the only place in New Zealand where commercial set nets are allowed to stall. TOKM understands that this provision was originally provided so that commercial fishers could leave netted fish in the dry until they were able to collect them more safely. TOKM states that the human safety issues which led to stalling being allowed in the Kaipara are not addressed in the IPP.
- 83 TUOH submit that the Kaipara Harbour is the only area of New Zealand where stalling of nets is permitted. This has been in recognition of the extreme tidal nature of this location but that this fishing practice is being used in a wasteful manner.
- 84 SeaFIC states that the IPP failed to note the concerns made by commercial fishers at an industry meeting of the Northern Inshore Fisheries Company Ltd on 18th October 2004. Concerns were that accompanying nets whilst stalling was not an option for all commercial fishers due to access problems in certain parts of the harbour. SeaFIC understands that stalling has been allowed in the Kaipara Harbour so that commercial fishers can access fishing areas more easily, given the harbour's tidal nature.

Other management measures

- 85 The NZRFC asks that the Minister considers compulsory attendance of all commercial set netting within the Kaipara Harbour in order to lessen the likelihood of marine mammal entrapment. This could be implemented along with Vessel Monitoring Systems that are now relatively inexpensive to install. This measure will lessen the cost of compliance. The installation of pingers on all commercial set nets within the Kaipara Harbour will also help prevent marine mammal deaths.
- 86 Further the NZRFC asks the Minister to give serious consideration to the use of fine scale area management, allowing locals to be more involved in their fishery, to help improve relationships between stakeholders on the Kaipara Harbour. The Quota Management Area for FLA 1 is huge and needs to be divided into areas that can produce fine scale local area management. Recreational-only areas could be implemented within this harbour. This would go some way towards stopping the conflict that presently occurs.
- 87 Peter Yardley states that MFish and the Minister should cut soakage times to 6 hours and have compulsory net attendance. Peter Yardley states that mesh sizes and weights need to be looked at closely because monofilament, lightweight nets are very hard on juvenile fish. The minimum fish size for flounder is too small and many fish landed have never bred. Market resistance is huge, for example, the 2007 market price for 27 cm flounder is \$1.00/kg. Commercial fishers land these small fish because they are of legal size and this has resulted in the demise of many commercial fishers.

- 88 Peter Yardley states that the time is right to meet with the Kaipara Study Group and work out a comprehensive management plan for the harbour. Peter Yardley states that the Kaipara Harbour has a valid fishing future, but not with the outdated laws which govern the fishery.

Option 1 – Status Quo (no action)

- 89 The Northern Stakeholder Group and Sanford support option 1 of the IPP to continue to permit stalling of set nets in the Kaipara Harbour.
- 90 TOKM supports Option 1 to continue to permit stalling of nets in the Kaipara Harbour while further investigations into the nature and extent of the problem are undertaken. TOKM states that any subsequent regulatory change should be based on the severity of these problems for sustainability.
- 91 Sanford states that a significant proportion of the catches from the Kaipara Harbour are sold through the Sanford-owned and operated Auckland Fish Market. Commercial set net fishers have advised them that without the Kaipara Harbour set net stalling provision they would simply be unable to operate on the harbour.
- 92 The NZRFC submits that retaining the status quo is unacceptable to recreational fishers and they would have to question its appropriateness.

Option 2 – Require fishers to attend their stalled set nets at all times

- 93 The Kaipara District Fishery Sub-Committee supports Option 2 requiring commercial fishers in the Kaipara Harbour to attend their stalled set nets at all times.
- 94 The Kaipara Study Group supports Option 2, such that the current regulation allowing stalling should be modified to provide for stalling only when the commercial fisher is in attendance and actively working their net. This view was presented in the study group's Strategy Document 'Fishing for the Future'.
- 95 The Northland Non-Commercial Fishing Forum, Farmers New Zealand and the Kaipara District Fishery Sub-Committee support Option 2 requiring commercial fishers in the Kaipara Harbour to attend their stalled set nets at all times.
- 96 The NZRFC submits that attendance of a stalled net is not practical as it is unlikely a commercial fisher would stay with their net waist high in mud or sit in their dory while it goes dry for the time of a tide. The NZRFC submits that to allow a net to go dry while watching it is not sensible.
- 97 SeaFIC submits that due to geographic variation in the harbour not all commercial fishers feel that they can comply with an obligation to attend nets. Commercial set net fishers use small boats that offer no protection from prevailing weather and sea activity. In some conditions it is not safe to attend nets and therefore attendance at nets should be guided more by best practice.

Other commercial fishers would face problems of falling tides stranding them in certain areas of the harbour particularly where muddy substrates prevail. Net attendance also adds additional time to the activity of fishing, increasing costs and therefore diminishing returns. Most commercial fishers contacted stated that they currently attend nets where they can.

- 98 TUOH supports Option 2 that requires commercial fishers to attend stalled nets in the Kaipara as a minimum, and would welcome further discussion on Option 3 (prohibit stalling in the Kaipara Harbour) which they tentatively support. TUOH is committed to the restoration of the harbour to a healthy and productive state.

