20 March 2007

File Ref: 10/16/16/1

Dear Stakeholder

WHITE WAREHOU QMA AMALGAMATION OF WWA 5 AND WWA 6

Introduction

1 This consultation paper seeks your comment on a proposal to amalgamate Quota Management Areas (QMAs) white warehou WWA5 and WWA6 under section 25 and 25A of the Fisheries Act 1996 (the 1996 Act).

Background

2 Industry stakeholders first proposed the amalgamation of WWA 5 and 6 several years ago, in order to better provide for sustainable utilisation and management of the white warehou stock. White warehou straddles the boundary between QMAs 5 and 6, with the proportion of catch derived from either side of the boundary varying from year to year. The combined catch reflects the spawning areas for white warehou, thus establishing sound biological reasons why WWA 5 and 6 should be managed as a single stock.

3 In March 2005, key stakeholders representing 80% of the quota shares in each quota management area affected by the proposal developed a formal agreement supporting and seeking the amalgamation. Following stakeholders' submission of their agreement to the Minister, and public notification of the relevant quota owners' intention to seek the amalgamation, the Ministry of Fisheries (MFish) prepared an Initial Position Paper for wider external consultation with tangata whenua, and environmental, commercial and recreational stakeholder groups.

4 MFish received only two submissions on the proposal. However, one of those submissions, from Te Ohu Kai Moana (TOKM), opposed the amalgamation because the Maori Fisheries Act 2004 (the 2004 Act) did not then provide TOKM with the flexibility to adjust the allocation of settlement quota to accommodate the WWA 5 and 6 amalgamations.

5 At the time the agreement was drafted, the problem relating to the 2004 Act was not known to the WWA quota share owners. Therefore, the agreement submitted to MFish fulfilled the requirements of s 25A of the 1996 Act, with the exception of providing for the interests of aggrieved quota owners who hold shares in the stock. An amendment was therefore required to the 2004 Act before any amalgamation could proceed. TOKM indicated that once such an amendment was made they would have no objection to the amalgamation taking place.

6 In the meantime, MFish provided final advice to the Minister of Fisheries on the amalgamation to ensure that the amalgamation maintained momentum. The Minister agreed in principle to the amalgamation, subject to the amendment to the 2004 Act.

7 An amendment to the 2004 Act was included in the Maori Purposes Bill, which was reported back to Parliament in late 2006. The Bill was split into four separate Bills and the Maori Fisheries Amendment Act 2006 was passed by Parliament in early December 2006.

Consultation

8 Before the Minister of Fisheries can recommend an alteration to a QMA (requested by quota owners under s 25A), s 25A(c) and (2) of the 1996 Act requires that quota owners who hold in aggregate not fewer than 75,000,000 shares for the stock or stocks being altered shall execute an agreement that satisfactorily addresses the following relevant matters –

a) The boundaries of the proposed quota management area or quota management areas;

b) The species that comprise the stock or stocks after the proposed alteration;

c) The manner in which quota shares are to be apportioned after the alteration;

d) The interests of any aggrieved quota owner who holds quota shares to which the proposed alteration relates;

e) The interests of aggrieved parties to leases or transfers registered on the Transitional register in respect of quota to which the proposed alteration relates;

f) Any other matter required by the Minister to be addressed.

9 As noted above, the quota share owners submitted an agreement in early 2005 that MFish believed satisfactorily addressed all of the above matters. The parties to the 2005 agreement have informed MFish that in light of the amendments to the 2004 Act, they would like to continue seeking the Minister's recommendation to amalgamate WWA5 and WWA6. They are intending to re-submit their 2005 agreement with some changes. These changes relate to the date of implementation of the proposed amalgamation and the schedule of quota share holdings in the new combined area. The changes are necessary because of the change in circumstances since the quota owners originally submitted their agreement to the Minister.

Date of implementation

- The proposed amalgamation was originally intended to be effective from 1 October 2005. That milestone was delayed because of the need to amend the 2004 Act before the amalgamation could proceed. It is now proposed that the amalgamation will be effective from 1 October 2007.

Quota Share Holdings in New Combined Area

- The schedule of quota share holders for the new area originally contained 12 quota share owners in 2005. Since that time, TOKM has allocated settlement quota to a number of mandated iwi organisations (MIOs) in WWA 5 and 6, meaning that the schedule has to be revised and expanded to accommodate their holdings. It is important to emphasise, however, that MFish is consulting only on the manner in which quota shares are to be apportioned (s 25A). The methodology agreed to by the quota share owners is unchanged. Industry and TOKM representatives are separately consulting with all quota share owners in WWA5 and WWA6 to inform them of what their quota share holdings will be in the new combined area.

10 The timeframe for implementation of the amalgamation is tight. If the amalgamation is to proceed this year, it is necessary to gazette an Order in Council implementing the amalgamation by the end of June, in order to provide 90 days notice before the amalgamation takes effect on 1 October 2007.

11 Attached as Annex I is the Initial Position Paper (IPP) regarding the proposed amalgamation of WWA 5 & 6 that MFish sent to stakeholders and tangata whenua for consultation purposes in early 2005. The IPP summarises the amalgamation proposal, discusses key issues, management measures, and consequential regulatory amendments. The IPP is presented as it was in 2005. Some elements of that IPP have now changed. The most significant of those changes are as follows –

a) Paragraph 5 – the proposed amalgamation will now come into force on the first day the 2007-08 fishing year, ie, 1 October 2007, instead of 1 October 2005.

b) Paragraph 25 – again, the proposed amalgamation is now to be effective from 1 October 2007.

c) Paragraph 29 – wording revised as follows: "Section 25A(3) of the Act states 'The agreement must include provisions to resolve any grievance of a quota owner who hold shares in any area affected by the proposed alteration only if required by the Minister.' The possibility of grievances is thought to be very low:

   i) There are no transitional leases in effect for WWA5 and WWA6;

   ii) TOKM has consulted all existing or pending recipients of quota from the 20% of total quota allocated to TOKM and believes there will be no grievances;

   iii) The other 80% of quota owners have previously indicated their agreement by signing the Deed of Transfer of Quota.

   On balance, because the possibility of grievances is low, the Minister should not insist on a s 25A(3) requirement."

d) Paragraph 79 – it is now anticipated that the proposed amalgamation will come into effect on 1 October 2007.

e) Appendix II – the schedule listing calculated new quota shares in the new amalgamated area (WWA5B) will be updated to reflect the allocation by TOKM of settlement quota to MIOs.

12 MFish, on behalf of the Minister, and as required by s 25(3) of the 1996 Act, is consulting persons and organisations considered to be representative of those classes of persons having an interest in the relevant quota management area, including Maori, recreational, commercial and environmental interests.

