



Office of Hon Phil Heatley

MP for Whangarei

Minister of Fisheries

Minister of Housing

H0129

Dear Stakeholder

NEW PURPOSE FOR ISSUING SPECIAL PERMITS, SECTION 97(1)(c) OF THE FISHERIES ACT 1996

1 This letter sets out my decision to approve a new purpose for the issue of special permits under s 97(1)(c) of the Fisheries Act 1996 (the Act). This new purpose is necessary because there is no current framework under which it is possible for commercial fishers to assess the commercial viability of fisheries where there is little or no data on the distribution or abundance of the species.

2 I believe that, through introduction of this new purpose, commercial fishers will be able to engage in economically viable exploratory fishing in order to provide data on, but not limited to, the distribution, abundance and reproductive potential of a fish stock. The purpose of the new special permit is:

“To allow persons or organisations to take fish from stocks in excess of their annual catch entitlement without paying deemed values, in conjunction with a research programme that is likely to provide sufficient information to establish a total allowable catch in accordance with statutory requirements.”

3 I have approved the new purpose under s 97(1)(c) of the Act. Consultation on this matter has been carried out and all stakeholders that responded were in favour of the proposed new purpose; wording changes to the new purpose were suggested, some of which have now been incorporated.

Why a new purpose special permit is necessary

4 I recognise that, prior to the advent of the new purpose; exploratory fishing to obtain stock status data has not been economically viable in many cases. Where little is known of species' demography, total allowable catches (TACs) are often set at nominal levels to ensure sustainability. Nominal TACs are often supported by substantial deemed values as a further incentive not to over fish the stock. Generally speaking, legislative requirements do not permit the raising of TACs until sufficient research information is available to show that a higher level of exploitation is sustainable.

5 Special permits offer a time-bound mechanism for carrying out fishing activities that are otherwise prohibited by the Act. Section 97 provides the purpose and framework for issuing special permits to take fish, aquatic life or seaweed. The Chief Executive of the Ministry of Fisheries (the Ministry) can issue, under s 97(1)(a) & (b), special permits for the purposes of education, investigative research, management or eradication of unwanted aquatic life, carrying out gear trials, or to allow any disabled person who, because of their disability, would otherwise be unable to fish by methods permitted in the Act.

6 Under the pre-existing framework, it might have seemed appropriate to issue a permit for an exploratory fishing programme under the investigative research purpose. However, one of the approval criteria for issue of an investigative research special permit is that harvesting of aquatic life should be kept at the minimum possible level required to answer the proposed research questions. This can mean that the permit holder is not able to fish at a level that will provide sufficient information to determine if the fishery can be harvested commercially, without fishing in excess of ACE holdings and therefore incurring high deemed value costs. Further, the expense associated with exploratory fishing can mean that operators are unwilling to make such an investment without some certainty that they will be able to catch and sell fish to cover some or all of the costs.

7 The new purpose special permit I have approved will enable exploratory fishing while minimising the costs associated with that activity. Under the new purpose, the permit holder will be permitted to catch in excess of the minimum catch limit that would be imposed under an investigative research special permit (and therefore likely in excess of their available ACE) without having to pay deemed values, while also being able to sell the catch so as to recoup some or all of the costs associated with the fishing programme.

Eligibility criteria

8 It is important that the new purpose for the issue of special permits be limited to development activities in only two types of commercial fisheries for QMS stocks: new fisheries which have not previously been developed, and fisheries that have previously been closed and for which catch limits have been reduced to nominal levels.

9 Within these limits I am further restricting the issue of new purpose special permits to target fisheries (bycatch fisheries will not be considered), and those commercial fisheries with zero or minimal use by recreational or customary stakeholders. This is to ensure that any increased catch provided by a new purpose special permit will not negatively impact other fish stocks or non-commercial fishers.

10 I expect that a limited number of fisheries will meet these criteria for new purpose special permits. It is also important that, in general, no more than one special permit should be granted simultaneously for the same stock, although exceptions to this rule are possible and may be considered by the Ministry.

