

Office of Hon Phil Heatley

MP for Whangarei

Minister of Fisheries

Minister of Housing

H0438

Tēnā koe

This letter outlines my final decisions in the review of the regulatory measures and other management controls for the 1 October 2009 Regulatory Round. These proposals were outlined in the Initial Position Papers that were distributed for submissions between February and March this year. Regulations have now been enacted with effect from 1 October 2009.

I would like to take this opportunity to acknowledge all submissions received regarding these issues and I appreciate the time and effort taken by submitters to prepare submissions. The information within these submissions was valuable in my consideration for these proposals.

In reaching my final decision, I carefully considered the available information from the Ministry of Fisheries (the Ministry), and all of the issues and information put forward in submissions on each proposal within the review.

I also had careful regard to the relevant legislative provisions for each of the proposals within the review. A summary of the regulatory decisions is attached.

A copy of the Ministry's Final Advice Paper to me is available on the Ministry's website at <http://www.fish.govt.nz/en-nz/Consultations/Archive/2009/default>.

PAU 4 Management by Meatweight

I have decided to change one of the management settings for the reporting of the Total Allowable Commercial Catch (TACC) for PAU 4. This is a change from managing by greenweight to managing by meatweight. This will support the objectives of sustainable utilisation and long term productivity of PAU 4. As a consequence of this change, incentives to over-fish parts of PAU 4 with high meatweight recovery are reduced. This does not change the current TACC (which is 326.543 tonnes) expressed in greenweight. This was option 3 in the Final Advice Paper prepared by the Ministry.

The proposal to review management of the fishery was initiated by PAU 4 industry representatives, who believed incentives had led to over-fishing in some areas and driven illegal fishing practices which resulted in misreporting of the TACC. Introducing the new reporting framework will involve joint education and compliance effort over the first year of operation. PAU 4 fishers are implementing harvest contracts to ensure best harvest, landing and reporting practice.

Stakeholders expressed support for this management measure during consultation on this proposal. Prior to the beginning of the 2009/2010 fishing year a workshop will be held with PAU 4 fishers and processors on the Chatham Islands to outline the framework.

I note that the value of the PAU 4 resource will be maximised through a reduction in illegal fishery practises that lower the quality and value of paua from PAU 4.

Seabird Mitigation Measures by Circular

I have agreed to amend regulations to authorise the Chief Executive of the Ministry to issue, amend or revoke seabird mitigation measures in circulars and to apply the measures to one or more fishing vessels. The amendment will enable the Chief Executive to specify, as necessary, the type of seabird mitigation measures that fishers must adopt across specific fisheries, fishing methods, vessel types and areas.

I believe the new system will give both the fishing industry and government the flexibility to use the best mitigation technology available quickly, targeted at where it can be most effectively used. At present, regulations only allow measures to specify generically across an area or fishery. Consultation will occur with stakeholders prior to a circular being amended. Existing seabird measures remain in place until such time as they are replaced by a circular issued under the new regulations.

Shorten the Closed Season for the Commercial Fishing in the CRA 7 Otago Rock Lobster Fishery

I have decided to shorten the closed season for commercial fishing in the Otago (CRA 7) rock lobster fishery by 19 days. The commercial closed season will now commence on 20 November and end on 31 May, inclusive of both days.

Based on available information and submissions received from stakeholders, I consider shortening the CRA 7 closed season by 19 days provides the right balance between commercial and non-commercial fishing values as there was no stakeholder-agreed option. My decision seeks to provide some additional flexibility to commercial stakeholders through a slightly longer fishing season, while minimising any potential impacts on non-commercial fishing activities in the popular autumn fishing season.

Regulatory Amendments to Support Electronic Provision of Catch Effort Returns

I have agreed to amend the Fisheries (Reporting) Regulations 2001 (the reporting regulations) to allow the electronic completion and provision of catch effort returns.

Currently, permit holders and High Seas permit holders must complete all required returns manually before posting the completed returns to FishServe, who scan each return and enter the data into the Ministry's catch effort database. Currently, FishServe receives around 170,000 returns annually.

This change will result in cost savings for the industry by eliminating or reducing the need for each return to be scanned and subjected to the data entry process. At present, \$2.1m is levied from quota holders to cover catch effort administration.