13 The Minister must also provide for the input and participation of tangata whenua who have a non-commercial interest in the stock or stocks concerned, or an interest in the effects of fishing on the aquatic environment in the area or areas concerned and have particular regard to kaitiakitanga.

14 A copy of the IPP will also be available on MFish's website at www.fish.govt.nz.

15 Please submit any written comments by 18 April 2007 at the latest to:

Tracey Steel
Ministry of Fisheries
P O Box 1020
WELLINGTON
E-mail: tracey.steel@fish.govt.nz

Yours sincerely

Robert Johnston
Senior Policy Analyst

ANNEX I: INITIAL POSITION PAPER (2005)

WHITE WAREHOU: PROPOSED AMALGAMATION OF WWA5 AND WWA6

1. INTRODUCTION

1 Owners of quota in white warehou quota management areas (QMAs) WWA5 and WWA6 have requested that the two areas be amalgamated under section 25A of the Fisheries Act ('the Act'). As part of the proposed amalgamation, quota shares in WWA5 and WWA6 would be cancelled and then reallocated for the new area.

2 The purpose of this document is to seek feedback from interested parties on the proposed amalgamation and to provide for the input and participation of tangata whenua. The document also seeks feedback on the proposed total allowable catch (TAC) and the total allowable commercial catch (TACC) for the new area, should the amalgamation go ahead.

3 This document is divided into two main parts. Sections 2 – 4 address issues relating to the proposed amalgamation, including background to the proposal, details of the proposal, and key issues arising from the proposed amalgamation. Sections 5 – 7 address issues relating to the setting of the TAC and TACC for the new area and the consequential regulatory amendments. Section 8 outlines the process for making a submission on the issues raised in this document.

1.1 Implementation

4 Feedback provided on the proposals in this document will be reported to the Minister of Fisheries ('the Minister'). The feedback will be used to inform the Minister's decisions on whether to recommend the proposed amalgamation of WWA5 and WWA6 to the Governor General, and on the TAC and TACC that will be set for the new area.

5 It should be noted that the Act requires that any Order in Council made to give affect to an alteration of QMAs must come into force on the commencement of the first day of the fishing year to which it relates. In addition, the Order in Council must be made no fewer than 90 days before it comes into force. It is anticipated that the proposed amalgamation of WWA5 and WWA6, should Cabinet agree, will come into force on the first day of the 2005-06 fishing year (i.e. 1 October 2005).

6 It is requested that all submissions reach the Ministry of Fisheries (MFish) no later than March 29 2005.

2 BACKGROUND

2.1 Amalgamation of WWA5 and WWA6

7 White warehou was introduced into the quota management system in 1998. It is currently managed using 10 QMAs (WWA1-WWA10) covering the North and South islands, and the Chatham and Kermadec islands. A map depicting the 10 QMAs for white warehou is attached as Appendix One. This document is concerned with QMAs WWA5 and WWA6, which cover the Southland and Sub-Antarctic regions.

8 The Crown received quota as part of the TAC set for WWA 5 on introduction to the QMS on 1 October 1998. Quota holders on WWA5 and WWA6 considered the process used to introduce white warehou into the QMS in 1998 was flawed, and resulted in WWA quota being allocated to the Crown instead of existing fishers. In June 1994 the government agreed in principle that the Crown should not be a quota holder in future and agreed to a process for divesting the Crown's quota holdings, including allocating quota through open tender. Quota holders advised that they would take legal action if the Crown sold its WWA5 quota through open tender[1]. On 1 October 2003 the Crown divested its shares of WWA to industry by allocating its quota, and the related annual catch entitlement, to existing quota holders at no cost.

9 Owners of quota in WWA5 and WWA6 (with the exception of the Treaty of Waitangi Fisheries Commission) indicated in the Deed of Transfer (appended to EDC (03) 183) that they will pursue an amalgamation of these two areas into a single QMA. The new area would be called WWA5B (note: FMA5A already exists for the Otago/Southland region). A process for determining whether the proposed amalgamation should proceed is set out in the Act.

10 The Treaty of Waitangi Fisheries Commission has now indicated they will either support, or not oppose, the amalgamation of WWA5 and WWA6.

2.2 Relevant Legislation

11 Sections 25-26 of the Act provide for the alteration of QMAs and set out certain roles and responsibilities to be undertaken by quota owners requesting the amalgamation and the Minister before an amalgamation can take place.

12 Section 25 of the Act enables the Minister to recommend to the Governor General, by Order in Council, that a QMA be amalgamated with an adjoining QMA. The Minister can do this if quota owners who hold in aggregate not fewer than 75% of the shares for any stock that would be affected by the proposed amalgamation have requested the Minister to make such a recommendation. Quota owners can make this request by preparing a 'quota owners agreement'. Any recommendation made by the Minister to the Governor General in relation to the proposed amalgamation must reflect what is in the quota owners' agreement.

[1] EDC (03) 183 White Warehou: Allocation of Crown WWA5 Quota

13 Section 25A(2) of the Act sets out the matters that must be addressed in the quota owners' agreement. These are:

a) The boundaries of the proposed quota management area or quota management areas;

b) The species that comprise the stock or stocks after the proposed alteration;

c) The manner in which quota shares are to be apportioned after the alteration;

d) The interests of aggrieved –

   i) Quota owners who hold quota shares to which the proposed alteration relates; and

   ii) Parties to leases or transfers registered on the Transitional Register in respect of quota to which the proposed alteration relates;

e) Any other matter required by the Minister of Fisheries to be addressed.

14 Section 25A(3) of the Act states "The agreement must include provisions to resolve any grievance of a quota owner who hold shares in any area affected by the proposed alteration only if required by the Minister." This is discussed further in section 3.5 of this paper.

15 In addition to receiving a satisfactory agreement from quota owners, the Minister must be satisfied of a number of other things before he is able to recommend the proposed amalgamation to Cabinet. Firstly, the Act requires that quota owners have publicly notified their intention to seek an alteration of the QMAs. The Minister must also be satisfied that quota owners have notified their intention to seek an alteration to:

a) Persons who are noted on the Quota Register as having an interest in the quota to which the proposed alteration relates; and

b) Parties to leases or transfers registered on the Transitional Register in respect of quota to which the proposed alteration relates.

16 Secondly, the Minister must be satisfied that the purpose of the Act would be better achieved by altering the QMA(s). The Minister must also be satisfied that the alteration would not unduly prejudice any quota owner who owns quota shares for the stock or stocks in the QMAs concerned and is opposed to the alteration.

