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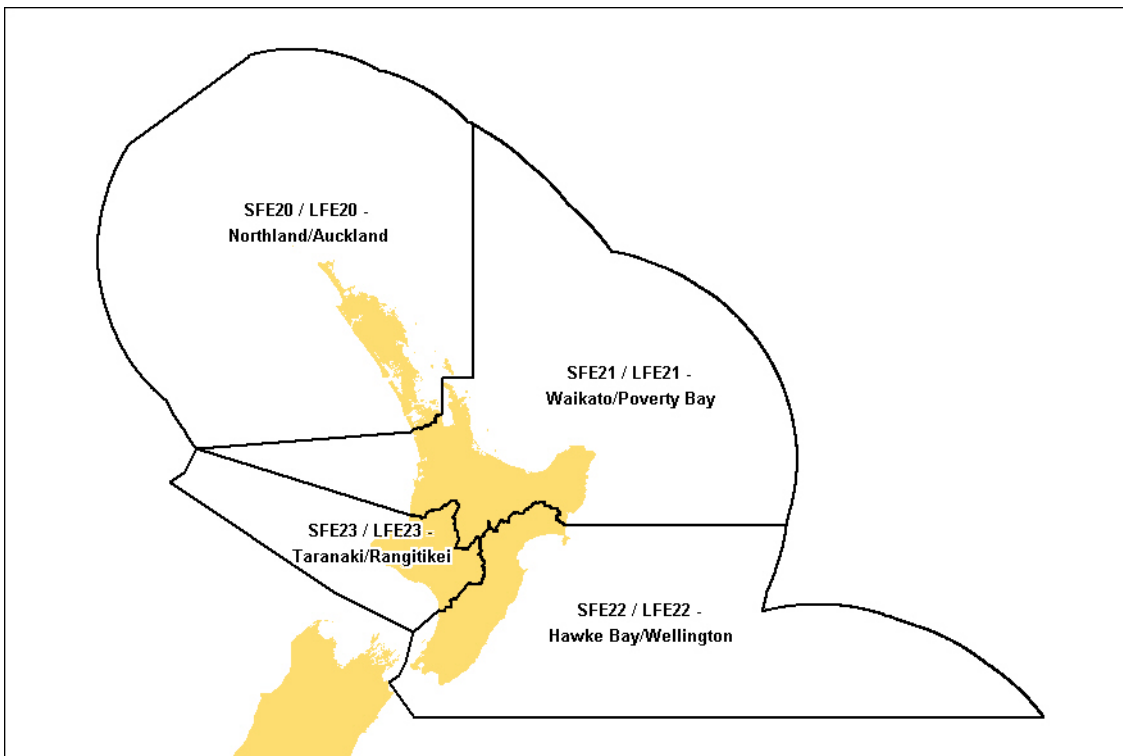
Dear Stakeholder

## **MANAGEMENT DECISIONS FOR THE INTRODUCTION OF NORTH ISLAND EEL STOCKS INTO THE QUOTA MANAGEMENT SYSTEM ON 1 OCTOBER 2004**

### **Overview**

- 1 I am writing to inform you of my final decisions on management of North Island eel stocks from the beginning of the fishing year starting on 1 October 2004. North Island eel stocks consist of four shortfin stocks (*Anguilla australis* and *A. reinhardtii*), and four longfin stocks (*A. dieffenbachii*). Figure 1 shows the QMAs for the eight North Island eel stocks.
- 2 I thank those that have taken the time to respond to the management options proposed at the time of introducing North Island eel stocks into the quota management system (QMS) on 1 October 2004.
- 3 The September 2003 decision to introduce North Island eel stocks into the QMS on 1 October 2004 follows the introduction of South Island and Chatham Islands eel stocks on 1 October 2000 and 1 October 2003 respectively. Introduction of eel stocks into the QMS places controls on the amount of fish that may be taken by commercial fishers from each quota management area (QMA). Management within the QMS at a national level is highly desirable, given that each eel species is considered to form one biological stock throughout the country.