I have agreed to require all users of catch effort reporting to be registered. I have also decided to require all third party software to be approved before it is used to electronically submit returns. The rationale for this is to ensure that all software is capable of both collecting all required information and providing it to FishServe in an appropriate format.

I have also decided to set out specifications for alternative options in the event of problems with electronic catch effort reporting. Also, I have decided to maintain the current reporting timeframes in electronic form, while providing the capacity for the Chief Executive to change the timeframes at some point in the future.

Once a successful pilot scheme has been completed, the Chief Executive of MFish will make the electronic completion of catch effort returns mandatory for High Seas permit holders and Foreign Charter Vessels.

Offences and Penalties for Breaches to Reporting Requirements

I have agreed to amend the Fisheries (Reporting) Regulations 2001 and the Fisheries (Infringement Offences) Regulations 2001 to correct inconsistencies and omissions in the offences and penalties that support commercial reporting obligations. The amendments will adjust offence and penalty levels for not completing various returns. Likewise, they will create infringement offences for not completing and/or providing late a number of returns at the normal \$400 and \$750 fee levels.

The aim is to make the offence and penalty provisions that support the reporting regulations consistent with each other, and with the general offence and penalty framework. I believe that the changes will further encourage improvements in the quality and timeliness of information collected in returns, which would benefit the administration and enforcement of the Quota Management System. I note that all submitters supported these changes.

Amateur Rock Lobster Harvest Regulations

Hand-Operated Lasses

I have agreed to amend the Fisheries (Amateur Fishing) Regulations 1986 to allow the use of hand-operated lasses for the amateur harvest of rock lobster in all New Zealand waters. I have also agreed to prohibit the concurrent possession of spring-loaded lasses (and lasses that do not comply with the hand-lasso definition) and rock lobster.

I note current research shows hand-operated lassoes cause fewer injuries to rock lobster during harvest than hand gathering, which is an already permitted method. I believe a prohibition on non-legal lasso possession with rock lobster will improve enforcement of amateur rock lobster harvesting methods.

Holding Pot Requirements

I have agreed to amend the Fisheries (Southland and Sub-Antarctic Areas Amateur Fishing) Regulations 1991 to exclude holding pots from the general rock lobster pot limits and escape aperture requirements in the Fiordland Marine Area only. A separate holding pot definition, and a holding pot limit of one pot per person or two pots per vessel (where more than one person is on a vessel), will be instituted for the Fiordland Marine Area.

I note the remote location of the Fiordland Marine Area, and the area's existing pot and accumulation limits, constrain opportunities for fish thieves to catch and store rock lobster in excess of daily limits. I do not consider providing separate provisions for holding pots in all New Zealand waters appropriate. Such provisions would increase opportunities for fish thieves to land catch in excess of daily bag limits, potentially jeopardise the sustainability of the rock lobster stocks, and increase the time and financial costs of compliance and enforcement operations.

Paua Accumulation Limit

I have decided to impose a further limit on the way our paua resources are gathered by fishers to restrict the opportunities for paua poaching, as illegally harvested paua is threatening the sustainability of paua stocks. The current amateur rules are being flouted by those involved in paua poaching and black market activity.

An accumulation limit will be set at double the daily limit of paua, a total of 20 paua accumulated or the equivalent meat weight of paua (2.5 kilograms), to restrict the amount of paua a person can have in their possession on any day. The Fisheries (Amateur Fishing) Regulations 1986 will be changed for every area, except Fiordland, where an accumulation limit is already set at one times the daily limit of paua.

I have sought to achieve a balance between restricting paua poaching and black market activity, and not being unreasonable to legitimate recreational fishers. I note that almost all submitters agree that an accumulation limit is needed to restrict illegal harvesting of paua. Having assessed the submissions I received on the appropriate level for the accumulation limit, I believe that balance has been achieved.

The accumulation limit will further help with compliance activity at the points of storage, transport and export of paua. The Ministry will work with Customs New Zealand to restrict the personal export of paua to the accumulation limit in order to stop the export of large quantities of illegally harvested paua.

Standardising the Minimum Legal Size of Flatfish for Recreational Fishers in the Challenger Fisheries Management Area

I have decided to amend the Fisheries (Challenger Area Amateur Fishing) Regulations 1986 to increase the amateur minimum legal size (MLS) for sand flounder from 23 cm to 25 cm.