17 Thirdly, the Minister is required to have regard to non-commercial fishing interests in the affected area, the biological characteristics of each stock that would be affected by the recommendation and any other such matters that the Minister considers important. Fourthly, the Minister must also consult the persons and organisations considered by the Minister to be representative of those classes of persons having an interest in the relevant quota management area, including Maori, recreational, commercial and environmental interests. In addition, the Minister must provide for the input and participation of tangata whenua who have a non-commercial interest in the stock concerned, an interest in the effects of fishing on the aquatic environment in the area concerned, having a particular regard to Kaitiakitanga.

2.3 Stock Information

18 Previous studies of white warehou suggest that there are biological reasons why WWA5 and WWA6 could be managed as a single stock.

19 In 1997, Bagley and Hurst[2] reported that the existence of three possible spawning areas for white warehou (Mernoo Bank, Puysegur Bank and the west coast of the South Island) at the same time of year, suggested the possibility of three separate stocks. They proposed that white warehou be managed in three stock areas: WWA1 (QMAs 1, 2, 3 and 4), WWA5 (QMAs 5 and 6) and WWA7 (QMAs 7, 8 and 9). However, when considering the species for introduction into the QMS in 1998, the Ministry of Fisheries gazetted by mistake 10 QMAs for all white warehou stocks without any reference to the advice from the National Institute of Water and Atmospheric Research (NIWA). Consequently, white warehou was introduced into the QMS based on 10 fishstocks.

20 In May 2001, Bagley and Hurst[3] undertook further study of the biological information relevant to stock relationships of white warehou in QMA 5 and 6. The report used new biological data, combined with enhanced error checking procedures for old data. The new data included updated data on species distribution (from research surveys) and the location of spawning activity, monthly patterns of spawning activity by area, and distribution of juvenile fish (from research and observer data).

21 Bagley and Hurst (2001) conclude that the new spawning data supports the previous suggestion that there may be at least three main biological stocks within the New Zealand exclusive economic zone (EEZ), one of which occurs off southern New Zealand (i.e. in QMA 5 and 6). The information suggests that QMA 5 and 6 share a common spawning ground that straddles the boundary between the Snares and Auckland Islands shelves, and that fish in this area are probably from one stock. Bagley and Hurst suggest that, on current biological knowledge, it seems reasonable to manage the fish in the boundary area of QMA 5 and 6 as one stock. They note, however, that there are still significant gaps in their knowledge. For example, there are records of spawning activity off Puysegur and the relationship of fish spawning in this area to the Snares/Auckland gap is currently unknown.

22 Analysis of commercial fishing data also supports the idea that the two QMAs can be combined. This data shows that fishery straddles the boundary between areas 5 and 6 with the proportion of catch derived from either side of the boundary varying from year to year.

3 AMALGAMATION PROPOSAL

23 This section sets out the details of the proposed amalgamation of WWA5 and WWA6 as contained in the attached quota owners' agreement that has been prepared in accordance with section 25A of the Act. The agreement has been signed by 100% of quota owners in WWA5 and WWA6, other than the Crown.

---

[2] Bagley, N.W. and Hurst R.J. *"A Summary of Biology and Commercial Landings, and a Stock Assessment of White Warehou, Seriolella Caerulea Guichenot, 1848 (Stromateoidei: Centrolophidea) in New Zealand Waters;"* New Zealand Fisheries Assessment Research Document 97/13, 1997.

[3] Hurst, R, J, and Bagley, N.W; *"Summary of Biological Information Relevant to the Stock Relationship of QMA 5 & 6 White Warehou (Seriolella Caerulea) and Implications for Stock Recommendations"*; NIWA, May 2001.

3.1 Alteration of QMAs

24 The alteration is to be an amalgamation in terms of section 25(1)(a)(ii) of the Act, of the two QMAs currently described in the Schedule to the Fisheries (Declaration of New Stock Subject to Quota Management System) Notice 1997, as WWA5 and WWA6 (these are the Fishstock codes. The QMAs are just referred to as 5 and 6 for white warehou).

3.2 Timing of Amalgamation

25 The proposed amalgamation is to be effective on and from the first day of the next fishing year, being 1 October 2005.

3.3 Boundaries of the New QMA

26 The boundaries of the new QMA are to be the outer boundaries of the combined area of FMA5-Southland and FMA6-Sub-Antarctic, as those FMAs are defined in Part 1 of the First Schedule of the Fisheries Act. A description of the proposed boundaries is set out in section 6.1.

3.4 Species that will comprise the Stock

27 The species that will comprise the stock after the alteration will be white warehou (*Seriolella caerulea*) within the boundaries of the new WWA5B.

3.5 Cancellation and Allocation of Quota Shares

28 On the close of the day prior to the date on which the amalgamation takes place (i.e. 1 October 2005), all existing WWA5 and WWA6 quota shares will be cancelled in accordance with section 26(4) of the Fisheries Act. New quota shares will be allocated on and from 1 October 2005 for the new WWA5B QMA in accordance with the number of shares shown in the last column of the schedule attached as Appendix Two. The methodology used to allocate the new shares is also appended.

29 Section 25A(3) of the Act states "The agreement must include provisions to resolve any grievance of a quota owner who hold shares in any area affected by the proposed alteration only if required by the Minister." The possibility of grievances is thought to be very low:

- there are no Transitional Leases in effect for WWA5 or WWA6; and
- although Te Ohu Kai Moana Trustee did not agreed to the amalgamation in September 2003[4], they have now indicated that they will either support, or not oppose amalgamation; and
- the other 80% of quota owners have indicated their agreement by signing the Deed of Transfer of Quota.

30 On balance, because the possibility of grievances is low, the Minister should not insist on a 25A(3) requirement.

3.6 Rational for Amalgamation

[4] EDC (03) 183 White Warehou: Allocation of Crown WWA5 Quota

31 The parties to the amalgamation consider that the amalgamation of WWA5 and WWA6 will better achieve the purpose of the Act by:

a) enabling fishers to better respond to changes in white warehou distribution; and

b) better allowing for the economic well-being of fishers dependent on the fishery.

4 KEY ISSUES

4.1 Sustainability and Utilisation

32 The purpose of the Fisheries Act 1996 is to "provide for the utilisation of fisheries resources while ensuring sustainability". The term 'utilisation' is defined in the Act as "conserving, using, enhancing, and developing fisheries resources to enable people to provide for their social, economic and cultural wellbeing". Ensuring sustainability is defined as "maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations, and avoiding remedying or mitigating any adverse effects of fishing on the aquatic environment".

33 Section 25A(1)(a) of the Act states that the Minister cannot recommend the alteration of any QMA unless he is satisfied that the purpose of the Act would be better achieved by altering the QMA(s). The following section outlines the key issues, in addition to those identified by quota owners in section 3.6, that should be considered when determining whether the proposed amalgamation of WWA5 and WWA6 would better achieve the purpose of the Act than the status quo (i.e. two separate management areas).