Option 3 – Prohibit stalling in the Kaipara Harbour

- 99 NZRFC supports Option 3 to prohibit the stalling of set nets in the Kaipara Harbour and ask for all commercial fishers to be in attendance of their nets at all times.
- 100 Peter Yardley supports option 3 to remove stalling, in conjunction with other management measures including increasing net mesh sizes and weights, and increasing minimum fish size for flounder.

Appendix 1: Data submitted by the Northern Fisheries Management Stakeholder Company Limited

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

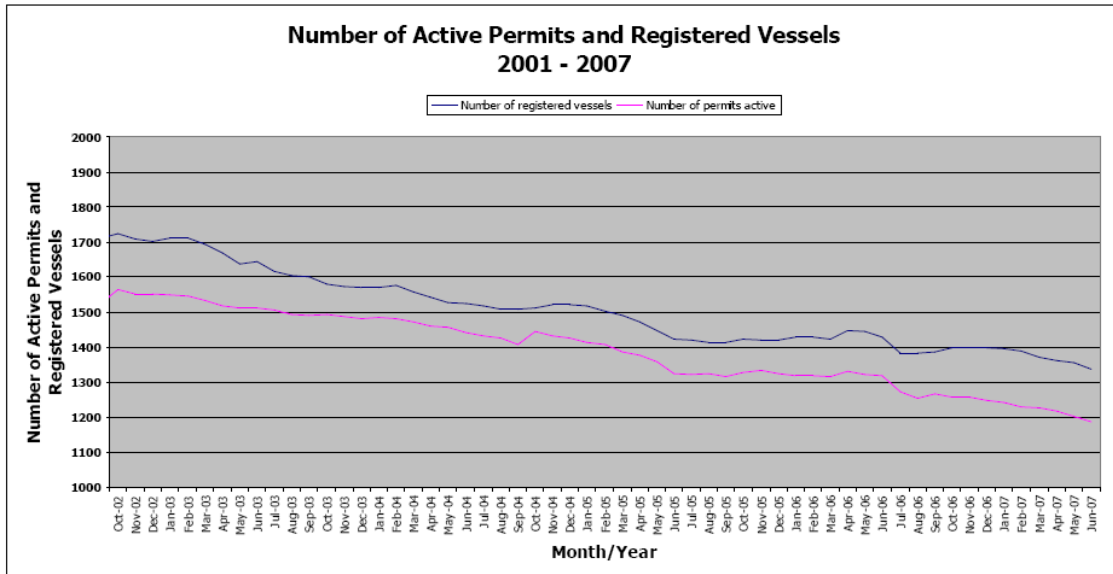


Table 2 Active Fishing Permits and Registered Vessels in the Kaipara harbour, 2001 – 2007 (Source: MFish)

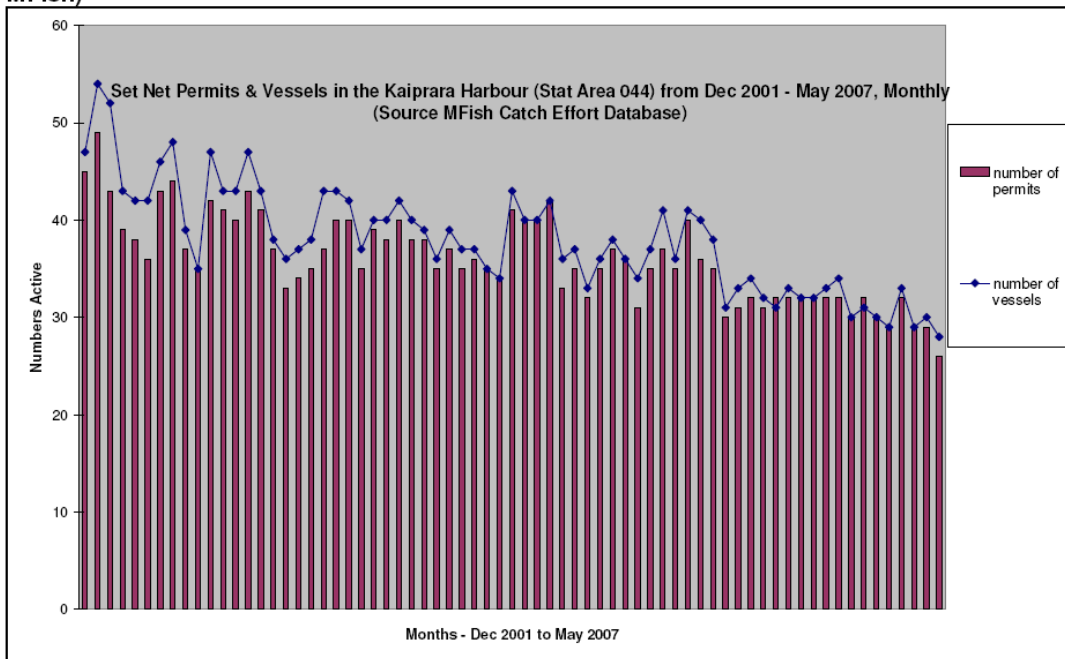


Table 3: FLA 1, SPO 1 and GMU 1 commercial catches and fishing permits issued from 1994/95 – 2006/07.

