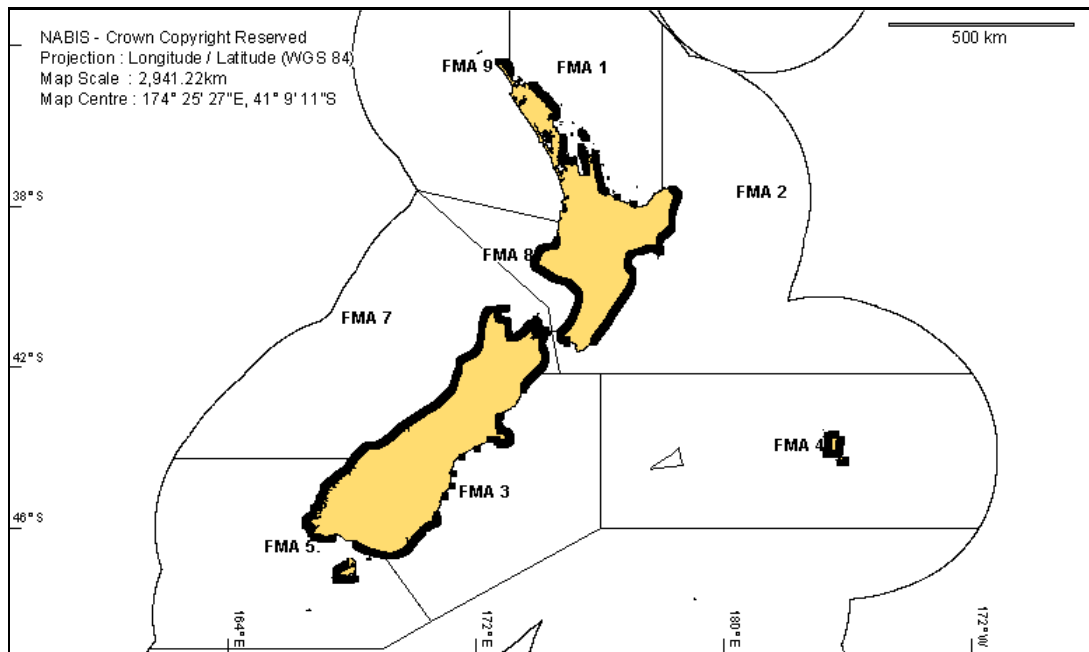


Section Four

Regulatory Proposals

BEACH CAST SEAWEED COMMERCIAL CLOSURES – INITIAL POSITION PAPER

Figure 1: Location of areas closed to commercial collection of beach cast seaweed (denoted by heavy black lines)



Executive Summary

- 1 The rules for commercial harvesting of beach cast seaweed are confusing and do not align well with current use or with the sustainability and other risks associated with seaweed harvesting. The Ministry of Fisheries (MFish) proposes to bring the rules more into line with current use by opening four new areas to commercial beach cast seaweed harvesting. This is a first step in rationalising the rules pending resolution of the wider issues associated with seaweed management through the process of Quota Management System (QMS) reconsideration.
- 2 MFish seeks submissions on whether the four new open areas proposed in this paper are appropriate.

Proposal

- 3 MFish proposes to amend the Fisheries (Beach Cast Seaweed Area Prohibition) Notice 2002 to open four new areas to commercial beach cast seaweed harvesting. The areas are:

FMA1

- 4 The 'coastal area' between Anarake Point (Coromandel Peninsula) and Otamarakau (Bay of Plenty).

FMA2

- 5 The 'coastal area' between Tuaheni Point (near Gisborne) and Cape Runaway (East Coast, North Island).

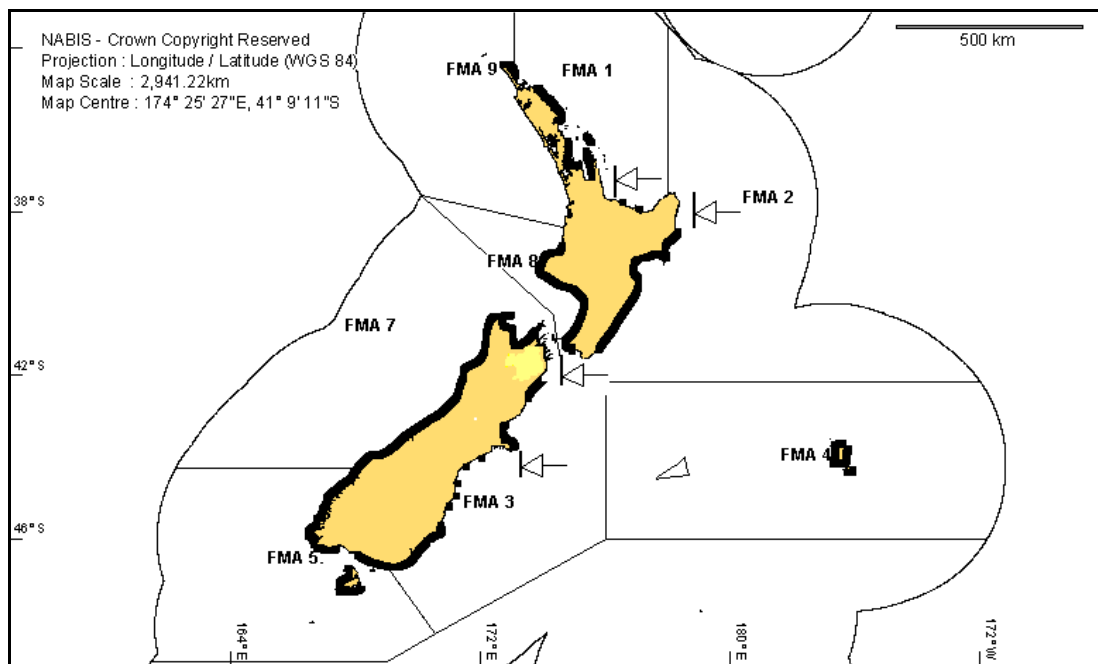
FMA7

- 6 The 'coastal area' between French Pass and Clarence River (South Marlborough Sounds). Inner parts of the Marlborough Sounds could be excluded if consultation suggests this is appropriate.

FMA3

- 7 The 'coastal area' between Akaroa Head and the Rakaia River (south Banks Peninsula).

Figure 2: Location of proposed new open areas (marked by arrows. Closed areas denoted by heavy black lines)



Background

8 The Fisheries (Beach Cast Seaweed Area Prohibition) Notice 2002 was promulgated to support the lifting of the permit moratorium for commercial harvest of beach cast seaweeds, which occurred in 2001. As shown by Figure 1, most of New Zealand’s coastline is closed to commercial harvest of beach cast seaweed under the notice¹.

9 This restrictive regime was a response to stakeholder concern that the lifting of the permit moratorium would result in a ‘race for catch’ for beach cast seaweed. Open areas were primarily based on areas where commercial operators were already harvesting beach cast seaweed under moratorium permits², but excluded areas of particular sensitivity in terms of wildlife or environmental impact³.

10 It was intended that the regime would be:

“...adaptively tightened or relaxed as more information becomes available on the level of commercial interest in beach cast seaweed and on the impacts of beach cast seaweed harvest” with a review of the regime scheduled for the 2002–03 fishing year.

11 A reassessment of the management regime for harvesting all seaweeds, including beach cast, took place during the process to consider seaweeds for QMS introduction in 2003–04⁴. However, no clear consensus emerged as to appropriate QMS settings for seaweeds and a final decision on introducing seaweeds into the QMS was deferred pending further analysis of workable reporting and compliance options. This work is scheduled to occur during 2005–06.

12 Information collated during QMS consideration (updated in Table 1) shows there has been some increase in the number of harvesters and reported harvest of beach cast seaweed since 2001. However, the harvest remains low in comparison with the likely standing stock of beach cast seaweed in the open areas⁵. Commercial harvest of beach cast seaweed is either being constrained by low market demand and quality, or by the costs associated with accessing beach cast seaweed in the often-remote open areas.

