

# REGULATORY IMPACT STATEMENT

## Surf clam dredge size: Consultation

### Executive Summary

Commercial surf clam fishers have developed a new, modified surf clam dredge that sweeps a wider area than a standard dredge and therefore collects more surf clams on a single tow. However, current commercial dredge regulations prevent commercial surf clam fishers from legally using the new dredge because the new dredge has a bar or bit that is longer than the maximum of 2.5m (it is 3.6 m long).

The preferred option is to allow commercial surf clam fishers to use the new dredge. Accordingly, MFish recommends the target surf clam fishery is exempted from regulation 78 of the Fisheries (Commercial Fishing) Regulations 2001.

This Regulatory Impact Statement (RIS) has addressed all relevant aspects of the RIS requirements contained in Cabinet Office Circular CO (07) 3. Where a requirement has not been addressed it is considered to be not relevant to this proposal.

### Adequacy Statement

This Regulatory Impact Statement has been reviewed by the Ministry of Fisheries' Regulatory Impact Analysis Review Committee and is considered adequate according to the criteria agreed by Cabinet.

### Status Quo and Problem

Current commercial dredge regulations prevent commercial surf clam fishers from legally using dredges having a bar or bit that is more than 2.5m long. This prevents fishers using their desired dredge design of 3.6m long. The limit on dredge width is more appropriate for dredge fisheries in more sensitive, soft-bottom habitats, but not for surf clam habitat (that is, the surf zone) since it is turbulent and resilient. Physical disturbance caused by surf clam dredging is relatively short lived, with any disturbance dissipated after a few tidal cycles or even a few waves<sup>1</sup>.

Government action is needed because the current regulations are unreasonably limiting the commercial surf clam fishery. Commercial surf clam fishers have developed a new, modified surf clam dredge that sweeps a wider area than a standard dredge and therefore collects more surf clams on a single tow

MFish considers the Regulations should allow commercial surf clam fishers to use the wider dredges. The current regulation is largely irrelevant to the sustainable use of the surf clam fishery under the Quota Management System (QMS) where catch limits provide for sustainability and, the surf clam fishery, it is not needed to manage environmental impacts. The maximum dredge size was also partly about managing

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<sup>1</sup> Other dredge fisheries (eg, scallop and oyster) are conducted over more sensitive habitat. MFish does not intend to review other dredge fisheries at this time.

environmental impacts but this is not the case for the surf clam fishery because of the dynamic nature of the habitat. Further, dredge size limits were a mechanism that attempted to allocate catch fairly between fishers; this is now irrelevant since under the QMS, quota allocation provides for access.

The costs of the status quo are the opportunity cost to commercial surf clam fishers, who are unable, under current regulation, to use optimal-sized dredges. There is no benefit from maintaining the status quo, since (i) there is no perceived sustainability threat to surf clam or surf clam habitat by using a wider dredge – in other words, a narrower dredge has no advantage over a wider dredge with respect to habitat disturbance, and (ii) there is no perceived threat to the sustainability of the surf clam fishery should a wider dredge be permitted, since MFish foresees no change in the volume of the surf clam harvest because catches will still be constrained by the total allowable commercial catch (TACC).

## **Objectives**

The objectives that options are measured against are those articulated under s8 of the Fisheries Act 1996 generally: “the purpose of this Act is to provide for the utilisation of fisheries resources while ensuring sustainability,” and the Statement of Intent (SOI) specifically: “Increasing the value achieved from fisheries ... through the Government’s economic transformation agenda which seeks to encourage development and assist in resolving impediments.” (SOI 2007-2012, p16). The preferred option therefore seeks to enable fishers to harvest surf clams in a cost-effective manner while appropriately managing environmental effects of that harvest.

## **Alternative options**

An alternative option is to amend regulation 78 to allow a maximum dredge width of 3.6m for surf clams only.

MFish does not prefer this option, because it still unnecessarily constrains innovations in harvesting techniques (for example, development of surf clam dredges >3.6m), with no benefit of reduced risk. In other words, a potential cost would remain with respect to utilisation, but no additional benefit over option 3 with respect to sustainability or the environment. This option would unnecessarily restrict innovation, is not needed to manage sustainability or environmental impacts, and if an issue did arise MFish could quickly use a gazette notice to impose emergency measures.

## **Preferred option**

MFish’s preferred option is to exempt the target commercial surf clam fishery from r 78 of the Regulations to enable commercial surf clam fishers to use a dredge with a bar or bit of any length.

The major benefits of the new dredge are thought to be that they gather more surf clams per swept area than a standard dredge (ie, increased CPUE), and minimise the mortality of small non-marketable surf clams and non-target species<sup>2</sup>.

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<sup>2</sup> Note that it is not the greater width per se that is thought to reduce impact on the sea floor, but the hydraulic apparatus used with the wider dredges.

MFish would be concerned if surf clam dredges approached a width and efficiency that caused local depletion and affected other users. If this occurs, regulation changes could be implemented relatively easily to place an upper limit on dredge width size at that time.

A maximum dredge width may be appropriate in other dredge fisheries (for example, oyster and scallop), accordingly, the proposed regulation changes would only apply to surf clams. Therefore, reg 78 would be amended, rather than removed, from the Fisheries (Commercial Fishing) Regulations 2001

### **Implementation and review**

The proposal will be given effect by an amendment to the Fisheries (Commercial Fishing) Regulations 2001. MFish has consulted on the basis that, if approved by Cabinet, the regulatory amendment would come into force on 1 April 2008.

In addition to *Gazette* notice, a copy of the Minister's decision letter will be sent to all surf clam quota and permit holders in order to inform them of changes to the regulations.

Catch and effort patterns will be assessed as part of the annual sustainability rounds. Any future concerns can be addressed with further amendments to the regulations at that time, should they be required.

### **Consultation**

MFish sent letters to stakeholders alerting them to the IPP on MFish's website.