**Figure 1: Quota management areas (QMAs) for shortfin (SFE) and longfin (LFE) stocks in the North Island**



- 4 Before I outline my specific decisions, it is important that I comment on some of the broader issues outlined by the Ministry of Fisheries (MFish) and submitters about the underlying management framework, and how this works to ensure sustainable use of the eel resource.
- 5 I encourage fishery interests to read the Final Advice Paper that MFish provided me, in order that fishery interests from a range of sectors gain a full appreciation of the range of issues raised during the consultation period. This should enable people to understand the values associated with this resource, and may assist in on-going management discussions between the various interests.
- 6 The extensive consultative programme undertaken by MFish has improved understanding of the process associated with QMS introduction. I acknowledge that there is still a range of fishery interests that would benefit from further involvement in management processes when looking to the future. I encourage those fishery interests to take up that opportunity.

### **Legislative context of QMS introduction and Maori claims**

- 7 I noted that some submissions from Maori made reference to the Treaty of Waitangi or other claims to rights or interests in commercial or non-commercial fishing, either generically or at particular sites. The Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (the Settlement Act), the Deed of Settlement and Court judgements since the passage of that law set out the situation in respect of such claims.

- 8 Maori commercial fishing rights were recognised and discharged by the Settlement Act (notwithstanding ongoing obligations on the Crown to maintain the integrity of the commercial settlement via the provisions of the QMS), however customary non-commercial rights are specifically stated to continue to give rise to Treaty obligations on the Crown. Recognition of, and provision for, customary food gathering by Maori, and the special relationship between tangata whenua and those places which are of customary food gathering importance are to be provided for through regulations made under the Fisheries Act 1996 (the Act).
- 9 The principal regulations used to facilitate customary fishing activities by tangata whenua are the Fisheries (South Island Customary Fishing) Regulations 1999 and the Fisheries (Kaimoana Customary Fishing) Regulations 1998. I agree with submissions made by Maori that consideration be once again given to the latter set of regulations to encompass freshwater fisheries. The Fisheries (South Island Customary Fishing) Regulations 1999 already covers freshwater fisheries, and it was the original government intent that the Fisheries (Kaimoana Customary Fishing) Regulations 1998 would also do so. I see considerable logic in encompassing the main mechanism for the authorisation of customary fishing activities within this regulatory framework.
- 10 I acknowledge that, outside of South Island fisheries waters, the existing regulatory framework provides for the taking of aquatic life from freshwater for customary purposes only for the activities of hui and tangi. It follows that some food gathering activities of Maori are classified as recreational fishing under the current regulatory framework. But it is important to note that irrespective of how certain non-commercial fishing activities are presently classified, the process for deriving appropriate non-commercial allowances encompasses the occurrence of both Maori 'customary' and 'recreational' fishing.

### **Desire to participate in management of eel fishery**

- 11 I am pleased that there is considerable interest in participating in the management of the eel fishery. I know that MFish has been active over a long period of time in encouraging this involvement. The challenge for fishery interests from all sectors will be to ensure that their representative organisations are appropriately mandated and able to effectively interact in a constructive manner with other fishery interests over the medium term.
- 12 The provision of quota and harvesting rights will facilitate that outcome for commercial interests (both Maori and non-Maori). In addition, Maori groups will be better positioned to reconcile their commercial and non-commercial interests in the overall management of the fishery. I would encourage all fishery interests to further engage with other participants in the fishery, and to consider the development and use of forums where fisheries management issues can be discussed and resolved. A number of local issues could be resolved through the development of harvesting strategies for a stock that take into account the differing needs of all interests.

### **Management strategy**

- 13 I have determined that North Island eel stocks should be listed under the Third Schedule to the Act, as it is not possible, because of the biological characteristics of the species, to estimate maximum sustainable yield. Accordingly, total allowable catches (TACs) for

North Island eel stocks will be set using section 14 of the Act. Section 14 provides for the setting of alternative TACs where the purpose of the Act would be better achieved in comparison to a TAC set in accordance with section 13 of the Act.