Table 1. Number of harvesters of beach cast seaweed and reported harvest⁶ since 2002 (in tonnes, greenweight)

Fishing year	2001-02	2002-03	2003-04	2004-05 (to-date)
Number of harvesters	5	5	12	17
Harvest (t)	479	341	484	602

¹ Detailed information on the areas is contained in the gazette notice and in an information sheet on the rules for commercial harvesting beach cast seaweed, available from FishServe or from MFish.

² Review of Sustainability Measures and Other Management Controls for the the 2001-02 Fishing Year. MFish Final Advice Paper. 23 August 2001. Table 1. Also pages 98 and 112.

³ Primarily Areas of Significant Conservation Value in Regional Coastal Plans.

⁴ Introduction of New Stocks into the QMS on 1 October 2005. MFish Final Advice Paper 10 December 2004.

⁵ Information on standing stocks is qualitative rather than quantitative. An MFish- purchased study on beach cast seaweed (ENV2002/03) summarised information on beach cast seaweed impacts.

⁶ Catches are primarily beach cast seaweed, however, reports may include some free-floating seaweed. Includes estimates for some harvests under special permit.

- 13 While much of the commercial harvest of beach cast seaweed occurs within the open areas, some collection occurs outside these areas. Paua farmers collect beach cast and/or free-floating unattached seaweed under special permits from the outer Marlborough Sounds (three special permits), Banks Peninsula (1) and Stewart Island (1). These special permits were approved, primarily, on the basis that there are no open areas within a reasonable distance of the farming operations.
- 14 An additional, unreported, quantity of red beach cast seaweed is also taken outside the open areas due to this class of seaweed being exempt from the requirement to hold a fishing permit⁷. In some areas, for example on the East Coast of the North Island, brown and green beach cast seaweeds are taken along with red as it is difficult to distinguish red seaweed from the other classes of seaweeds when beach cast.
- 15 There is no evidence of sustainability issues or undue environmental impact arising from any of these operations (either within or outside open areas). Non-commercial users of the beach cast seaweed resource and other stakeholders have not raised any concerns regarding this commercial activity.

Statement of the Problem and Need for Action

- 16 ‘Race for catch’⁸ concerns, which were a consideration when the moratorium was lifted in 2001, have proven to be unfounded. Commercial harvest of beach cast seaweed has remained at relatively low levels and no sustainability or environmental impact concerns are evident from new commercial activity (including activity outside the open areas). On this basis, it would appear the regime is overly restrictive.
- 17 Changes in management of other non-QMS species since 2002 also indicate the rules for beach cast seaweed are misaligned with sustainability risk. MFish determined during QMS consideration that the risks associated with harvesting beach cast seaweed are lower than for attached seaweed, however, following the lifting of the non-QMS permit moratorium in October 2004, a more restrictive regime applies for beach cast seaweed than for most⁹ attached seaweeds. This mismatch creates an incentive to supply the market with environmentally important attached seaweeds. Along with the confusing and different rules for red and green/brown beach cast seaweeds, it decreases the likelihood of voluntary compliance and makes enforcement difficult.
- 18 These issues were scheduled to be addressed within the context of introducing seaweeds into the QMS. However, with the deferral of a decision to include seaweeds into the QMS, the earliest next feasible QMS entry date for seaweeds is 2007. While it is not desirable to undermine decisions that may be made in the future as part of the wider review of seaweed management that will occur during QMS reconsideration, the difficulties experienced by MFish and stakeholders in terms of the current rules

⁷ For historical reasons, the commercial harvest of such seaweeds is exempt from the requirement to hold a fishing permit under s89(2)(f) of the Act.

⁸ In this context a race could occur if demand for beach cast seaweed outstripped supply, or if fishers sought to establish a catch history in expectation of future rights.

⁹ Eight of the largest species of seaweeds remain subject to the permit moratorium. These include species listed as non-commercially harvested species under various settlements between the Crown and Iwi.

for beach cast seaweed would be significantly alleviated by bringing the rules more into line with current use.

- 19 MFish proposes to achieve this by opening four new areas to commercial beach cast seaweed harvesting. This is a first step in rationalising the rules, pending resolution of the wider issues associated with the seaweed management through the process of QMS reconsideration.
- 20 The four areas chosen are based on sensible boundaries around areas of known current use, and exclude areas of particular sensitivity in terms wildlife or environmental impact¹⁰.
- 21 The statutory considerations in terms of this proposal are set out in Annex One.

Preliminary Consultation

- 22 Submissions were received on this issue during consultation on QMS introduction in 2004. Of 21 submissions received, 10 considered there are few sustainability issues in terms of beach cast seaweed harvest and two considered there was a need to continue to actively manage the harvest of beach cast seaweed. The remaining nine submissions had no clear view.
- 23 MFish has also discussed the current rule with businesses operating outside the open areas. Some paua farmers may wish to continue to hold special permits, however, MFish preference is for such activity to occur under fishing permit, wherever possible. A decision on whether there are grounds for issue of a special permit will be made on a case-by-case basis upon application. Operations taking brown and green beach cast seaweeds as a by catch of red beach cast seaweed are believed to be in favour of extending open areas as there is currently no provision for the taking of this by catch.

Options for Management Response

- 24 MFish considers there are two approaches in terms of management response. The approach recommended in this paper is to bring the open areas for beach cast seaweed harvest into line with current use as a first step in rationalising these rules. The four proposed new areas to be opened are set out earlier in this paper (refer Figure 2).
- 25 An alternative approach would be to revoke the Fisheries (Beach Cast Seaweed Area Prohibition) Notice 2002, thereby opening all areas to the commercial harvest of beach cast seaweed. MFish does not recommend this approach as it:
 - Could pre-empt or undermine decisions made as part of a wider review of seaweed management during QMS re-consideration;
 - Is a less cautious approach given there is uncertainty in terms of the sustainability and environmental risks associated with harvesting beach cast seaweed, and the impact on non-commercial users of the beach cast seaweed resource.

¹⁰ Based on Areas of Significant Conservation Value in Regional Coastal Plans and discussion with other agencies.

Statement of the Net Benefits of the Proposal

Benefits

- 26 The proposal will:
- Simplify the rules for businesses operating outside the open areas by allowing harvest of all classes of beach cast seaweed (not just red);
 - Increase voluntary compliance;
 - Reduce incentives to target environmentally important attached seaweeds;
 - Reduce costs to government and stakeholders from issuing beach cast seaweed special permits to paua farmers; and
 - Better provide for utilisation.
- 27 The above benefits would not significantly pre-empting alternate decisions that may be made during QMS reconsideration of seaweeds.

Costs

- 28 Sustainability and environmental risks, and impact on non-commercial users of the beach cast seaweed resource, will increase in proportion to the level of commercial activity. However, this proposal is not expected to result in a significant increase in commercial activity as it brings open areas into line with current use. Commercial activity appears to be driven by market demand and by the costs associated with harvesting beach cast seaweed.

Administrative Implications

- 29 The Fisheries (Beach Cast Seaweed Prohibition Notice) 2002 will need to be amended to implement the proposal.
- 30 Commercial harvesters need to be aware of the new open areas. MFish already produces an information sheet for beach cast seaweed harvesters, and this will be amended and distributed to harvesters.

Compliance Issues

- 31 Ensuring compliance with the revised provisions will require that stakeholders are aware of, and preferably support, the new open areas. Compliance will be more effective if the boundaries of the open areas are clearly identifiable, such as prominent landmarks or reference points (latitude/longitude descriptors). MFish seeks submissions on where clear boundaries could be placed for open areas.
- 32 Issues such as the cutting of attached seaweed to supplement the standing stock of beach cast seaweed are of relevance, however, there is no evidence that this is currently occurring. This, and similar issues, are most appropriately dealt with during the wider review of management that will take place during QMS reconsideration.

Conclusion

- 33 The proposal to bring open areas for beach cast seaweed harvest into line with current use creates a more workable management regime without pre-empting decisions that may be made as part of QMS reconsideration.
- 34 The alternative approach of revoking the gazette notice is not recommended. This approach runs the risk of undermining future QMS decisions and is less cautious given there is uncertainty in terms of the sustainability and environmental risks of harvesting beach cast seaweed, and the impact on other users of the beach cast seaweed resource.
- 35 MFish seeks submissions on whether the four proposed new open areas are appropriate.

