

# AMENDMENT TO THE RECREATIONAL SCALLOP SEASON IN FISHERIES MANAGEMENT AREA 9

---

## Executive Summary

- 1 Fisheries Management Area (FMA) 9 is the area of the west coast of the North Island between North Cape and Tirua Point. In that area, as in most areas of New Zealand, recreational fishers may only fish for scallops between 15 July and 14 February each year (both days inclusive).
- 2 Stakeholders have advised the Ministry of Fisheries (MFish) that scallops in harbours on the north-west coast of the North Island are generally in poor condition at the start of the season, and are generally undersized at the end of the season, probably because harvesting pressure has already removed the legal-size scallops.
- 3 In order to protect undersized scallops and to assist scallop fishers to harvest the best quality scallops, MFish proposes options that would (a) maintain the status quo, or (b) open the recreational scallop season later, and/or (c) close the scallop season earlier each year in FMA 9. Options (b) and (c) would reduce the time available for recreational fishers to harvest scallops in that area.
- 4 However, MFish does not have information on recreational scallop fishing in all areas of FMA 9. MFish is interested in the views of tangata whenua and stakeholders on whether a shortened season would benefit the non-commercial scallop fishery and what the opening and closing dates of the season should be.

## Summary of Options

- 5 MFish is considering options to either:

*Option 1: Make no change to the existing scallop season.*

OR

*Option 2: Open the scallop season later by either:*

- i. 4 weeks (making the new opening day 15 August); or
- ii. 7 weeks (making the new opening day 1 September).

AND/OR

*Option 3: Close the scallop season earlier by either:*

- iii. 3 weeks (making the new closing day 24 January); or
- iv. 6 weeks (making the new closing day 1 January).

## **Rationale for Management Options**

### ***Background***

- 6 Recreational scallop fisheries in New Zealand are subject to a seasonal closure. In most areas of New Zealand, recreational fishers can only take scallops between 15 July and 14 February (both days inclusive)<sup>1</sup>. In 2006, MFish consulted on proposals to change the dates of the scallop season to 1 September to 31 March (inclusive). Following feedback from tangata whenua and stakeholders, the Minister of Fisheries decided to make the change only in FMA 1, the area between North Cape and Cape Runaway.
- 7 During that consultation, stakeholders from the Manukau Harbour advised MFish that scallops in the west coast harbours are generally in poor condition (i.e. have a very small roe) in the first part of the season and are generally undersized at the end of the season.
- 8 Acting on this information, the Minister has directed MFish to consult on proposals to refine the scallop season in FMA 9.

### ***Scallop Season Information***

- 9 The closed season for the recreational scallop fishery protects scallops by limiting fishing effort to a part of the year and prohibiting effort when the scallops are in poor condition. The open season is the time when scallops spawn and is meant to allow for the harvest of scallops in peak condition.
- 10 The national scallop season has been in place since 1973. Although the general timing of the season is important, the precise opening and closing dates have always been relatively arbitrary.

### ***Biological Information***

- 11 Scallops are seasonal spawners, releasing millions of eggs each spawning season. This generally occurs from September to April although spawning from September to late December is thought to account for most new scallops entering the fishery.
- 12 Most scallops are sexually mature at about 60mm, so they generally have at least one spawning season before reaching the minimum legal size (100mm) that can be harvested recreationally. However, large old scallops produce substantially more eggs and sperm than smaller scallops.

### ***Fishery Information***

- 13 There is no significant commercial scallop fishing in FMA 9 – the TACC for scallops in FMA 9 south of Ninety Mile Beach is 1 tonne – and commercial scallop fishing has been banned from the west coast harbours since the 1970s.
- 14 Scallop is an important species to recreational and customary fishers. Virtually all the recreational scallop harvest on the west coast is in the

---

<sup>1</sup> This closure is established under regulation 24 of the Fisheries (Amateur Fishing) Regulations 1986. Another scallop season in place in New Zealand is in Southland, from 1 October to 15 March.

harbours. The main fishing method used is dredging although there is some hand-gathering where people walk out onto mud flats and collect scallops at low tide and some diving where tidal conditions are suitable.

- 15 Stakeholders have reported to MFish that scallops are in peak condition from October to December in the Manukau and Kaipara Harbours.
- 16 Scallop fishing in the Kaipara Harbour was historically significant but has declined in recent years. Due to concerns about a decline in scallop abundance, scallop fishing has been prohibited in the harbour since July 2005. This prohibition is due to expire in July 2007 although a request has been made to extend it for one year.

## **Assessment of Management Options**

### ***Option 1: No change***

- 17 Option 1 is to maintain the status quo. As the recreational scallop season has been in place for over 30 years there is an “open season” tradition in some areas and changing the season could cause confusion. However, considering the concerns stakeholders have raised, this option would not improve the quality of scallops harvested or reduce the taking of undersized scallops.