- 14 The management strategy I have adopted under section 14 of the Act is to improve the stock structure and abundance over the medium term (no more than 10 years), but bringing to a halt any decline in the fishery over the short term. This is intended to have the effect of ensuring sustainability, improving the availability of appropriately sized eel to non-commercial interests, and improving the relationship with interdependent stocks. I appreciate that MFish has highlighted that longfin stocks may require particular attention in achieving the management strategy.

### Setting of catch limits and allowances

- 15 Having considered the statutory obligations that I must take into account, or have regard to, I have decided to set the TACs, total allowable commercial catches (TACCs) and other allowances for North Island eel stocks as outlined in Table 1. The TACs are between 5-35% less than the estimated total annual recent removals for the period 1990-91 to 2001-02. The decisions I have taken will go some way towards improving the fishery in accordance with the management strategy. Nevertheless, the collection and review of new information will be an on-going process. I am mindful of the need to improve the size structure and abundance of each stock. The use of the fishery by non-commercial interests has reduced in recent times primarily as a result of eel fishing, but also as a consequence of land and water management practices.

**Table 1: Estimated total annual recent removals and recommended TACs, TACCs, and allowances for North Island eel stocks (tonnes).**

Stock	Estimated total annual recent removals <sup>1</sup>	Option	TAC	Customary allowance	Recreational allowance	Other sources of fishing related mortality	TACC
SFE 20	222	I	211	30	28	4	149
LFE 20	83.6		67	10	8	2	47
SFE 21	262.9		210	24	19	4	163
LFE 21	141.9		92	16	10	2	64
SFE 22	168.8		135	14	11	2	108
LFE 22	68.3		54	6	5	2	41
SFE 23	56.1		50	6	5	2	37
LFE 23	93.9		66	14	9	2	41

<sup>1</sup> This estimate represents a summation of adjusted average commercial catch based on all of the 12 fishing years between 1990-91 and 2001-02, plus estimates of non-commercial catch and other sources of fishing related mortality. It provides a reference for assessing the extent of catch reductions under the TACs.

## Calculation of TACs

- 16 The initial step of estimating the total annual recent removals, from all fishing related sources from the fishery during the 1990-91 to 2001-02 period, provides a reasonable baseline from which to proceed. The 12-year time period is representative of the fluctuating, but generally stable, catch of eel stocks by all interests.
- 17 I note that there was some debate about the accuracy of certain commercial catch information contained in the MFish Initial Position Paper contributing to the assessment of total annual recent removals. These queries were either resolved and/or further discussed during the consultative period. I am satisfied that the approach used by MFish was thorough and open to further views on this matter prior to compiling the Final Advice Paper. It is evident that MFish went to some length to further examine the issues raised in the time available. I note the view that there may be some merit in conducting an audit of commercial catch information for the fishing years since 1992-93. This would provide more certainty in any future interpretation of commercial catch per unit effort information, and determining any trends in the fishery.
- 18 I appreciate that the best available information for estimating non-commercial catch during the 12-year time period was not as robust as is desirable. As fishery interests provide more information on the level of non-commercial use within a stock, these estimates can be revised. I encourage non-commercial fishery interests to provide that input. Information on the average quantity of shortfin and longfin eels harvested on an annual basis within specific areas of interest would be welcome.
- 19 The subsequent step entailed an assessment of the particular characteristics of each stock and the application of a qualitative reduction factor to derive a TAC that is consistent with achievement of the management strategy. Given the life history characteristics and status of longfin stocks, it was appropriate for the reduction factor to be generally higher than that applied to the shortfin stock in the same area. I agree with the rationale advanced by MFish in its Final Advice Paper for each of the TACs for the eight stocks.
- 20 I do not believe that a more significant reduction in overall catch is required at the time of introduction into the QMS, as sought by some submitters. Setting TACs at lower levels will have social, economic and cultural implications that may not have been fully explored. I am satisfied that periodic review of each stock's status, and new information of consequence to the management of the fishery will be available on an annual basis. More generally, there is also some benefit to allowing a broad range of fishery interests to come to terms with management under the QMS, and the specific management strategy I have endorsed for North Island eel stocks.