Preliminary Recommendation

- 36 MFish recommends that:
- a) The Fisheries (Beach cast Seaweed Prohibition Notice) 2002 be amended to include the four new open areas set out in this paper.

ANNEX ONE

Statutory Considerations

Purpose of the Act

- 37 The purpose of the Fisheries Act 1996 (s 8) is to provide for the utilisation of fisheries resources while ensuring sustainability. “Ensuring sustainability” means “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”. “Utilisation” means “conserving, using, enhancing, and developing fisheries resources to enable people to provide for their social, economic, and cultural wellbeing”.
- 38 This proposal is consistent with the purpose and principles of the Act. By opening a limited number of new areas to beach cast seaweed harvesting it increases people’s ability to provide for their economic wellbeing. By retaining closures over remaining areas it contributes to the sustainability purpose of the Act by avoiding adverse effects on potentially sensitive parts of the coastline.

Sustainability measures

- 39 Section 11 of the Act allows the Minister to set sustainability measures, including measures relating to the areas fish, aquatic life or seaweed may be taken (s 11(3)(c)), after taking into account the effects of fishing on any stock and the aquatic environment, any existing controls under the Act and the natural variability of the stock (s 11(1)).
- 40 The effects of harvesting beach cast seaweed on any stock and the aquatic environment are taken into account by the proposal to retain closures over potentially sensitive parts of the coastline. Existing controls under the Act relating to beach cast seaweed include the requirement to hold a permit with a restriction to the method of hand gathering. This control, in combination with the closed area framework, reduces sustainability and environmental risk to acceptable levels.
- 41 The natural variability of the beach cast seaweed stock is taken into account in the closed area management framework for beach cast seaweed. It was deemed impractical, when the framework was implemented, to set catch limits that track beach cast seaweed abundance because the volume of seaweed cast ashore fluctuates dramatically¹¹.
- 42 Before setting or varying any sustainability measure, the Minister must also have regard to any provisions of any regional policy statement, regional plan, or proposed regional plan under the Resource Management Act 1991, any management strategy or plan under the Conservation Act 1987 the Minister considers to be relevant and s 7 and 8 of the Hauraki Gulf Marine Park Act 2000 (s 11(2)).

¹¹ Review of Sustainability Measures and Other Management Controls for the the 2001-02 Fishing Year. MFish Final Advice Paper. 23 August 2001. Page 107.

- 43 None of the proposed new areas are within the area covered by the Hauraki Gulf Marine Park Act.
- 44 Regional councils have produced Regional Coastal Plans or proposed Regional Coastal Plans relevant to the new open areas. In some instances, regional councils may require that a resource consent be held to remove beach cast seaweed.
- 45 Department of Conservation conservancies have produced conservation management strategies under the Conservation Act that identify a number of issues related to the near-shore aquatic environment. Issues of significance to beach cast seaweed harvesting are: advocating for the sustainable use of marine fisheries, and promoting the protection of significant marine ecosystems from the adverse effects of fishing practices. These are consistent with the aims of this proposal.
- 46 Before setting or varying any sustainability measure, the Minister must take into account any conservation or fisheries service, or any decision not to require such services, and any relevant fisheries plan approved under the Act (s 11(2A)).
- 47 No fisheries plans have been approved that are relevant to the harvesting of beach cast seaweed. MFish does not consider that conservation or fisheries services are materially affected by this proposal. No decision has been made not to require a service in this fishery.

Environmental principles

- 48 The Act, under s 9, sets three environmental principles that should be taken into account. “Associated or dependent species should be maintained above a level that ensures their long-term viability”. The Act defines associated and dependent species as any non-harvested species taken or otherwise affected by the taking of a harvested species. Further, “biological diversity of the aquatic environment should be maintained” and “habitat of particular significance for fisheries management should be protected”.
- 49 MFish has limited information on the impacts on associated species, dependent species or biological diversity of commercial harvest of beach cast seaweed. This proposal is not expected to result in a significant increase in commercial activity as it primarily brings open areas into line with current use.

Information principles

- 50 Under s 10 of the Act, information principles must be taken into account when considering the opening of new areas to commercial harvest of beach cast seaweed. The best available information should be used but caution is required when information is uncertain, unreliable, or inadequate. The absence of, or uncertainty in, any information is not a reason for postponing or failing to take any measure to achieve the purpose of the Act.
- 51 The preferred option of bringing open areas for beach cast seaweed harvest into line with current use is consistent with these principles. It takes a cautious approach given the uncertainty in information on the sustainability and environmental impacts of

beach cast seaweed harvesting and on the level of non-commercial use of the beach cast seaweed resource.

- 52 Other management options, for example, revoking the gazette notice or opening areas where commercial beach cast seaweed harvesting is not believed to be taking place, are less precautionary.

BEACH CAST SEAWEED COMMERCIAL CLOSURES – FINAL ADVICE

Initial Proposal

- 1 The Ministry of Fisheries (MFish) considered the rules for commercial harvesting of beach cast seaweed are confusing and do not align well with current use or with sustainability and other risks. MFish proposed to create a more workable management regime by amending the Fisheries (Beach Cast Seaweed Area Prohibition) Notice 2002 to open four new areas to commercial beach cast seaweed harvesting.
- 2 The proposed new areas are based on sensible boundaries around existing use, and exclude areas of particular sensitivity in terms wildlife or environmental impact.

Submissions

- 3 Submissions regarding this proposal were received from:
 - a) **Bay of Plenty Polytechnic (Aquaculture and Seafood Programme) (BoPP);**
 - b) **New Zealand Seafood Industry Council (SeaFIC);**
 - c) **Te Ohu Kai Moana (Te Ohu);**
 - d) **Sea Juice (Seaweed (NZ) Ltd (Sea Juice);**
 - e) **Bruce Hearn (Apex Marine Farms);**
 - f) **DTS Riddiford;**
 - g) **Sea-Right Investments Ltd (Sea-Right);**
 - h) **Tory Channel Kelp Products Ltd (Tory Channel);**
 - i) **Ocean Beach Properties (Ocean Beach);**
 - j) **Whangape Aquatic Developments Limited (WADL);**
 - k) **Martin McDonald; and**
 - l) **Royal Forest and Bird Protection Society (RFBPS).**

Management Measures

- 4 **BoPP** does not support the proposal to open four new areas and instead, recommends the Fisheries (Beach Cast Seaweed Area Prohibition) Notice 2002 be revoked to open all areas to commercial harvest of beach cast seaweed.
- 5 Students at the polytechnic actively collect beach cast seaweed for supply to paua farms, for agar manufacturing, for fertilisers and for food products. The polytechnic considers that opening the four areas proposed in the IPP unfairly caters for existing businesses while excluding development opportunities in other areas, particularly in the far north of fishery management area (FMA) 1 and FMA 9 where there is significant interest. The uncertainty regarding sustainability, environmental and non

commercial use implications is not an acceptable reason to retain the closures and the Ministry has a responsibility to provide for greater utilisation of this resource while investigating risks through research in partnership with the industry.