### ***Option 2: Open the scallop season later***

- 18 Option 2 is to open the recreational scallop season either 4 weeks or 7 weeks later. This should improve the quality of the recreational take by minimising the harvest of scallops when they are in poor condition. MFish proposes either opening the scallop season 4 weeks later as scallops are reportedly in their worst condition in the first month of the season; or opening 7 weeks later as this would provide even more protection and bring the season open day on the north-west coast into line with the north-east coast of the North Island.

### ***Option 3: Close the scallop season earlier***

- 19 Option 3 is to close the season either 3 weeks or 6 weeks earlier. This should improve sustainability and the quality of the recreational take by reducing the likelihood that fishers would harvest undersized scallops. MFish proposes either closing the season 3 weeks earlier to reduce the level of harvesting when scallops are reportedly undersized; or closing the season 6 weeks earlier as this would close the scallop bed for the entire time the scallops are reportedly undersized.

### ***Issues relating to options 2 and 3***

- 20 The dates set out in options 2 and 3 are proposed as indications of what MFish considers to be reasonable and are intended to stimulate discussion. MFish has no fixed view of what the opening and closing dates of the season should be.
- 21 Shortening the length of the season under either or both of these options would reduce access to the fishery. However, the access would be reduced at a time

when scallops are undersized or in poor condition and fishers would still have access to scallops when they are largest and in their best condition.

- 22 Changing the dates of the season would mean there were four different recreational scallop seasons in place across New Zealand, which could create confusion for fishers and cause difficulties for compliance.

## ***Other Issues***

### ***Consultation***

- 23 The issue of the length of the recreational scallop season in FMA 9 arose during consultation on proposals that were made to change the dates of the scallop season across New Zealand. The issue has since been discussed with some stakeholders in the Manukau and Kaipara Harbours who have been supportive of a shortening of the recreational scallop season in their areas.
- 24 However, MFish does not have information on the quality of the recreational scallop harvest in all areas of FMA 9. MFish is interested in the views of tangata whenua and stakeholders on whether a shortening of the season would benefit the non-commercial scallop fishery in their areas and what the opening and closing dates of the season should be.

### ***Resource and Compliance Implications***

- 25 The recreational scallop season has been in place for a long time and significant effort, such as developing and distributing new signs and pamphlets, would be needed to ensure the public are made aware of any change. This would carry a cost and would need to be done within budgets and timetables of existing reprint and sign maintenance programmes.
- 26 Changing the dates of the recreational scallop season would also have compliance implications. MFish's aim would be to ensure there was as much voluntary compliance with the changes as possible. This would be done by MFish providing as much information as possible to affected people through management forums and other means and making sure that as many people as possible were aware of the changes. However, closing the season early may reduce the amount of undersized scallops being harvested which could reduce pressure on compliance.

## **Statutory Considerations**

- 27 Any change to the scallop season would be made by regulation under section 297(1)(a)(iii) or section 298(a) of the Fisheries Act 1996 (the Act).
  - a. **Section 297(1)(a)(iii)** provides for regulations to be made to regulate or prohibit the taking or possession of fish (including shellfish), aquatic life, or seaweed at any time or for any period.
  - b. **Section 298(a)** provides for implementing or varying any sustainability measure set or varied under section 11 of the Act.

28 In forming the management options, the following statutory considerations set out in the Act have been taken into account.

- a. **Section 5:** A wide range of international obligations relate to fishing. MFish is unaware of any international obligation that would be affected by the management options. Scallops (tupa) are an important customary species, and all of the options will continue to provide for Maori customary fishing.
- b. **Section 8:** None of the management options are contrary to the purpose of the Act, which is to provide for the utilisation of fisheries resources while ensuring sustainability. MFish does not consider that any of the options present a sustainability risk to the scallop fisheries. MFish considers that any of the options would provide for a reasonable level of utilisation of the scallop resource and options 2 and 3, while reducing the length of the scallop season, would improve the quality of the scallops harvested.
- c. **Section 9:** None of the management options are likely to have any significant impact on associated and dependent species, biological diversity, and habitats of particular significance to fisheries management. However, a shortened season may reduce the amount of dredging for scallops which takes place and this could have a positive effect on the aquatic environment.
- d. **Section 11(1)(a):** The effects of fishing on scallops and the aquatic environment will not be increased and may be decreased by shortening the length of the scallop season.
- e. **Section 11(1)(b):** There is a current temporary prohibition on taking scallops in the Kaipara Harbour; while that is in place the length of the scallop season is irrelevant to the Kaipara Harbour. Commercial scallop fishing is prohibited in all west coast harbours.
- f. **Section 11(1)(c):** The natural variability of scallops is high. MFish does not think this is relevant to the length of the recreational scallop season.
- g. **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 recreational scallop season in FMA 9.
- h. **Section 11(2A):** No relevant conservation services or fisheries services exist in the scallop fishery relating to the proposed season change. No approved Fisheries Plan exists that applies to scallops in FMA 9.