4.1.1 Utilisation

34 White warehou are predominantly taken as bycatch from target trawl fisheries on hoki and silver warehou, and to a lesser extent, hake, ling and scampi. White warehou are mostly caught in 150 to 800 m depth by larger vessels owned or chartered by New Zealand fishing companies.

35 A total of 64% of the catch over the five-year period since 1998–99 came from the Southern stock area, 32% from the Eastern stock area, and the remaining 4% from the Western area. Almost all catches of white warehou (about 98% annually on average) were taken by bottom trawl.

36 The most important bottom trawl fisheries are in fisheries statistical areas 028, 030, and 602 (all in the Southern stock area). These three areas alone account for 51% of allocated landed catches over the five-year period. About 45% of the catch in these areas was nominally from target fishing, with tows on hoki, silver warehou and ling accounting for most of the remainder.

37 Midwater trawl has accounted for around 1.7% of white warehou catch in each year, with an average of just 0.3% taken by set net. The midwater trawl catches were mostly taken in statistical areas 030 (off Southland to the west of Stewart Island), 034 and 035 (the west coast of the South Island), 018 and 020 (the east coast of the South Island, from Banks Peninsula north). Almost all the set net catches were taken in statistical areas 024 (the east coast of the South Island, south of Oamaru) and 018 (the Kaikoura coast).

38 Area 028 has been the most important statistical area for Southern white warehou in every year. Catches from statistical areas 030 and 602 have been variable; almost as important as area 028

in some years, much lower in others.

39 Despite being predominantly a bycatch species, a substantial proportion of catches were taken by white warehou target fishing in every year. The hoki fishery was important in 1999–00 and 2000–01 but has declined in importance since then. There is no clear or consistent seasonal pattern to white warehou catches in the southern stock, except that catches are usually lowest in August.

40 Prior to the establishment of the EEZ on 1 March, 1978, white warehou landings were combined with both silver and blue (or common) warehou as 'warehous'. An estimate of total white warehou catches for 1970 to 1977 calendar years has been made (Table 1). From 1978–79 to 1982–83 annual catches of up to 900 tonnes during the fishing year were reported, mainly from Southland and the Chatham Rise (Table 2).

41 Annual catches of white warehou have been variable (i.e., ranging from 315 tonnes in the 1978–79 fishing year to 3694 t in 1996–97, Tables 2 and 3). The main areas of fishing are the Southland area, with some extension into the Sub-Antarctic area since 1990–91, and the Chatham Rise. The annual catch from other fisheries has been relatively small; the west coast South Island catch is usually less than 100 tonnes and the North Island catch rarely exceeds 50 tonnes.

42 Target fishing on white warehou has been reported from around Mernoo Bank, the Stewart–Snares shelf, Puysegur Bank and on the west coast of the South Island, with the best catch rates recorded in the southern areas. Target fisheries accounted for only 8% of the total white warehou catch for the years from 1988–89 to 1994–95.

Table 3: **Reported landings (t) of white warehou by fishstock and fishing year, 1982–83 to 2002–03. The data in this table has been updated from that published in previous Plenary Reports by using the data through 1996–97 in table 44 on p. 296 of the "Review of Sustainability Measures and Other Management Controls for the 1998–99 Fishing Year – Final Advice Paper" dated 6 August 1998. Data since 1997–98 are based on catch and effort returns. There are no landings reported from QMA 10.**

Fishstock	WWA 1		WWA 2		WWA 3		WWA 4		WWA 5	
FMA	1		2		3		4		5	
	Landings	TAC	Landings	TAC	Landings	TAC	Landings	TAC	Landings	TAC
1982–83	0	-	35	-	179	-	69	-	248	-
1983–84	0	-	28	-	111	-	33	-	282	-
1984–85	0	-	2	-	123	-	39	-	150	-
1985–86	0	-	5	-	589	-	61	-	277	-
1986–87	0	-	10	-	239	-	29	-	167	-
1987–88	<1	-	9	-	431	-	26	-	113	-
1988–89	6	-	1	-	118	-	43	-	843	-
1989–90	1	-	9	-	484	-	16	-	555	-
1990–91	2	-	12	-	695	-	88	-	568	-
1991–92	6	-	22	-	589	-	113	-	833	-
1992–93	2	-	13	-	281	-	106	-	560	-
1993–94	6	-	34	-	197	-	23	-	1235	-
1994–95	4	-	41	-	327	-	243	-	1936	-
1995–96	2	-	68	-	566	-	137	-	1555	-
1996–97	3	-	89	-	508	-	220	-	2309	-
1997–98	2	-	31	-	516	-	153	-	1217	-
1998–99	<1	4	34	73	398	399	120	220	1269	2127
1999–00	<1	4	48	73	559	399	277	220	1112	2127
2000–01	<1	4	21	73	661	399	303	220	703	2127
2001–02	0	4	8	73	446	399	262	220	921	2127
2002–03	<1	4	20	73	852	399	397	220	1462	2127

Fishstock	WWA 6		WWA 7		WWA 8		WWA 9			
FMA	6		7		8		9		Total	
	Landings	TAC	Landings	TAC	Landings	TAC	Landings	TAC	Landings	TAC
1982–83	7	-	24	-	<1	-	0	-	562	-
1983–84	24	-	29	-	<1	-	0	-	510	-
1984–85	12	-	15	-	<1	-	0	-	342	-
1985–86	43	-	81	-	<1	-	0	-	1058	-

1986–87	144	-	15	-	<1	-	0	-	573	-
1987–88	20	-	28	-	<1	-	0	-	629	-
1988–89	16	-	10	-	0	-	0	-	1040	-
1989–90	291	-	83	-	0	-	0	-	1438	-
1990–91	278	-	69	-	1	-	0	-	1713	-
1991–92	1028	-	45	-	0	-	0	-	2636	-
1992–93	645	-	125	-	2	-	0	-	1734	-
1993–94	592	-	69	-	0	-	0	-	2156	-
1994–95	185	-	80	-	0	-	0	-	2816	-
1995–96	50	-	62	-	0	-	0	-	2440	-
1996–97	494	-	71	-	0	-	0	-	3694	-
1997–98	126	-	98	-	<1	-	<1	-	2155	-
1998–99	412	490	73	60	<1	1	0	0	2306	3374
1999–00	217	490	133	60	<1	1	0	0	2346	3374
2000–01	119	490	90	60	<1	1	0	0	1897	3374
2001–02	219	490	85	60	<1	1	<1	0	1941	3374
2002–03	457	490	158	60	0	1	<1	1	3346	3374

43 The amalgamation of WWA5 and WWA6 is likely to have implications for the utilisation of the fishery as defined by the Act. In particular, the amalgamation is likely to:

- allow for fish to be targeted more efficiently by enabling fishers to better respond to changes in white warehou distribution over the entire stock area;
- remove the constraints on harvesting activities on and near the boundary of the two areas where the commercial fishery is concentrated;
- remove the need for fishers to obtain additional ACE and/or pay deemed values to manage catch across two separate QMAs; and
- increase the economic wellbeing of quota owners by enabling them to catch the TACC more efficiently.