- 6 **SeaFIC** supports the opening of the four areas proposed in the IPP as a start towards addressing the anomaly that the more restrictive regime for beach cast seaweed creates a perverse incentive to harvest environmentally important attached seaweeds.
- 7 **Te Ohu** supports SeaFIC's submission on this IPP.
- 8 **Sea Juice** collects beach cast seaweed in the Gisborne area to produce organic liquid fertiliser for organic farmers, along with powdered and chipped dried seaweed for soil conditioning. Products are used domestically and also exported. The company recently built a \$400 000 factory to process beach cast seaweed in Gisborne, however, it has had to suspend its operations since it became aware that no areas were open to the commercial harvest of beach cast seaweed within 300 km of Gisborne.
- 9 The company, therefore, supports the proposal to open new areas around the Gisborne area, in particular, the beaches it has been collecting from (Turihau, Tatapouri, Puawa and Makarori beaches). The company notes it is well known in the Gisborne area and local people are employed. No opposition exists to the company's activities and the amount of beach cast seaweed harvested is miniscule compared to the amount washed ashore.
- 10 **Bruce Hearn (Apex Marine Farms)** supports the IPP and believes that the Ministry is applying practical initiatives and has a good appreciation of the real issues involved.
- 11 **DTS Riddiford** (Vice President of the NZ Abalone Farmer's Association) also supports the removal of unnecessary controls on the taking of beach cast seaweed from the four designated areas. DTS Riddiford suggests the Ministry also investigate customary rights of coastal landowners as an alternative means of rationing the beach cast resource to QMS entry, along with deregulation of the new Aquaculture "Reform" Act and Freshwater Fish Farming Regulations.
- 12 **Sea-Right** holds permits to take attached and free-floating seaweed (*Macrocystis*) in FMA 3 and FMA 4, and special permits authorising the taking of beach cast and free-floating seaweed for aquaculture feed in the Marlborough Sounds, Banks Peninsula and Stewart Island. The company supports the opening of the four new areas to commercial beach cast harvesting given there is no real sustainability concern. Rationalising the rules in this way is useful but is unlikely to change existing patterns of use, given the variable supply and quality of beach cast seaweed.
- 13 The company considers opening these areas should not be grounds for removing special permit access to free-floating seaweed as free-floating seaweed is preferable for aquaculture feed. Similarly, only attached seaweed is suitable for food quality products. The company suggests that beach cast seaweed is an unnecessary complication in rationalising rules for seaweed management under the QMS and questions whether management of beach cast seaweed needs to be a responsibility of the Ministry.

- 14 **Tory Channel** applauds the Ministry proposal to include the taking of drift kelp in FMA 7 under fishing permit. The company currently supplements its paua-pearl and kina marine farming operations by taking drift kelp under special permit. However, the company strongly objects to the requirement that all drift kelp taken under fishing permit be landed to a licensed fish receiver as the closest to its farm is Picton, some 20 km away. It would like to see a simple solution such as exists for the taking of red beach cast seaweed. The company recommends that taking of drift seaweed not be allowed within inner Queen Charlotte Sound (beyond Deiffenbach Point) and the Long Island Marine Reserve.
- 15 **Ocean Beach** is a beach cast permit holder, taking beach cast seaweed primarily as feed for its paua farms. The company strongly supports opening the four new areas provided only beach cast seaweed is being collected, but also considers a wider review of beach cast seaweed management is needed. The company has found the rules relating to beach cast seaweed harvesting to be restrictive, confusing and expensive to adhere to. It considers there is no need to place beach cast seaweed under the QMS nor are fishing permits needed. Management of the resource should be by local bodies with reporting as part of the paua farm's general reporting processes (rather than through the licensed fish receiver process).
- 16 **Whangape Aquatic Developments Limited** refers to last year's consultation paper regarding introduction of seaweeds into the QMS and supports inclusion of seaweeds in the QMS as single stocks. The company intends to harvest beach cast seaweed from the northern spit of Hokianga Harbour to Tauroa Point. No specific submission on the proposal set out in the IPP is made.
- 17 **Martin McDonald** notes that the species he targets (*Porphyra*) is not beach cast seaweed. He considers that the current requirement to land seaweed to a licensed fish receiver is overly restrictive.
- 18 **RFBPS** recommends that no new areas be opened to beach cast seaweed collection until there has been a full review of the impacts of the current opened areas and the environmental effects of new harvest. In terms of the current open areas, the society recommends that collection be restricted to hand gathering, that the use of motor vehicles should be prohibited, as should the cutting of attached seaweed to augment beach cast supplies. Non-commercial use and potential risks to protected wildlife and animals that utilise the strand line must also be addressed.
- 19 The society is particularly concerned with potential impacts on invertebrates and threatened bird species whose habitat includes the areas from which beach cast seaweed could be commercially harvested. Threats to these birds include: disturbance, trampling and removal of food and nesting material. The society sets out a number of areas which should not be open to beach cast seaweed harvesting; RAMSAR sites, marine reserves, wildlife sanctuaries, reserves, national parks, areas of significant conservation value in regional coastal plans, seabird colonies, rocky outcrops, harbours, bays, Banks Peninsula and the coast between Motunau Island and South Otago. The Ministry should not consider opening any additional areas for commercial take applications until an environmental assessment has been completed and there is evidence no significant adverse effects are likely. A number of fine-scale restrictions are also suggested including restrictions on the species and percentage of beach cast seaweed taken from each beach.

MFish Discussion

- 20 Several issues are raised by submitters, which are outside the immediate scope of the IPP proposal. Tory Channel, Ocean Beach and Martin McDonald comment on the difficulties associated with the landing and reporting rules for seaweeds. MFish notes that these rules were brought into line with those for other fisheries in 2001. However, a point of difference between seaweeds and other fisheries is that seaweeds are mostly a low value product and are targeted by fishers who are not involved in other fisheries. MFish recognises the need to provide a low-cost but effective reporting and compliance regime for seaweeds and will look for opportunities to simplify the rules as part of its wider review of seaweed management¹².
- 21 Similarly, submissions on QMS introduction (DTS Riddiford, Sea-Right, WADL and Ocean Beach) are not immediately relevant to this IPP, but will be retained and included in the wider review, as noted above.
- 22 In terms of relevant issues raised in submissions; MFish does not support revocation of the Fisheries (Beach Cast Seaweed Area Prohibition) Notice 2002 as proposed by BoPP for the reasons set out in paragraph 21 of the IPP. In particular, this is a less cautious approach given there is uncertainty in terms of the sustainability and environmental risks associated with harvesting beach cast seaweed. MFish notes that extensive areas in the far north of FMA 1 and FMA 9 are already open under the above gazette notice and considers that these provide reasonable opportunities for utilising the beach cast seaweed resource in the far north.
- 23 MFish will look for appropriate research partnerships with the seaweed industry, however, as noted in paragraphs 8 and 11 of the IPP, current harvest levels of beach cast seaweed appear to be low in comparison with the likely standing stock of beach cast seaweed and there is no evidence of sustainability issues or undue environmental impact.
- 24 The beaches Sea Juice requests be opened to commercial beach cast seaweed harvest (Turihau, Tatapouri, Puawa and Makarori) are already included in the proposed new open area in FMA 2 (Tuaheni Point to and Cape Runaway).
- 25 The area in FMA 1 that WADL intends to harvest (northern spit of Hokianga Harbour to Tauroa Point) is already open under the current gazette notice.
- 26 Special permits for seaweed for aquaculture purposes (refer Sea-Right's submission) are assessed on a case-by-case basis. The ability to access seaweed by 'normal' means (for example by commercial fishing permits) is a factor in these assessments. Where new open areas improve access, this will be taken into account.
- 27 The closure of inner Queen Charlotte Sound, as suggested by Tory Channel, could be considered, however, a fine-scale closure such as this appears to be unwarranted at this time given the small amount of beach cast seaweed taken. MFish notes that beach

¹² A reassessment of the management regime for harvesting all seaweeds, including beach cast, took place during the process to consider seaweeds for QMS introduction in 2003-04. However, no clear consensus emerged as to appropriate QMS settings for seaweeds and a final decision on introducing seaweeds into the QMS was deferred pending further analysis of workable reporting and compliance options. This work is scheduled to occur during 2005-06.

cast seaweed harvesting will remain prohibited within marine reserves (including the Long Island Marine Reserve) under the IPP proposal.