# REGULATORY IMPACT STATEMENT

## Amendment to the Recreational Scallop Season in Fisheries Management Area (FMA) 9

### Executive summary

In FMA 9, as in most areas of New Zealand, recreational fishers may only fish for scallops between 15 July and 14 February in the following year (both days inclusive). The season is therefore open for 6 months.

Stakeholders have advised MFish that scallops in harbours in FMA 9 are generally in poor condition at the start of the season (July and August), and are generally undersized at the end of the season (January and February). MFish is consulting on options that would:

- Option 1: make no change to the dates of the scallop season in FMA 9 (status quo);  
OR
- Option 2: open the recreational scallop season later (by 4 weeks or 7 weeks) each year in FMA 9;  
AND/OR
- Option 3: close the scallop season earlier (by 3 weeks or 6 weeks) each year in FMA 9.

### 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

In FMA 9, recreational fishers may only fish for scallops between 15 July and 14 February in the following year (both days inclusive). The season is therefore open for six months. Stakeholders from the Manukau Harbour have advised MFish that scallops in the west coast harbours are generally in poor condition (i.e. have a very small roe) in the first part of the season and are generally undersized at the end of the season, probably because harvesting pressure has already removed the legal-size scallops. MFish understands that the majority of scallops harvested by recreational fishers are therefore in poor condition at the start of the season and are undersized at the end of the season.

Option 1 (status quo) would not create confusion for fishers or cause difficulties for compliance in enforcing a new season. However, the status quo would not improve the quality of scallops harvested or reduce the taking of undersized scallops.

## **Objectives**

The objectives that the options are measured against are those articulated under s8 of the Fisheries Act 1996: “the purpose of this Act is to provide for the utilisation of fisheries resources while ensuring sustainability,” and the Statement of Intent: protecting the health of the aquatic environment and “providing opportunities to increase value”.

The specific objectives of the options are to protect undersized scallops and to ensure that scallop fishers harvest scallops when they are in good condition.

### **Alternative options**

No credible alternative options have been identified.

### **Preferred options**

Options 2 and 3 are not mutually exclusive. The Minister may choose to implement either, both, or neither of them.

Option 2 is to open the recreational scallop season either 4 weeks or 7 weeks later. This should improve the quality of the recreational take by ensuring that fishers are not harvesting the stocks when they are in poor condition. MFish proposes 4 weeks as scallops are reportedly in their worst condition in the first month of the season; or 7 weeks as this would provide even more protection and bring the season open day on the north-west coast into line with the north-east coast of the North Island.

Option 3 is to close the season either 3 weeks or 6 weeks earlier. This should improve sustainability by ensuring that fishers are not harvesting undersized scallops. MFish proposes 3 weeks to reduce the level of harvesting when scallops are reportedly undersized; or 6 weeks as this would close the scallop bed for the entire time the scallops are reportedly undersized.

Shortening the length of the season (by between 3 and 13 weeks, depending on the option(s) chosen) would reduce access to the fishery and the overall amount of scallops taken may fall. However, recreational fishers would still have access to scallop beds when scallops are in their best condition. MFish has no information on the quantity of the recreational take during the periods within which it is proposed that the scallop fishery be closed.

Changing the dates of the season would mean there were four different recreational scallop seasons in place across New Zealand, which could create confusion for fishers affecting voluntary compliance. Currently the scallop season in FMA 1 is from 1 September to 30 March. In Southland the season is from 1 October to 15 March. In the rest of New Zealand the season is from 15 July to 14 February.

These proposals may overlap with the temporary closure of the scallop fishery in the Kaipara Harbour. This closure is due to expire on 14 July 2007 but a request has been made to MFish to extend it for one year. Changing the dates of the scallop season will have no impact for the Kaipara while the closure remains in force.

**Implementation and review**

The regulation will come into force on 1 April 2008, although would not have an impact until the start of the scallop season that year. Stakeholders will need to be made that aware these changes are to be implemented. This awareness raising would be supported by signage and pamphlets would need to be developed and distributed to inform people of the changes.

**Consultation**

The proposals have been discussed with some west coast stakeholders and they have been supportive of a shortened recreational scallop season. Formal consultation on the proposals will take place from late June to August 2007 as part of the Regulatory Round consultation.