11 I would prefer that any new purpose special permits are issued to an organisation representing the majority of quota owners from the fish stock involved, or at least with the full knowledge and support of all quota owners, in order to reduce the likelihood of issues being raised during consultation that could hinder the application process.

Exploratory fishing programme

12 The catch limits that will be authorised under new purpose special permits must facilitate information collection while enabling fishers to offset the costs of collecting relevant data through selling the harvested fish without paying relevant deemed values.

13 Special permits issued under the new purpose will still require a research programme to be approved by the Ministry so that this mechanism cannot be used to engage in sub-standard research. The exploratory fishing programme must have a reasonable chance of resulting in a better understanding of stock structure, status, distribution or abundance. I believe it is necessary

for the Ministry's Chief Scientist to review and approve the research and data collection plan included in all applications for a new purpose special permit.

14 I also believe it is important that the catch limit, determined by the Ministry, be set at a level that does not compromise the long term viability of the target stock or any associated bycatch stocks.

Application for a new purpose special permit

15 All applications, as well as being assessed by the Ministry's Chief Scientist, will be reviewed by the appropriate fisheries managers before a catch limit is set. I also require that all permits that are issued will have a minimum of an annual reporting requirement, even if the special permit is granted for a multi-year period.

16 It is also required that all special permit applications that are approved under the new purpose specify relevant conditions on fishing, observer coverage and research and data collection activities, in order to mitigate risks to fish stocks and the aquatic environment. These conditions may include more detailed reporting requirements and measures to control the use of gear, fishing seasons, or areas. Special permit conditions may also be developed to manage compliance risks that are identified during the application review process.

17 It is therefore important that all special permit applications should adequately describe

- a) The research and data collection plan
- b) How the exploratory fishing programme will achieve the stated objectives
- c) Threats to achieving the stated objectives and possible contingency measures
- d) Impacts of the exploratory fishing programme on the target stock, interdependent species, non-fish species (including protected species), the benthic environment and any other relevant environmental impacts
- e) Governance arrangements to ensure that all fishing, research, and data collection activities carried out under the special permit comply with the exploratory fishing programme
- f) Impacts on non-commercial fishers, where appropriate.

18 I recognise that potential impacts of an exploratory fishing programme on target, bycatch and protected species, and the aquatic environment may be unknown prior to fishing, however it is important for applicants to describe any anticipated impacts as fully as possible.

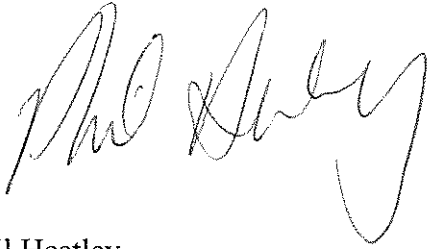
Withdrawing special permits

19 As with all special permits, the Ministry's Chief Executive has the right, as stated in s 97(5) of the Act, to amend, add or revoke any term or condition of a special permit, and he may revoke any special permit, as stated in s 97(8) of the Act, by notice in writing to the special permit holder. Failure to adhere to any of the special permit conditions, particularly the key components of an approved exploratory fishing programme, would provide grounds for the Ministry's Chief Executive to immediately amend or withdraw a special permit. The Ministry has previously revoked special permits for non-compliance with permit conditions.

20 If data resulting from the exploratory fishing programme is not sufficient to support a TAC increase, the Ministry is under no obligation to extend the current permit, or issue a new permit for the same (or similar) research programme. It is also important to note that any previous breaches of permit conditions will be taken into account when considering a decision to extend or grant a new special permit.

21 Copies of the Final Advice Paper provided to me by the Ministry are available on the Ministry's website at www.fish.govt.nz. If you require further information about my decision, please contact Jeremy Helson on (04) 819 4643 or jeremy.helson@fish.govt.nz.

Yours sincerely

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

Hon Phil Heatley
Minister of Fisheries