- 28 The criteria used by the RFBPS to determine which areas should be open or closed to beach cast seaweed harvesting are consistent with the criteria used by MFish when the Fisheries (Beach Cast Seaweed Area Prohibition) Notice 2002 was developed, with the following exceptions; rocky outcrops were not specifically excluded, most (but not all) bays were excluded, and not all of the coast between Motunau Island and South Otago was excluded. The proposed new open areas in the IPP also follow these criteria, but extend the open areas to include the southern part of Banks Peninsula (FMA 3), and bays and harbours within the southern part of Marlborough Sounds (FMA 7). As noted in the IPP, the proposal seeks to bring the open areas into line with current use rather than significantly extend commercial use. Commercial beach cast seaweed harvest is already occurring in the proposed areas under special permits and other authorisation.
- 29 The restrictions recommended by the society of only allowing hand-gathering and prohibiting the cutting of attached seaweed to augment the beach cast seaweed are already in place. Restrictions on the use of vehicles on beaches apply in some areas, however, such restrictions are outside the ambit of the Fisheries Act.
- 30 As noted by the society, there are potential impacts on invertebrates and threatened bird species from beach cast seaweed harvesting. Addressing these potential impacts has been a key driver for the management approach developed for this fishery. MFish considers that the proposed amendment to include four new open areas in the Fisheries (Beach Cast Seaweed Area Prohibition) Notice 2002 strikes a balance between providing for reasonable use of the beach cast seaweed resource and exercising caution in the face of uncertainty and the potential environmental impacts of beach cast seaweed harvesting. As discussed in the IPP, commercial harvest of beach cast seaweed has remained at relatively low levels since the permit moratorium was lifted in 2001 and there is no evidence of sustainability or environmental impact concerns at current levels of activity¹³. This seems to be confirmed by the IPP submission process whereby none of the submissions (including the society's) point to adverse impacts actually occurring, rather the potential for such impacts is highlighted.
- 31 The fine-scale measures and additional restrictions proposed by the society (for example to exclude all rocky outcrops and bays) appear to be unwarranted given the small amount of beach cast seaweed being taken. However, as noted earlier, a wider review of seaweed management is scheduled to occur in 2005–06 and this will provide an opportunity for alternative management options, such as those proposed by the society, to be considered.
- 32 Similarly, requiring that an environmental assessment be completed prior to granting beach cast seaweed permits does not appear to be warranted given current low levels of beach cast seaweed harvest. However, MFish will continue to monitor the beach cast seaweed fishery and will consider commissioning further research on beach cast seaweed where this meets research-planning priorities.

¹³ Information on standing stocks is qualitative rather than quantitative. An MFish- purchased study on beach cast seaweed (ENV2002/03) summarised information on beach cast seaweed impacts.

Conclusion

- 33 Submitters express a range of views on the proposal to open four new areas to commercial beach cast seaweed harvesting. Most submitters support the proposal as useful and pragmatic. However, one submitter considers no new areas should be opened until impacts from the current open areas have been assessed and another submitter views the proposal as too conservative, recommending instead that the Fisheries (Beach Cast Seaweed Area Prohibition) Notice 2002 be completely revoked.
- 34 MFish does not agree with these latter two submissions and considers that the proposed amendment include four new open areas in the Fisheries (Beach Cast Seaweed Area Prohibition) Notice 2002 strikes a balance between providing for reasonable use of the beach cast seaweed resource and exercising caution in the face of uncertainty over the potential environmental impacts of beach cast seaweed harvesting. It will bring open areas into line with current use and alleviate the difficulties experienced by MFish and stakeholders in terms of the current rules for beach cast seaweed.

Recommendations

- 35 The Ministry of Fisheries recommends that you:
- a) **Agree** to amend the Fisheries (Beach Cast Seaweed Area Prohibition) Notice 2002 to open the following four new areas to commercial beach cast seaweed harvesting:
- Fishery Management Area 1**
- The ‘coastal area’ between Anarake Point (Coromandel Peninsula) and Otamarakau (Bay of Plenty).
- Fishery Management Area 2**
- The ‘coastal area’ between Tuaheni Point (near Gisborne) and Cape Runaway (East Coast, North Island).
- Fishery Management Area 3**
- The ‘coastal area’ between Akaroa Head and the Rakaia River (south Banks Peninsula).
- Fishery Management Area 7**
- The ‘coastal area’ between French Pass and Clarence River (South Marlborough Sounds).

REGISTRATION OF VESSELS AUTHORISED TO FISH FOR SOUTHERN BLUEFIN TUNA – INITIAL POSITION PAPER

Executive Summary

- 1 The Commission for the Conservation of Southern Bluefin Tuna (CCSBT) has resolved to establish a register of vessels authorised to fish for southern bluefin tuna as one of its conservation and management measures. New Zealand has an obligation to supply a list of its vessels that are authorised to fish for southern bluefin tuna to the CCSBT secretariat.
- 2 Southern bluefin tuna are now managed within the Quota Management System (QMS). There is currently no specific authorisation required to catch this species other than those in the QMS balancing regime. In effect, all registered New Zealand fishing vessels may be used to take southern bluefin tuna. The option of providing information on all vessels on the Fishing Vessel Register to the CCSBT is administratively complex and is arguably not meaningful in the context of the CCSBT resolution. In practical terms a much smaller number of vessels will actually take this species.
- 3 The option of development of an administrative list of vessels (based on past catch records and export documentation) as a subset of registered vessels, and providing this to the CCSBT, is not considered a workable option. A smaller list of vessels would result (150 approximately). However, the list will be retrospective. If a new vessel is used to take southern bluefin tuna, and that vessel is not on the authorised vessel list, the southern bluefin tuna taken on that vessel will not be allowed entry into the Japanese market. If a subset of the Fishing Vessel Register is to be developed, the Ministry of Fisheries (MFish) therefore favours a regime by which fishers nominate in advance if they intend to, or are likely to, take southern bluefin tuna.
- 4 Alternative options are available to address the need to identify New Zealand flagged vessels that are authorised to take southern bluefin tuna. These include providing information on all vessels, amending the current application forms, processes and systems for fishing vessel registration to provide a subset of vessels, and implementing a new regulatory regime to establish a southern bluefin tuna vessel register and to require vessels taking southern bluefin tuna to be registered. It is suggested the latter may be most consistent with New Zealand's longer-term international obligations for the management of southern bluefin tuna fisheries and would be simpler to administer.

Proposal

5 MFish proposes that:

EITHER:

Option 1

- a) The details of all New Zealand flagged vessels on the Fishing Vessel Register are provided to the CCSBT Secretariat and routine update systems are established.

OR

Option 2

- b) The vessel register application forms (the approved forms) are amended to require New Zealand flagged vessel operators to identify that they intend to take southern bluefin tuna and to furnish any additional information required for the CCSBT register.

OR

Option 3

- c) A regulatory regime is implemented to establish a register of New Zealand flagged southern bluefin tuna vessels and to require vessels taking southern bluefin tuna to be registered.

Background

6 The CCSBT at its tenth meeting in October 2003 agreed to a resolution to establish a CCSBT Record of Vessels Over 24 Metres (the Record). The Record was to be comprised of currently registered vessels of member states with the ability to legally catch southern bluefin tuna either in the waters of the member state or on the high seas. The Record includes information on current and previous flag state and vessel name, registry number and international radio call sign, type of vessel, gross registered tonnage, vessel owner and operator, vessel length and gear type.

7 New Zealand supplied a list of 73 New Zealand flagged vessels, as required by 1 July 2004. The vessels on this list were all vessels over 24 metres that had reported catching southern bluefin tuna and also included trawlers over 24 metres in length that were capable of catching southern bluefin tuna.

8 At the eleventh meeting of the CCSBT in October 2004, the CCSBT members agreed to amend the CCSBT Record of Vessels to also include vessels under 24 metres. While this change did not appear to present other CCSBT members with a problem, New Zealand is unique in that we do not authorise vessels to fish in a particular fishery as other countries do.

9 Southern bluefin tuna is now managed within the QMS. There are now no specific authorities required to catch this species other than those in the QMS balancing regime. There are specific requirements if southern bluefin tuna is to be exported. Trade Information Scheme (TIS) documents are mandatory and must accompany

export shipments. The information required on the documents includes the vessel used to take the southern bluefin tuna.

- 10 There are approximately 1 500 vessels on the Fishing Vessel Register all of which can be used to take southern bluefin tuna. The option of providing information on all New Zealand flagged vessels on the Fishing Vessel Register to the CCSBT is administratively complex because vessel registrations expire and are renewed on a rolling basis. Provision of information on vessels that do not and/or will not take southern bluefin tuna is also arguably not meaningful in the context of the CCSBT resolution. In practical terms a much smaller number of vessels will actually take this species.
- 11 It will be necessary to provide a full list of vessels in order to meet the target date of 1 July 2005. Administration of a full list of vessels will continue until consideration of a long-term regime is complete.