Within the Challenger fisheries management area recreational fishers take eight different species of flatfish. Seven of these species have an amateur MLS of 25 cm, whereas sand flounder has a MLS of 23 cm. Recreational fishers in the top of the South Island have requested that the Ministry increase the amateur MLS for sand flounder to 25 cm to provide consistency with the other flatfish species. The inconsistency between the flatfish species is causing some fishers to unintentionally not comply with the MLS, due to difficulties in differentiating sand flounder from other flatfish species.

I believe that standardising the MLS for all flatfish species at 25 cm within the Challenger fisheries management area is both sensible and is consistent with a goal of simplifying the current amateur fishing rules.

Standardising Amateur Net Minimum Legal Size in Challenger Fisheries Management Area

I have decided to amend the Fisheries (Challenger Area Amateur Fishing) Regulations 1986 to decrease the amateur set net minimum mesh size for red moki from 115 mm to 114 mm to standardise this set net rule with blue moki.

Presently, there is a 1 mm difference in minimum mesh size between red and blue moki within the Challenger fisheries management area. There is no biological justification for this 1 mm difference in net mesh size in the regulations. Recreational fishers within the top of the South Island have requested the Ministry review the issue because there is confusion with the existing minimum mesh sizes between the two moki species.

I have also agreed to decrease the amateur set net minimum mesh size for butterfish within the Challenger fisheries management area from 108 mm to 100 mm to standardise the rule with the majority of other finfish species. While I note that the recreational sector does not support this approach, I believe simplifying the minimum mesh size for butterfish to align with most other inshore species is sensible.

I believe that standardising the minimum mesh size for red moki to 114 mm is sensible and will simplify the current amateur set net rules.

New Management Measures for the Amateur Paua Fishery in Taranaki

I have decided to implement new measures within the Taranaki region to enable recreational fishers to use their local paua resource on a trial basis of five years.

Paua along the Taranaki coast only attain a maximum size of about 90-100 mm shell length. These paua do not reach the national MLS of 125 mm and are commonly referred as 'stunted'. There are a number of other stunted paua populations around New Zealand.

The failure for paua in Taranaki to reach the national MLS prevents recreational fishers from gathering paua. Currently, lawful access to this resource is limited to persons fishing under customary fishing permits that enable the permit holder to take paua less than the national MLS. These authorisations are presently restricted to taking paua for hui and tangi purposes only.

I have agreed to set a new regional MLS for the amateur fishery at 85 mm shell length (reduced from 125 mm) for the area between the Awakino and Wanganui rivers. This new size limit will provide an opportunity for the local recreational sector to use a valuable local fisheries resource.

I have also agreed to introduce a new 'area limitation on possession' rule to prevent recreational fishers from possessing stunted Taranaki paua outside the immediate Taranaki region. The purpose of this measure is to prevent fishers taking undersize paua in other regions and using the proposed Taranaki MLS as a defence. The recreational sector supports both measures. While this rule will impose limitations on some fishers possessing Taranaki paua outside this region, it provides a good compromise to allow a local amateur paua fishery to proceed. I note the recreational sector supports this measure. I will use the five year trial period to assess how well this measure works and whether it can be applied in other paua fisheries.

I have also decided to retain the amateur daily bag limit of 10 paua per person for the Taranaki region. While I did consider a lower bag limit to address potential concerns of over-fishing and impacts on the customary fishery arising from recreational fishing effort, I believe that retaining the daily bag limit is appropriate at this time.

I wish to highlight that these new measures will apply on a trial basis of five years. I have asked the Ministry to commission new research before the end of this period to assess the effect of recreational fishing on the Taranaki paua population. I am prepared to review my decision if it is demonstrated that recreational paua fishing is causing an adverse impact on both the local paua fishery and customary sector.

I am aware that tangata whenua did not support this option. I wish to highlight that the changes to the recreational fishery will not affect the ability for tangata kaitiaki to continue to authorise customary fishing permits for gathering paua. At the moment, these permits can be issued to gather paua for hui and tangi purposes only, and can continue to authorise permit holders to collect paua smaller than the MLS and in quantities different from the daily bag limit (providing these conditions are stipulated on the permit).