## Customary allowances

- 21 TACs have been set at levels lower than experienced in recent times to assist in improving the status of the fishery. Within the TAC, the estimate of catch for customary fishing purposes (ie, hui and tangi) during the 1990-91 to 2001-02 time period translates into an equivalent allowance for Maori customary fishing interests for each stock. This will ensure that recent customary use of the resource can be maintained.

- 22 I note the views of customary fishery interests that the allowance provided for various stocks may not meet their full expectations of use for hui and tangi. This can be redressed if the TAC for any stock is increased in the future. This may occur either in response to improved estimates of customary catch becoming available for the 1990-91 to 2001-02 time period, or alternatively, where the fishery has improved to such a level that further use is feasible within the context of the management strategy.
- 23 While a quantitative allowance for customary (and recreational) interests is prescribed, there is no direct mechanism to constrain catch to that level in a similar way to that applied to the commercial sector. Consequently, it will be important to monitor any changes in the non-commercial use of the fishery over the medium term. I appreciate that Maori may have adopted certain practices such as rāhui in response to their assessment that the levels of overall harvest from the fishery in several localities is beyond a level considered desirable.

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

- 24 I agree with the recommended allowances for other sources of fishing related mortality on the basis outlined in the MFish Final Advice Paper. I accept that the level of illegal fishing of a commercial nature is low and is likely to decrease in the foreseeable future. Since commercial fishers rarely recover dead eels from their nets, dumping of dead eels when in the QMS is also likely to be a rare event. The eel fishing industry is likely to adopt fishing practices that further reduce the chance of dead eels being recovered, as there is an economic incentive for them to do so. In the event that commercial fishers do recover dead eels, I believe those fishers and licensed fish receivers will be able to manage the landing of such catch and balance against annual catch entitlement (ACE).

### **Recreational allowances**

- 25 To account for the setting of TACs below the catch experienced in the 1990-91 to 2001-02 time period, I have proportionately reduced the allowance made for recreational interests by the same amount applied to the TACC for each stock. The proportional reduction ensures that the overall allowances fit within the limit of the TAC.
- 26 I have signalled my desire to see improvements in the availability of eels for non-commercial fishers. I am aware that Maori are the predominant non-commercial users of the resource. Recreational harvest by Maori may have reduced in recent decades, but it is evident in submissions that Maori wish to continue or reinstate these practices. I envisage that the recreational allowance provided for each stock, as well as the customary allowance, should be able to be increased as the fishery improves.

### **Total allowable commercial catches**

- 27 With the setting of TACs below the catch experienced in the 1990-91 to 2001-02 time period, I have proportionately reduced the TACC for each stock. The proportional reduction ensures that the TACC fits within the TAC. The QMS provides a framework to constrain removals within the TACC.

- 28 The decisions I have made on the TACCs represent an overall 8.25% reduction in the commercial catch of shortfin, and a 17.8% overall reduction in the commercial catch of longfin, in comparison to the average North Island commercial catch experienced in the 2000-01 and 2001-02 fishing years. I agree that providing TACCs at this level will be a reasonable starting point from which the management strategy can be addressed.
- 29 There is an expectation within industry that the number of participants within the eel fishing industry will be rationalised on introduction of North Island eel stocks into the QMS. I envisage that the commercial sector will be in a much better position to work with other fishery interests to ensure that the fishery rebuilds. I encourage non-commercial interests to recognise the positive actions that several industry representatives have signalled in terms of assisting in the management of the fishery and its habitat. There is potentially much to be gained by working on a cooperative basis.