Statement of the Problem and Need for Action

- 12 New Zealand has an obligation to supply a list of New Zealand flagged vessels authorised to fish for southern bluefin tuna to the Secretariat for the CCSBT. Providing a list of all New Zealand flagged registered vessels (some 1 500) is administratively complex both for New Zealand and for the CCSBT Secretariat, particularly as there is a requirement to ensure that the list is routinely updated.

Preliminary Consultation

- 13 Consultation on these proposals to date has been limited and the responses have been mixed. There is concern at the administrative and cost burdens that would be associated with implementing a new vessel register and a view that existing systems should be used to the extent possible. There has been some support for the option of a separate vessel register based on the potential long-term needs of the fishery.

Options for Management Response (including statement of the net benefits of the proposal)

Non-regulatory

- 14 There are no non-regulatory mechanisms available to address this issue.

Regulatory

Option 1 - The details of all New Zealand flagged vessels on the Fishing Vessel Register are provided to the CCSBT Secretariat and routine update systems are established

- 15 As of 1 July 2005 this will be a *status quo* option. It will involve continuing with interim measures established to meet the CCSBT deadline of 1 July 2005 for implementation of the Vessel Record resolution.

Benefits

- 16 In the absence of any further restrictions the *status quo* is a literal reflection of the fact that all New Zealand flagged vessels on the Fishing Vessel Register are authorised to take southern bluefin tuna, albeit that many will not. No mechanisms will be required to deal with the accidental capture of southern bluefin tuna by vessels not listed with the exception of foreign-owned vessels as outlined below.

Costs

- 17 The costs of option 1 relate to the ongoing costs of administering a full vessel list, which will change on a regular basis as vessel registrations expire and are renewed.

Administrative Implications

- 18 The CCSBT resolution requires that member states “promptly notify, after the establishment of the initial CCSBT Record, the Executive Secretary of any addition to, any deletion from and/or any modification of the CCSBT Record at any such time changes occur”. This will require the development of routine systems to flag any changes to the Fishing Vessel Register and advise these to the CCSBT Secretariat. Systems will need to take into account the rolling application and renewal process for fishing vessel registration.

Compliance implications

- 19 The CCSBT requirement relates only to New Zealand flagged vessels. Foreign-owned vessels can also be entered onto the Fishing Vessel Register subject to the consent of the Chief Executive, MFish.
- 20 The CCSBT resolution requires that “the Members and Co-Operating non-members shall take measures, under their applicable legislation to prohibit the fishing for, the retaining on board, the transshipment and landing of southern bluefin tuna by *fishing vessels* that are not entered into the CCSBT record”.
- 21 Measures can be taken to ensure that only foreign-owned vessels authorised by their flag state are registered to target fish for southern bluefin tuna in New Zealand fisheries waters. The accidental or incidental capture of southern bluefin tuna by non-authorised foreign-owned vessels will not be able to be managed in the absence of a regulatory regime to give effect to such a measure.
- 22 In keeping with a further provision of the CCSBT resolution, New Zealand would not, however, be in a position to validate TIS documentation for southern bluefin tuna taken by non-authorised foreign-owned vessels.

Option 2 - Amendment of vessel register application forms (the approved forms), processes and systems

- 23 Fishing vessels to be used to take fish for sale must be registered. Applications to register a New Zealand flagged fishing vessel must be made on an approved form. Some of the information on the application form is then transferred to a public register of fishing vessels (the Fishing Vessel Register particulars are specified in the Fisheries (Registers) Regulations 2001).

- 24 This option is to amend vessel register application forms (the approved forms) to require vessels to identify they intend to take southern bluefin tuna and to require any additional information required for the CCSBT register. The onus would be on the applicant to identify in advance the potential for southern bluefin tuna catch.
- 25 There would be a requirement to change electronic systems to capture more of the data specified in application forms (but not on the public register) so that reports can provide for the electronic transfer of information to the CCSBT secretariat.

Benefits

- 26 The main benefit of this option is it provides the opportunity for fishers to identify in advance that they intend to catch southern bluefin tuna. The selection of a smaller pool of vessels to transfer information to the CCSBT Secretariat should then be possible. A key disadvantage of this option is it may not be effective in defining the southern bluefin tuna fleet. That is, applicants may tick the box because it involves no cost even though they do not intend to fish for southern bluefin tuna.

Costs

- 27 Amending the vessel register application forms will involve the least cost out of the two options proposed to change from the *status quo*. Set up costs would involve the production of new forms, and modification of the procedures and database systems would be required to manage the additional information necessary to meet the obligations to the CCSBT. Applications to register vessels are currently annual. There would be ongoing costs to administer the additional information collected.

Administrative implications

- 28 Administrative implications are limited to the modification of existing systems rather than the development of new ones. A process would be required to develop and approve new “approved forms” for applications.

Compliance implications

- 29 The resulting subset of vessels would be an administrative list only. If a New Zealand flagged vessel that was not on the vessel record took southern bluefin tuna the repercussions would relate only to the export of that fish. In relation to foreign-owned vessels the implications are as outlined for option 1.

Option 3 - Implementation of a regulatory regime establishing a register of southern bluefin tuna vessels and requiring vessels taking southern bluefin tuna to be registered

- 30 Implementing a regulatory regime is arguably the option that is most consistent with the international obligation. This option has the additional advantage of defining the New Zealand southern bluefin tuna fleet so that other obligations (such as the requirement to observe 10% of southern bluefin tuna catch by fishery) can be more readily achieved. It is likely that only those fishers who intend to take southern bluefin tuna will complete a separate registration process.

- 31 Past policy has seen a constraint on vessels that can be authorised to fish for southern bluefin tuna under the New Zealand national allocation. This constraint has been applied to foreign-owned vessels for which applications have been made to register them as New Zealand fishing vessels. Approvals have been limited to foreign-owned vessels flagged to the CCSBT member states. The CCSBT resolution requires that similar restrictions operate in the future as the CCSBT continues its endeavours to ensure that southern bluefin tuna is taken only by parties that cooperate with the CCSBT.
- 32 It would be inconsistent with New Zealand's international obligations to allow vessels that operate under flags of convenience or which are flagged to non-cooperating states to fish for southern bluefin tuna under the authority of New Zealand quota and national allocation. Provisions to decline applications to register foreign-owned vessels to be used to target fish for southern bluefin tuna from states that are not members or cooperating non-members of CCSBT exist in legislation. There would need to be provisions in regulations to deal with the incidental capture of southern bluefin tuna by non-authorised vessels.
- 33 This option is not without precedent. Regulations (the Fisheries (Western and Central Pacific Ocean Highly Migratory Fish Stocks) Regulations 2003) exist that establish a New Zealand Western Central Pacific Fisheries Convention Vessel Register and require that any vessel fishing for highly migratory species in the Convention area must be on the Register (the Fisheries (Western and Central Pacific Ocean Highly Migratory Fish Stocks) Regulations 2003). The application of these regulations is limited to New Zealand flagged vessels fishing in the Convention area outside of New Zealand fisheries waters. In effect, these regulations require vessels fishing for southern bluefin tuna in the Convention area outside of New Zealand fisheries waters to be registered because it is likely they will take other highly migratory species in conjunction with southern bluefin tuna.

Benefits

- 34 The benefits of this option are two-fold. There is a clear short-term benefit in reduced administration load in meeting the obligation to provide a list of authorised vessels to the CCBST.
- 35 New Zealand will be better placed in the long-term to meet any further international obligations aimed at restricting the fishing of southern bluefin tuna by non-cooperating states, and in the management and monitoring of our southern bluefin tuna fleet generally.

Costs

- 36 Systems development will be required to implement and maintain a vessel register. This will include the development of new application forms and an electronic register and ongoing maintenance of the system.
- 37 Ongoing costs to industry will apply as southern bluefin tuna vessels will need to be specifically registered. Some duplication of information collected by MFish will be unavoidable. Ensuring that registration of vessels on the CCSBT register is long-term

can offset these costs. That is, routine renewals will not be required as long as the vessel remains on the New Zealand fishing vessel register.

Administrative implications

- 38 New regulations pursuant to s 297 of the Fisheries Act 1996 will be required to implement this option.
- 39 Educational material will be necessary to inform fishers of the requirement to register vessels used for taking southern bluefin tuna.