44 There is currently no information to suggest that the proposed amalgamation would result in any adverse effects on the current levels of social, economic or cultural wellbeing associated with the fishery. Any matters relating to the amount of quota shares that will be held in WWA5B by individual quota owners are for the quota owners themselves to determine and are addressed through the attached quota owners' agreement.

4.1.2 Sustainability

45 Sustainability, as defined by the Act, relates to the sustainability of the particular fishery being considered, as well as the sustainability of the broader aquatic environment.

46 MFish considers that WWA5 and WWA6 can be managed sustainably as two independent stocks and notes that there is no information to suggest that they are not currently being managed sustainably. Bagley & Hurst (2001) suggest that QMA 5 and 6 share a common spawning ground that straddles the boundary between the Snares and Auckland Islands shelves, and that fish in this area are probably from one stock. Bagley & Hurst suggest that, on current biological knowledge, it seems reasonable to manage the fish in the boundary area of QMA 5 and 6 as one stock. There is also uncertainty about a possible relationship of the Puysegur spawning area to the WWA5/WWA6 stock, although, on balance, there is no conclusive evidence of the need to manage the Puysegur area as a separate stock. Because the primary fishing area straddles the boundary of WWA5 and WWA6, this indicates that the amalgamation of the two areas is likely to result in an enhanced ability to manage these fisheries sustainably. In particular, the amalgamation is likely to:

- enable better decisions to be made about the impact of fishing on the sustainability of the stock, including the impact of the TAC and TACC on the stock;

- allow for the entire biological range of the stock to be fished, rather than fishing effort being concentrated in certain areas; and

- result in better information about the overall impact of fishing on the stock as any potential for misreporting of catch between WWA5 and WWA6 will be removed.

47 There is currently no information to suggest that the amalgamation of WWA5 and WWA6 would result in adverse effects to the sustainability of stock. It should be noted that the amount of fish taken by commercial and non-commercial fishing interests is set by the TAC and the TACC for the new area. The TAC and TACC are set independently of the decision to amalgamate the two areas. Matters relating to the setting of the TAC and the TACC are discussed in section 5.

48 Also, there is currently no information to suggest that the amalgamation of WWA5 and WWA6 would result in any adverse effects on the aquatic environment.

4.1.3 Biomass estimates

49 No biomass estimates are available for white warehou.

4.1.4 Estimation of Maximum constant yield (MCY)

50 MCY cannot be determined. Problems with mis–reporting of white warehou as silver warehou and the lack of consistent catch histories make MCY estimates based on catch data alone unreliable. The amount of targeted WWA fishing activity varies in response to market influences; the amount of effort on white warehou also relates very closely to effort on other target species such as hoki and silver warehou. Changing fishing patterns such as more targeting of hoki outside the spawning season has occurred in the last 4 to 5 years. Large fluctuations in the availability of white warehou to the trawl, as indicated by trawl surveys, are also likely to apply to commercial fishing operations. Estimates of M need to be determined.

4.1.5 Estimation of Current Annual Yield (CAY)

51 CAY cannot be estimated because of the lack of current biomass estimates.

4.1.6 Other yield estimates and stock assessment results

52 There are no other yield estimates or stock assessment results available for white warehou.

4.2 Non-commercial Fishing Interests

4.2.1 Recreational Interests

53 The recreational take of white warehou is likely to be very small given its distribution and depth preference of 150 to 800 meters. No white warehou were reported from recreational surveys undertaken in 1991 to 1994, although white warehou are not always recorded by species. It is not expected that the proposed amalgamation would have any impact on recreational fishing interests.

4.2.2 Maori Customary Fishing Interests

54 There is no quantitative information available on the current level of Maori customary take in WWA5 and WWA6, however, it is expected that this is likely to be low for the same reasons that recreational take is likely to be low. It is not expected that the proposed amalgamation would have any impact on Maori Customary Fishing interests.

4.3 Conclusion

55 Overall, MFish considers that the amalgamation of WWA5 and WWA6 would provide for the better achievement of the purpose of the Fisheries Act 1996. In particular, there would be benefits for the utilisation of the white warehou fishery. It is not considered that there would be any adverse effects on the sustainability of the fish stock, non-commercial fishing interests or the aquatic environment as a result of the amalgamation of WWA5 and WWA6.

MANAGEMENT MEASURES

5.1 Key Issues to be Considered

56 The key issues to be considered for WWA5B are as follows:

a) to set the TAC and TACC to give effect to the amalgamation of WWA5 and WWA6; and

b) to ensure that consequential regulatory changes (e.g. reporting codes, deemed values) are catered for in the amalgamation.

5.2 List of Management Options

57 The following management measures and options are proposed:

a) the TAC for WWA5B is to be the sum of the TACs for WWA5 and WWA6;

b) the TACC for WWA5B is to be the sum of the TACCs for WWA5 and WWA6;

c) an allowance of two tonnes be made for recreational fishing interests;

d) an allowance of two tonnes be made for customary fishing interests; and

e) no allowance be made for other sources of mortality.

5.3 Rationale for Management Options

5.3.1 TAC and TACC

58 The current TAC for WWA5 is 2,128 tonnes (TACC 2,127 tonnes) and WWA6 is 491 tonnes (TACC is 490 tonnes). These catch limits have remained unchanged since the TAC and TACC were set for the 1998/99 fishing year.

59 The TAC for WWA5B is to be set as the sum of the current TACs for WWA5 and WWA6 (2619 tonnes). The rational for the setting of the current TACs is considered to still be sound.

60 The rationale for the original setting of TAC was based on average landings during either the period 1982–83 to 1996–97 for those fishstocks considered to be stable (WWA 1, 2, 3, 4, 6, 7, 8, 9 and 10), or the period 1994–96 to 1996–97 for the fishstock considered to be developing (WWA5). MFish revised the landing data used for 1990–91 and 1991–92 years with the checked data used in the determination of provisional catch history (PCH). The classification of the WWA2 and WWA4 fishstocks changed from stable to developing because the highest catches recorded in these fisheries were within the previous three completed fishing years. Also, the period over which average landings was calculated for WWA1 and WWA6 was changed to better reflect the level of recent landings.

61 MFish considered that WWA catches have been modestly underreported. As a result, 10% was added to the TACCs calculated from the average period of landings. This 10% was to recognise that white warehou can be both a target and bycatch species in different circumstances and over time, and minor catch components may not have been fully recorded on the catch effort reporting forms. All TACCs were rounded up to the nearest tonne.