### **Measures to recognise and provide for customary food gathering by Maori**

- 30 There are special places of importance to Maori for the purpose of customary food gathering throughout the country. Complementary to the QMS introduction process, four such areas have been identified. These areas are:
- a) The inter-connected Lakes Taharoa, Numiti, Rotoroa, and Lake Harihari, south of Kawhia;
  - b) Whakaki Lagoon, east of Wairoa;
  - c) Lake Poukawa, Te Hauke, inland from Hastings; and
  - d) Lake Kohangapiripiri and Lake Kohangatera (Pencarrow lakes) and their respective tributaries, Wellington.
- 31 I have agreed to prohibit all commercial fishing from these discrete areas in recognition of the special relationship that these areas hold for tangata whenua. I agree with the prohibition extending to include the tributaries for the Pencarrow lakes given that much of these waters are already within the East Harbour Regional Park.
- 32 Submissions also highlighted other potential sites of special significance that might benefit from additional restrictions. I encourage submitters to continue to discuss these sites further with other fishery interests. General improvements in the fishery as a result of the catch limits imposed from October 2004 may negate the need for specific closures. Alternatively, commercial interests might voluntarily recognise and avoid such areas. More generally, the desired outcomes should be considered in conjunction with other measures that might apply at the level of a catchment, the stock, or nationwide.
- 33 I note that MFish has clarified that the regulatory provision allowing restricted commercial access to Lake Horowhenua and Hokio Stream no longer has legal effect as a result of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. There are now no historical constraints under fisheries legislation preventing commercial access into these specific areas. Nevertheless, industry members are able to consider any special interest in this area.

## Measures to facilitate spawning escapement of adult eels

- 34 Eel species only breed once, at the end of their life. This lifecycle characteristic presents a challenge for fisheries management. In this situation, it is desirable for the exploitation rate to be at a level lower than what might be expected for a similarly long-lived species that breeds every year. However, ensuring that there is sufficient escapement of adult eels in spawning condition can also be facilitated in other ways. I value the discussion amongst fishery interests about the option of extending the maximum weight limit to the entire country, although I accept that further discussion on this measure is needed in conjunction with alternative approaches. Consequently, I have decided not to implement this measure in fisheries waters beyond the South Island at this time.
- 35 I am pleased to see that fishery interests are generally supportive of the approach of prohibiting commercial fishing in particular catchments for the purpose of ensuring adequate escapement of adult eels in breeding condition. I note that MFish initially selected the catchments of the Motu, Mohaka and the Wanganui on the basis that they are likely to significantly contribute to spawning escapement over the longer term. These catchments are likely to have populations of longfin eel that have not been subjected to commercial fishing pressure in recent decades. The closures relate to all commercial fishing.
- 36 My decision will serve to prohibit commercial fishing only, on the basis that the low level of non-commercial fishing in these catchments will not detract from achievement of the overall objective. However, I also agree that part of the Wanganui catchment should not be subject to the prohibition on commercial fishing, as the area identified by the fishing industry is principally an area consisting of shortfin populations. The area where commercial fishing will be prohibited includes that part of the Wanganui River catchment upstream of a point beyond the tidal influence (~30 kilometres) including the main stem of the Wanganui River through to Taumarunui, the upper Wanganui catchment and its eastern tributaries, but excluding the western tributaries (eg, Tangarakau, Ohura, and Ongarue Rivers), and any pond or dam within the catchment that is not connected to one of the tributaries leading into the Wanganui River, or the Wanganui River itself.
- 37 I have agreed to prohibit commercial fishing throughout all parts of the Motu and Mohaka catchments. There are few areas within these catchments such as ponds and dams that are disconnected to the main watercourse. In addition, it appears that commercial fishing does not occur in these areas.
- 38 Further research information will be available to MFish in the coming year that will assist fishery interests in their discussions on the topic of ensuring adequate escapement of adult eels in spawning condition. In the meantime, I welcome the initiative by fishing industry representatives from the North Island to release all eels caught in spawning condition, and trust that this measure can be adopted as one response to this issue.