Compliance implications

- 40 If regulations require that New Zealand flagged vessels fishing for southern bluefin tuna are on a register, then compliance systems will need to be established to monitor that this occurs. To a degree market constraints will assist in this process as most, if not all, southern bluefin tuna taken in the New Zealand fishery is destined for the Japanese market. The CCSBT system will see market access denied to non-registered vessels.
- 41 There will need to be provisions that relate to the incidental capture of southern bluefin tuna by non-registered New Zealand flagged vessels and by foreign-owned vessels that are not authorised to take southern bluefin tuna by their flag state.

Conclusion

- 42 The CCSBT will continue its endeavours to use conservation and management measures to control southern bluefin tuna catch. An issue critical to the effectiveness of the CCSBT conservation and management measures is the restriction of catch by non-cooperating parties. The first step in the process is to establish an authorised 'fleet' of southern bluefin tuna vessels. It can be expected that the development and implementation of additional sanctions on non-authorised vessels will be required as the CCSBT attempts to limit fishing for southern bluefin tuna in contravention of CCSBT sustainability measures.
- 43 There are three options for New Zealand to comply with the CCSBT resolution, which vary, in their administrative complexity and cost. The most significant change would be the creation of a regulatory regime to define the New Zealand southern bluefin tuna fleet. Industry may perceive this option as being an unreasonable administrative burden and cost, but in the longer term may provide a better outcome with respect to current and future targeted management actions by CCSBT. MFish seeks stakeholder views on the short and long-term benefits of the proposed options with respect to the likely implementation and operating costs of each option.

Preliminary Recommendations

44 MFish proposes that:

EITHER

Option 1

- a) The details of all New Zealand flagged vessels on the Fishing Vessel Register are provided to the CCSBT Secretariat and routine update systems are established.

OR

Option 2

- b) Vessel register application forms (the approved forms) are amended to require vessels to identify that they intend to take southern bluefin tuna and to gather any additional information required for the CCSBT register.

OR

Option 3

- c) A regulatory regime is implemented to establish a southern bluefin tuna vessel register and to require that vessels used for taking southern bluefin tuna are registered.

REGISTRATION OF VESSELS AUTHORISED TO FISH FOR SOUTHERN BLUEFIN TUNA – FINAL ADVICE

Initial Proposal

1 The Ministry of Fisheries (MFish) proposed several measures to enable New Zealand to meet its obligation under a resolution from the Convention on the Conservation of Southern Bluefin Tuna (CCSBT). These measures are:

a) The details of all New Zealand flagged vessels on the Fishing Vessel Register are provided to the CCSBT Secretariat and routine update systems are established.

OR

b) The vessel register application forms (the approved forms) are amended to require New Zealand flagged vessel operators to identify that they intend to take southern bluefin tuna and to furnish any additional information required for the CCSBT register.

OR

c) A regulatory regime is implemented to establish a register of New Zealand flagged southern bluefin tuna vessels and to require vessels taking southern bluefin tuna to be registered.

Submissions

2 Submissions regarding the southern bluefin tuna proposal were received from:

- a) **New Zealand Royal Forest and Bird Society Inc** (NZRFB);
- b) **Tuna Management Association Inc** (TMA);
- c) **New Zealand Seafood Industry Council** (SeaFIC); and
- d) **Sanford Limited** (Sanford).

Management Measures

3 **NZRFB** support measures to allow the registration of vessels so that New Zealand can meet its obligation under a resolution from the Convention on the Conservation of Southern Bluefin Tuna (October 2003).

4 NZRFB supports option 3. NZRFB submit that this would assist in matters such as observer planning.

5 NZRFB submit that this approach would be similar to the arrangements under the Western and Central Pacific Agreement to establish a similar register (Fisheries (Western and Central Pacific Ocean Highly Migratory Fish Stocks) Regulations 2003). Given this the administrative costs of running two registers should be low.

- 6 **TMA** is the CSO for albacore fishers who also catch southern bluefin tuna when surface longlining. TMA foresees a problem when there is a large fleet of fishers trolling for albacore who may also catch southern bluefin tuna as a by-catch. TMA note that (under Option 3) if the vessel is not registered it may not export southern bluefin tuna and submit that, as the trolling fleet is a very mobile fleet, a special register would be a complete waste of cost and manpower to even attempt to keep up with such a mobile fleet.
- 7 A non registered vessel would then have to sell their catch on the local market at a reduced price and if the vessel did not have access to ACE for southern bluefin tuna the chances are that the deemed value would be in excess of the price received. TMA supports Option 1 where the Ministry of Fisheries provides a routine update of all New Zealand flagged vessels. Further, TMA wholly support the SeaFIC submission on the registration of vessels authorized to fish for southern bluefin tuna.
- 8 **SeaFIC** notes that as the target date has already passed, Option 1 has already been utilised. The CCSBT's Authorized Vessel List now contains 1392 New Zealand flagged vessels (including 17 eel vessels, 2 dredges, etc).
- 9 SeaFIC notes that it appears that MFish preference would be Option 3, the establishment of yet another regulatory regime and is disappointed given the proliferation of regulation in New Zealand fisheries.
- 10 SeaFIC submits that this option also appears to be the most costly one for fishers. In SeaFIC's view, New Zealand fishers should not have to bear yet another cost before they even catch a fish.
- 11 SeaFIC submits that Option 1 (i.e. status quo) would appear to be the least onerous (for fishers) option. It also has the advantage of encompassing the "possible" catch and removing the need to guess whether a particular vessel may catch a southern bluefin tuna. SeaFIC suggest that if MFish is of the view that providing a full list would be too onerous, then it could do some judicious editing of this list – i.e. remove from it eel boats, oyster dredgers.
- 12 SeaFIC submits that, if this is not the option chosen, then of the remaining two, Option 2 would be the most logical and cost effective mechanism and say that, since vessel registrations can be amended at any time, it would also be sufficiently flexible. However, SeaFIC submit that the wording in this option be slightly amended. It is stated in the proposed option that the requirement would be for New Zealand flagged vessel operators to identify that they intend to take southern bluefin tuna. In SeaFIC's view, the registration should include vessels that could take the fish (even if they do not target it).
- 13 **Sanford** supports Option 1. Sanford considers that this is the least cost option to fishers and presents no additional administrative requirement.

MFish Discussion

- 14 MFish proposed that the option of status quo (providing a list of all New Zealand flagged and registered fishing vessels) is not a viable or sensible option, because the system required to update information for provision to the CCSBT register is manual

and laborious and cannot easily be improved. MFish also suggested that the number of vessels provided to CCSBT needed to be reduced to numbers that better reflect the number that wish to take southern bluefin tuna (that is vessels intended for southern bluefin tuna fishing) and indicated a preference for Option 3, a regulatory regime for registration of New Zealand southern bluefin tuna vessels.

- 15 MFish notes the concerns of industry regarding the costs of a regulatory regime to require registration (Option 3) and accepts that this will be the most costly of the options proposed. In the current environment of rationalisation of the tuna longline fleet MFish acknowledges that additional costs to industry without a corresponding benefit require careful consideration.
- 16 MFish notes that there was no support in industry submissions for the concept of a readily identified southern bluefin tuna fleet, which would be a component of Option 3 if implemented. NZRFB saw merit in this approach for issues such as the planning of observer coverage to meet international targets and supported Option 3. MFish acknowledges that while there are some benefits in defining the southern bluefin tuna fleet it is not clear-cut that the benefits outweigh the costs of this option. Costs include both administrative costs of establishing and maintaining a regulatory regime and compliance costs for industry. Future management actions by CCSBT may mean that it becomes so but in the interim MFish accepts that a lesser-cost option may be preferred.
- 17 Since implementing the status quo option on 1 July 2005, MFish has identified ways to streamline the administration of the requirement to provide update information on all registered vessels to CCSBT. Further trials will be required, however it may be that MFish can maintain the status quo in the interim and only move to a more restrictive list if further CCSBT recommendations for vessel controls arise or in the circumstances that administration of the current system becomes more cumbersome.
- 18 In this case MFish would move to the alternative of Option 2. This regime can be readily implemented and may well be more cost effective than the initial preferred option of a regulatory regime for southern bluefin tuna vessel registration. As noted by SeaFIC it has the further advantage of being a more flexible option if there is need to respond to future information requirements.
- 19 The alternative of Option 2 will be a lesser cost option to industry and may still reduce the number of vessels required to be placed (and updated) on the CCSBT register. This option presents some risk that all vessels will identify themselves as potential harvesters of southern bluefin tuna and MFish would need to keep this risk under review if this is the option chosen for implementation. With regard to Option 2 MFish accepts the SeaFIC suggestion that it should relate to fishers who identify that they are likely to take as well as those that identify that they intend to take southern bluefin tuna.
- 20 Option 2 provides a balance between MFish concerns regarding the administrative costs of maintaining Option 1, the risks of administratively reducing the list (as proposed by SeaFIC) and the industry concerns regarding the cost and complexity of Option 3. MFish is able to implement Option 2 without regulatory change. Implementation would involve a change to approved forms to register fishing vessels and a change in systems to enable a subset of vessels likely to take or wishing to take

southern bluefin tuna, however MFish notes that there is now no urgency to consider such a change.