43 MFish currently has no sustainability concerns for this fishery. White warehou is predominantly a bycatch species for the hoki fishery. As such, catch volumes are influenced by fishing patterns for target species.

62 There appears to be no compelling reason not to aggregate the two existing TACs. No new information has become available to suggest that a different approach is required to the way that the original TACs were set.

5.3.2 Under-catch

63 As shown in Figure 1, white warehou catches in WWA5 and WWA6 have been significantly less than the TACC for every year since the species was introduced into the QMS on 1 October 1998, with 64%, 51%, 31% and 44% of the TACC landed for WWA5 and WWA6 combined. Although it is not clear how much of the decline in catch is due to a decrease in natural abundance through environmental factors or fishing levels, two anthropogenic factors may have been important. These factors are economic, and part of the quota being held by the Crown.

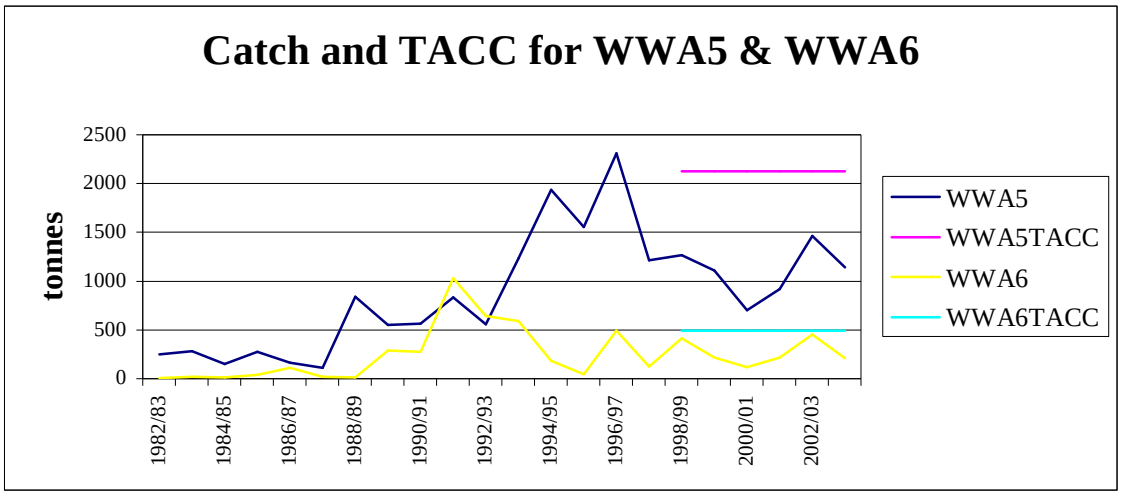


Figure 1. Catch and TACC for WWA5 and WWA6, 1982/83 – 2001/02

5.3.1 Economic Factors

64 Because white warehou is predominantly a bycatch species, total white warehou catch is dependent upon fishing patterns for target species. Although fishing effort focussed on white warehou has been much reduced in these areas in recent years, catch per unit effort (CPUEs) have remained constant or improved over the same period.

65 Although predominantly a bycatch species, WWA is not exclusively a bycatch species and there is some targeting of the species. In the past, WWA has been a highly preferred species in Japan due to its seasonally high fat content and its similarity to a local species, Ao-hirasi. The reduced fishing effort is primarily market related with the landed Japanese price for headed and gutted (H&G) WWA currently at Y400/Kg in comparison to a traditional price level of Y 560/kg. The fall in price has substantially reduced the profit associated with fishing WWA, so vessels have spent less time fishing this species and more time fishing other species providing better net returns to the vessel.

66 Unlike most trawled species, the fat content of WWA is a determining factor in the ultimate price. Environmental conditions have resulted in the Southern area WWA having a particularly low fat content over the last three years.

67 Furthermore, a recent nomenclature review in Japan resulted in New Zealand being denied the right to use the traditional name "Ao-hirasi" for WWA in the market place. The recently approved name "White" has yet to gain market recognition or acceptance.

5.3.2 Crown-held Quota

68 The Crown held 447 tonnes of quota until 1 October 2003, at which time it was reallocated to quota owners. Prior to this the Crown quota in WWA5 has not been caught in any fishing year since white warehou was introduced into the QMS in 1998. This contributes to the perception of undercatch.

69 The under-catch for white warehou may be even greater than is apparent at first glance. In the past, silver warehou was occasionally incorrectly reported as white warehou when white warehou was a non-QMS species. This would inflate the apparent white warehou catch figures. Since QMS introduction, there may still be some incentive to record silver warehou as white warehou, since the deemed values are lower for the latter species.

70 The amalgamation of WWA5 and WWA6 is not anticipated to have any adverse effect on the environment. Because white warehou is predominantly a bycatch species, fishing pressure in this quota management area is far more likely to be a function of target species fishing patterns.

71 Very significant reductions in the hoki TACC since the 2001-02 fishing year are expected to lessen fishing activity in QMAs 5 and 6 and hence lessen the bycatch impact on species such as white warehou.

72 MFish currently has no sustainability concerns for this fishery. White warehou is predominantly a bycatch species for the hoki fishery. As such, catch volumes are influenced by fishing patterns for target species. Accordingly, from a fisheries management perspective, there is no compelling reason why WWA5 and WWA6 should not be combined. MFish will continue to monitor the TAC/TACC following amalgamation and provide further advice to the Minister on appropriate catch levels if necessary, as discussed in section 5.8.

5.4 Recreational and Customary

73 The recreational and customary fishing take for white warehou is thought to be negligible. An allowance of two tonnes was made for non-commercial catch (i.e. one tonne for recreational and one tonne for customary fishing) for each QMA when the species was introduced into the QMS in 1998. It is proposed that an allowance of two tonnes each be made for recreational and customary fishing in the new QMA, which is the sum of the existing allowances.

5.6 Other Sources of Mortality

74 No information is available on other sources of mortality. No allowance of TAC is currently made in either WWA5 or WWA6 for other sources of mortality. It is proposed that no allowance be made in the new QMA.