The changes to the Taranaki paua fishery will enable more Maori to gather paua for purposes other than currently provided for. As such, I believe my decision will provide real benefits to tangata whenua to use their local paua fishery. I am sure that as Taranaki iwi adopt the North Island kaimoana fisheries regulations, they will be in a good position to actively manage their paua resource within the respective rohe moana to ensure it continues to meet their needs today and into the future.

I am also aware that the industry did not support this option on the basis that the changes do not include the commercial paua fishery. I can assure you that I took this matter into consideration in making my decision but considered that more analysis is required to address the compliance risk of having undersized paua within the market place. I am aware that paua poaching is a major problem in New Zealand, and I do not wish to increase this problem without being assured that the compliance risk is addressed. I have directed my Ministry to work with the PAU 2 industry to explore ways of improving commercial access to stunted paua populations within their fishery, and this will include addressing this compliance risk on a national basis.

Lastly, it is important for the Taranaki recreational sector to comply with the new paua rules. Full compliance with the new MLS, the 'area limitation on possession' rule, and the daily bag limit is essential. Failure to comply with any of these measures has the potential to impact on the long-term viability of the fishery, and I will consider the level of compliance as part of my review. In the meantime, I have instructed my Fishery Officers to strictly enforce the new fishing rules and apply appropriate fishing penalties as necessary.

Pukerua Bay – Continuation of the Prohibition of all Fishing Methods except Hand-Held Line Fishing

I have decided to amend the Fisheries (Central Area Amateur Fishing) Regulations 1986 to continue to prohibit all fishing methods, except hand-held line fishing, in Pukerua Bay, Wellington, indefinitely.

I approved a new section 186A temporary prohibition in Pukerua Bay (gazetted on 28 May 2009 - SR 2009/151), for the intervening period from 7 June 2009 until the commencement of the proposed regulation.

These fishing prohibitions have been in effect for seven years within Pukerua Bay under previous 186A temporary prohibitions, enabling the rebuild of inshore fish and shellfish populations from the effects of over-fishing. The new measures will provide a longer-term approach to manage fisheries resources within the bay. The Ministry will complete a review of fisheries resources within Pukerua Bay in five years (2014).

Te Runanga o Toa Rangatira (Ngāti Toa) requested measures be implemented in order to make provision for their customary use and management practices relating to fisheries resources within the bay.

Stakeholders and local community groups have been active in initiating the temporary prohibitions to date. They acknowledge the need to continue to protect fisheries resources in Pukerua Bay, and are in favour of my decision. The Ministry will work closely with Ngāti Toa and other local interests to develop a management plan for Pukerua Bay.

Akaroa Harbour Taiapure – Recommendation to make Regulations

On the recommendation of the Akaroa Taiapure Management Committee, I have decided to introduce recreational fishing regulations for the Akaroa Harbour Taiapure. The new regulations will help to ensure the long term sustainability of fisheries resources in the Taiapure.

The regulations include reduced bag limits for certain species. These will be three each for blue cod, blue moki, butterfish, red cod, sea perch, trumpeter, and rock lobster; and 20 each for cockles and cat's eyes. There will also be a new combined daily bag limit of 10 for all finfish.

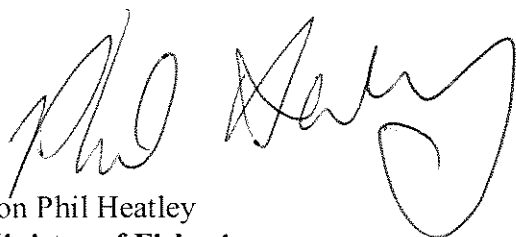
In addition, I have introduced a prohibition on taking sea horse from anywhere within the Taiapure and on taking shellfish from the Onawe Peninsula.

Correction of Coordinates and Description Errors in Central Area Regulations

I have decided to amend the Fisheries (Central Area Amateur Fishing) Regulations 1986 and the Fisheries (Central Area Commercial Fishing) Regulations 1986 to correct a number of errors in fishing area coordinates and descriptions. I do not believe that these changes will affect fishers in an adverse way since they do not represent new restrictions on current fishing practices.

I will advise of my decisions in relation to the catch documentation scheme for Southern Bluefin tuna around November this year.

Nāku noa, nā



Hon Phil Heatley
Minister of Fisheries