## **Regulatory amendments**

- 39 I agree to the revocation of the regulatory requirement for commercial fishers to have a fishing permit expressly authorising the taking or possession of eels. A specific authorisation will no longer be required, because commercial catch will be constrained to the TACC for a stock, and all eels retained by commercial fishers will need to be counted against their ACE.
- 40 In order to remove impediments to improving the quality of the commercial catch, I have agreed to revoke the regulation specifying that commercial fishers must use no less than 12 mm net mesh. The option for commercial fishers to use a slightly smaller net mesh should reduce the abrasions found on the nose and tail of some eels, which affects their market value. I am satisfied that the on-going requirement for the use of escapement tubes will continue to minimise the bycatch of small eels and other small fish species. The 12 mm minimum net mesh requirement for recreational fishers will remain. The catch quality of small eels does not appear to be an issue for this sector. Further, these fishery interests are not presently required to use escapement tubes.
- 41 As part of the change in the administrative processes supporting the management of the fishery, I have also agreed to amend the Fisheries (Reporting) Regulations 2001 to enable commercial fishers to report eel catch appropriately under the QMS.
- 42 Some submissions were received requesting that the Sixth Schedule of the Act be amended to provide scope for commercial fishers to release dead eels to the water. I note that the South Island eel fishery has operated under the QMS since 1 October 2000 without this type of approach. I understand that the capture of eels by commercial fishers in a dead state to be a rare occurrence. On this basis I consider it to be premature to consider any alterations to the current specifications. Instead, I believe that the industry will be able to adjust to the requirement to retain dead eels and balance against ACE, and work towards further reducing the small amount of wastage from the fishery.
- 43 The fishing industry supports the annual deemed value being set at \$8 per kilogram for all stocks. I have decided to implement differential annual deemed values at this level given the high value nature of the fishery. Similarly, I agree to set over-fishing thresholds for North Island eel stocks as outlined in the MFish Final Advice Paper. These measures are consistent with management of South Island and Chatham Islands eel stocks.

## **Other issues**

- 44 Some submitters highlighted concerns about the management of waterways and the habitat supporting the eel fishery. The final advice notes that responsibility for these matters lies with territorial and local authorities, which are the administrators of the Resource Management Act 1991 (RMA). The RMA and the Act are appropriately aligned to enable the use of both natural and physical resources to be managed.
- 45 I agree that there is a common issue here for fishery interests to work collectively on, and advocate for improvements in management. As the measures being implemented here serve to address the primary fishery management issues, fishery interests may wish to focus some of their attention over the next few years on habitat management and fish

passage issues. In my role as Associate Minister for the Environment, I can appreciate that decisions made under the RMA will have impacts on fisheries values.

### **Concluding remarks**

- 46 MFish and fishery interests recognise that the present reform of eel fishery management has been overdue for many years. At the same time, there has been an increasing acceptance that the QMS provides an efficient framework to ensure sustainable use of fisheries resources over the longer term.
- 47 Introduction of the North Island eel fishery into the QMS will reduce the catch taken, with the aim of improving the status of all stocks. Over time, and subject to any future adjustments in sustainability settings required, the management strategy for the fishery can be achieved. The intent of the strategy is to focus on improving the availability of eels.
- 48 I encourage all fishery interests to take a fresh look at the positive outcomes that have been achieved as a result of introduction of these stocks into the QMS. They represent a significant step, and I encourage fishery interests to work alongside each other and with MFish to make further progress towards achieving the management strategy.
- 49 MFish will monitor the performance of the fishery against the intended outcomes of the management strategy, particularly as new information becomes available. I acknowledge the efforts that have been made to date, and support the continuation of those efforts over the next few years.

Yours sincerely

Hon David Benson-Pope  
Minister of Fisheries