5.7 Legal Obligations

75 MFish considers the options proposed are consistent with the obligations stated under the Fisheries Act:

a) There are three options to set a TAC under section 13(2) of the Act. The TAC under s13(2)(a) should be set at the target level of yield for the fishery (i.e. the maximum level of yield that is sustainable). There is no information available at the present time to suggest that current levels of fishing will result in a decrease in the WWA5B biomass.

b) A TACC reduction in WWA could also impact upon quota holders of target species such as hoki, as they would be required to pay more in deemed values should the WWA TACC be exceeded.

c) MFish considers that the requirements under s9 of the Act, Environmental Principles, are currently met for the WWA5 and WWA6 fisheries, and are unlikely to be adversely affected by amalgamation.

d) MFish is not aware of any issues arising under section 5 of the Fisheries Act in relation to international obligations and the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, that affect the consideration of the management options for WWA5B (s5).

e) No changes to existing management controls, other than TAC and TACC, are proposed. The effects of fishing on either the white warehou fish stock or the environment are unlikely to significantly change(s11(1)).

f) MFish is not aware of any regional policy statement or plan that apply to the coastal marine area being considered. Nor is MFish aware of any conservation management strategies or plans, or any fisheries plans that similarly apply (s11(2)).

g) There have been no decisions not to require conservation or fisheries services that are relevant, nor have any fish plans for white warehou been proposed or approved (s11(2A)).

h) MFish considers that this advice paper adheres to the information principles enunciated in section 10 of the Act. The best available scientific and commercial information available has been utilised (s10(a)). MFish's position (ie that the TAC for WWA5B should be set as the sum of the current TACs for WWA5 and WWA6) recognises that here is a degree of uncertainty in the information available on the sustainability of white warehou (s10(b)) and, therefore, caution should be taken in setting the TAC and TACC (s10(c)). However, equally, there is no evidence to suggest that the amalgamation will create a sustainability problem. The absence of, or any uncertainty in the information, should not be used as a reason for postponing or failing to take any measure to achieve the purpose of the Act (s10(d)). Based on current biological knowledge, MFish believes it would be reasonable to manage fish in QMAs 5 and 6 as one stock.

5.8 Monitoring and Research

76 The Middle Depths Working Group is currently assessing the characterisation study report for the blue and white warehou stocks. This study did not show consistent trends in CPUE that would indicate a need to review the TAC or TACC.

77 A preliminary conclusion from the report is that the catch per unit of effort (CPUE) series for white warehou are as yet too short to show a trend, but do not appear to agree closely with estimated trawl survey biomass indices. Length frequency distributions from observer data also show large interannual variability and suggest that the underlying population is not being consistently sampled.

78 There is a need for further stock discrimination work on both blue and white species, as the evidence to support the current stock hypotheses is weak. The report authors have attempted to find either evidence for, or alternatives to, the stock structure and migration hypotheses proposed in earlier work (Bagley et al. 1998, Bagley & Hurst 1997). However, their investigations (including unpublished descriptive analysis of raw CPUE, and inspection of the coefficients of the CPUE regression models) add little on this topic. The potential for catch-effort data to establish stock structure is limited; what is needed is a formal stock discrimination study, using techniques such as meristics, morphometrics, or genetic analysis.

5.9 Conclusion

79 If the Government approves the amalgamation proposal, it is anticipated that it will come into effect on 1 October 2005.

80 There is no evidence to suggest that there is currently a sustainability problem with WWA5 or WWA6. Annual catches of white warehou are largely dependent on the main target fisheries (hoki) within each area and on market-related factors. The annual distribution of fishing effort has been variable, and no conclusions regarding the level of exploitation can be made from the catch histories. The sustainability of current TACs is not known, and it is not known if they will allow the stocks to move towards a size that will support the maximum sustainable yield. There is also no evidence to suggest that the amalgamation of these two QMAs into a single QMA (WWA5A) will create a sustainability problem.

81 MFish's position (ie that the TAC for WWA5B should be set as the sum of the current TACs for WWA5 and WWA6) recognises that here is a degree of uncertainty in the information available on the sustainability of white warehou and, therefore, caution should be taken in setting

the TAC and TACC. However, equally, there is no evidence to suggest that the amalgamation will create a sustainability problem. The absence of, or any uncertainty in the information, should not be used as a reason for postponing or failing to take any measure to achieve the purpose of the Act. Based on current biological knowledge, MFish believes it would be reasonable to manage fish in QMAs 5 and 6 as one stock.

6 Consequential Regulatory Amendments

6.1 Creation of Southland / Sub-Antarctic White Warehou Fishery Management Area

82 To give effect to the amalgamation of WWA5 and WWA6, the geographical description of the new fishery management area (FMA) needs to be inserted into the First Schedule, Part II of the Act. The following wording is proposed:

Fishery Management Area 5B – Southland / Sub-Antarctic

83 All that area of New Zealand fisheries waters enclosed by a line –

a) Commencing on the mean high-water mark of the west coast of the South Island at the westernmost point of Awarua Point: (approximately 44 degrees 15.6'S and approximately 168 degrees 0.3.1'E); then

b) Proceeding west directly to a point 44 degrees 15.6'S and 162 degrees 12.9'E; then

c) Proceeding in generally southerly, easterly, and north easterly directions along the exclusive economic zone boundary to latitude 46 degrees 00.0'S east of the South Island (approximate longitude 171 degrees 46.7'W); then

d) Proceeding directly west to a point 46 degrees 0.00'S and 176 degrees 00.0'E; then

e) Proceeding in a generally south-westerly direction to a point 48 degrees 19.0' S and 170 degrees 31.0'E; then

f) Proceeding in a generally north-westerly direction directly to the mean high-water mark of the South Island at the southernmost point of Slope Point (approximately 46 degrees 40.5'S and approximately 169 degrees 00.0'E); then

g) Proceeding along the mean high-water mark of the South Island in generally northwesterly and northeasterly directions to the point of commencement.

6.2 Fisheries (Reporting) Regulations 2001

84 Table 1 in Part 1 of Schedule 3 to the Reporting Regulations requires amendment to specify the new fishstock code to be used when reporting WWA5B. The following needs to be inserted into Table 1, Part 1 of Schedule 3:

Species or class of fish	***Quota management area reference number set out in table 2 of this Part***	***Other area reference number set out in tables 3 to 13 of this Part***	***Fishstock code to be used (species/area)***
White Warehou	*5, 6*		*WWA5B*

6.3 Fisheries (Interim and Annual Deemed Values) Order 2002

85 The Deemed Values Order needs amending to revoke the interim and annual deemed values for WWA5 and WWA6 and to insert new deemed value for WWA5B. The current interim and annual deemed values for both WWA5 and WWA6 are $0.27 and $0.54 respectively. These deemed values are also appropriate for WWA5B as it is the same species, and the combined area of WWA5 and WWA6 and average port prices will be the same. WWA is a low knowledge species in terms of the balancing regime and exempt from differential deemed values and overfishing thresholds.

7 Preliminary Recommendations: Management Measures

86 It is proposed that:

a) The TAC for the amalgamated area white warehou 5A (WWA 5B) be set to the equivalent of the sum of TACs for WWA 5 and WWA 6 (2619 tonnes); and

   i) an allowance of two tonnes be made for recreational fishing interests;

   ii) an allowance of two tonne be made for customary fishing interests;

   iii) no allowance be made for other sources of mortality; and

   iv) a TACC of 2615 tonnes be set.

b) The following be inserted into Table 1 of Part 1 of Schedule 3 of the Fisheries (Reporting) Regulations:

Species or class of fish	***QMA reference number set out in table 2 of this Part***	***Other area reference number set out in tables 3 to 13 of this Part***	***Fishstock code to be used (species/area)***
White Warehou	*5, 6*		*WWA5B*

c) Schedule 1 to the Fisheries (Interim and Annual Deemed Values) Order 2002 be amended by deleting the references to and associated deemed values for WWA5 and WWA6;

d) The following be inserted into the table in Schedule 1 to the Fisheries (Interim and Annual Deemed Values) Order 2002:

Fishstock	***Interim Deemed Value ($/kg)***	***Annual Deemed Value ($/kg)***
WWA5B	*0.27*	*0.54*

e) The First Schedule of the Fisheries Act 1996 be amended to introduce Fishery Management Area 5B – Southland / Sub-Antarctic to give effect to the amalgamation of WWA5 and WWA6.

8 INVITATION FOR SUBMISSIONS

87 Submissions are invited on any of the issues or proposals raised in this document. MFish will submit advise to the Minister to inform his decision on whether to recommend to Cabinet the proposed amalgamation and what TAC and TACC should be set. Submissions should be provided to:

Attention: Kristin Philbert
Submission: WWA5 and WWA6 Amalgamation
Level 16
Ministry of Fisheries
PO Box 1020
WELLINGTON
Fax: 04 470 2669

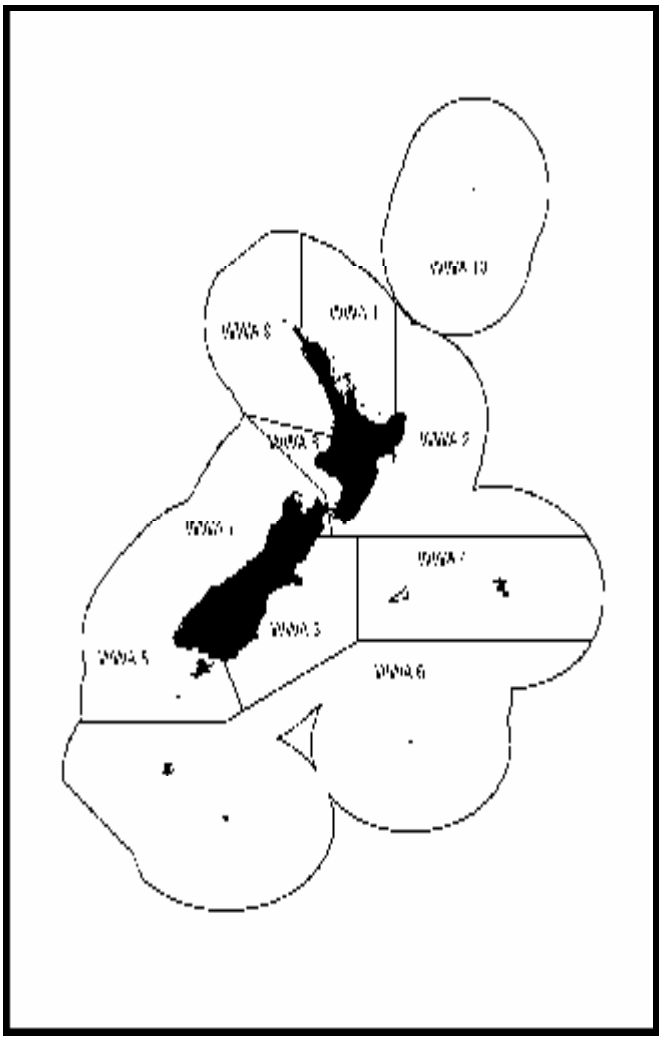
Email: kristin.philbert@fish.govt.nz

88 Submissions should be received no later than 29 March 2003.

8.1 Official Information Act 1982

89 The content of submissions provided to the Ministry in response to this document may become subject to public release under the Official Information Act 1982. Please advise of any objection held to the release of any information contained in a submission to this document, and in particular, which part(s) should be withheld, together with the reason(s) for withholding the information concerned. The Ministry will take into account any such objections when responding to requests for information on submissions to this document under the Official Information Act 1982.

APPENDIX ONE: Quota Management Areas for White Warehou



APPENDIX TWO: Quota Share Holdings in WWA5, WWA6 and WWA5B

Calculation of new quota shares for WWA5B						
Legal Name	**WWA5**		**WWA6**		**Combined**	
	Quota shares	**Tonnes**	**Quota shares**	**Tonnes**	**Tonnes**	**Quota shares**
Amaltal Corporation Limited	2,741,538	58		0	58	2,228,220
Aurora Developments Limited	32,115,961	683	63,764,694	312	996	38,041,784
Ceebay Holdings Limited	97,273	2		0	2	79,060
Independent Fisheries Holdings Limited	371,650	8	8,776	0	8	303,706
KPF Investments Limited	61,119	1	113,878	1	2	70,997
Ngai Tahu Seafood Resources Limited	468,265	10		0	10	380,588
Pupuri Taonga Limited	2,938,176	62	205,714	1	64	2,426,557
Sanford Limited	33,477,856	712	13,656,122	67	779	29,766,488
Southfish Limited	1,787	0		0	0	1,452
Talleys Group Management Limited	1,726,375	37		0	37	1,403,133
Te Ohu Kai Moana Trustee Limited	20,000,000	425	20,000,000	98	523	20,000,000
Vela Quota Number One Limited	6,000,000	128	2,250,816	11	139	5,298,013
	100,000,000	**2,127**	**100,000,000**	**490**	**2,617**	**100,000,000**

Methodology for allocation of new quota shares

Rationale

90 Quota owners are currently allocated ACE in each QMA pro-rata to their share of the total quota shares. Because the TACC for the new area will be equal to the sum of the current TACCS for WWA5 and WWA6, their allocation of ACE for the combined areas will be equal to the sum of their ACE for the two current areas.

Methodology

1 Determine quota shares for each current area for each quota holder

2 Calculate the tonnage equivalent of quota shares for each quota holder for each area by multiplying the TACC by the number of shares and dividing by 100,000,000

3 For each quota holder, sum the tonnage equivalents for both areas

4 Divide the tonnage equivalent for each quota holder by the combined TACC for both areas, and multiply by 100 million.

Precision of calculation

91 This table is calculated to 15 digits of precision. Quota shares are calculated to 9 digits of precision. This means that quota shares have been calculated to the nearest quota share.