Final Recommendations

21 The Ministry of Fisheries (MFish) recommends that you:

- a) **Agree** that MFish continue to provide the details of all New Zealand flagged vessels on the Fishing Vessel Register to the CCSBT Secretariat and establish routine update systems.

AND

- b) **Agree** that MFish amend vessel register application forms (the approved forms) to require vessels to identify that they intend to take or are likely to take southern bluefin tuna and to gather any additional information required for the CCSBT register **only** if administration of the status quo proves inconsistent with further CCSBT resolutions **or** if maintaining the status quo becomes administratively burdensome.

REVOKING COMMERCIAL EEL FISHING RIGHTS IN LAKE HOROWHENUA AND THE HOKIO STREAM – FINAL ADVICE

Proposal

- 1 Regulation 15 of the Fisheries (Central Area Commercial Fishing) Regulations 1986 is recommended for revocation, as it is now redundant. The regulation sets out the manner in which commercial eel fishing could occur in Lake Horowhenua and the Hokio Stream.

Background

- 2 As part of introducing North Island eel stocks into the QMS on 1 October 2004, it was clarified that r 15 of the Fisheries (Central Area Commercial Fishing) Regulations 1986 was redundant.
- 3 Regulation 15 stipulates that commercial fishers may only take eels from Lake Horowhenua and the Hokio Stream under the exercise of fishing rights in accordance with s 18 of the Reserves and Other Land Disposal Act 1956. That section preserved the specific fishing rights granted in s 9 of the Horowhenua Block Act 1896 (as repealed by s 118 of the Maori Purposes Act 1931).
- 4 The Ministry of Fisheries (MFish) notes the fishing rights provided to Maori land owners under the Horowhenua Block Act 1896 (as mentioned in the Reserves and Other Land Disposal Act) have been extinguished by the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (the Settlement Act). Commercial fishing rights, whether for Maori or non-Maori, are now governed by the quota management system (QMS). MFish notes that commercial fishing has rarely been undertaken in the lake or stream, mostly because of the values attributed to non-commercial use of the eel resource.
- 5 Section 9 of the Settlement Act states that all claims by Maori in respect of commercial fishing addressed by the Crown under the Maori Fisheries Act 1989, the Deed of Settlement, and the Settlement Act have been recognised and finally settled. This is irrespective of whether such claims are founded on rights arising by or in common law, the Treaty of Waitangi, statute, or otherwise.

Statement of the Problem and Need for Action

- 6 Repeal of the regulation in place for Lake Horowhenua and the Hökio Stream would be good administrative practice. Commercial rights associated with the harvest of the eel fishery changed as at 18 December 1992, with the enactment of the Settlement Act. Further, commercial opportunities for Maori in the eel fishery are now provided for through the QMS. The Maori Fisheries Act 2004 sets out how Maori commercial harvesting rights for freshwater species are to be allocated, in respect of rights received under the Deed of Settlement, and the Settlement Act.

Consultation

Status of regulation 15

- 7 Ministry officials briefly discussed the status of r 15 with Muaupoko representatives during a consultation meeting in Wanganui on 5 April 2004. This was during the consultation period when North Island eel stocks were being introduced into the QMS for 1 October 2004. Ministry officials noted that commercial harvesting would need to be undertaken under fishing rights defined under the QMS.
- 8 In the MFish Final Advice Paper entitled “Setting of sustainability and other management controls for stocks to be introduced into the QMS on 1 October 2004: North Island Shortfin and Longfin Eels (SFE, LFE)” dated 25 June 2004 (page 192), the clarification that r 15 had no legal effect was stated.
- 9 Because r 15 is redundant, and the current proposal to revoke it is as a result of the enactment of the Settlement Act, a decision was taken not to include the proposal in the MFish Initial Position Paper of 30 June 2005 for general consultation.
- 10 However, Ministry officials took the initiative to further discuss r 15 with representatives for the Muaupoko iwi on 4 July 2005. Ministry officials noted that fishing rights were managed under the Fisheries Act 1996. Those rights did not extend to include access rights across private land to particular bodies of water, which is something that land owners or occupiers still control. It was acknowledged that the Muaupoko iwi had a strong and unique claim to ownership of the waters and land surrounding Lake Horowhenua and the Hokio Stream. However, the claims of iwi do not extend to ownership of the aquatic life in or on the water.
- 11 Ministry officials advised Muaupoko iwi representatives that it was now their intent to revoke r 15. The Muaupoko iwi representatives recognised that r 15 was redundant.

Future management

- 12 Ministry officials noted the opportunities available to the Crown and iwi in considering future management choices for managing eel harvest from Lake Horowhenua and the Hokio Stream. Muaupoko iwi representatives were also open to holding future discussions to ensure the fisheries management measures applied to Lake Horowhenua and the Hokio Stream were consistent with the traditional value that their iwi placed on the taonga.
- 13 Other than the QMS, the main tools of management within the Fisheries Act 1996 discussed with Muaupoko iwi representatives were:
 - a) The potential use of customary Maori regulations under s 186;
 - b) Section 186A regulatory measures (rāhui);
 - c) Section 11 sustainability measures; and
 - d) The Fisheries (Kaimoana Customary Fishing) Regulations 1998, when the scope of these regulations apply to freshwater areas of the North Island.

- 14 Muaupoko iwi representatives undertook to tell their people of the opportunities available to further discuss the potential use of fisheries management measures applicable to Lake Horowhenua and the Hōkio Stream.

Statement of the Net Benefits of the Proposal

Benefits

- 15 The main benefits of revoking r 15 include:
- a) Clarifying the law around commercial eel fishing within the discrete areas of Lake Horowhenua and the Hokio Stream; and
 - b) Providing a better basis on which to engage with Maori and other fishery interests over the future management arrangements for the specific areas.

Costs

- 16 There are no costs other than the normal resources needed to revoke a regulation. Representatives for the Muaupoko iwi will be told when the regulation has been revoked.

Administrative Implications

- 17 A regulation will be required under s 297 of the Fisheries Act 1996 to revoke r 15 by way of amendment to the Fisheries (Central Area Commercial Fishing) Regulations 1986. There are no systems or other significant administrative implications arising from the proposed change.

Compliance Issues

- 18 Revoking r 15 will help clarify how commercial eel fishing can occur on Lake Horowhenua and the Hokio Stream by removing inconsistent requirements currently set out in legislation. This will aid fishery interests and Ministry staff involved in compliance activities, as the law involving commercial access will be common to adjacent areas. MFish and Muaupoko do not expect commercial fishing to increase in the area. Commercial fishing typically only rarely occurs in the affected waters, and then, usually with the knowledge of Muaupoko iwi representatives.

Conclusion

- 19 Regulation 15 of the Fisheries (Central Area Commercial Fishing) Regulations 1986 is redundant. The regulation set out the preconditions needed for a person to fish commercially for eels in Lake Horowhenua and the Hokio Stream.
- 20 However, the Settlement Act has settled all claims to Maori commercial fishing addressed by the Crown under the Maori Fisheries Act 1989, the Deed of Settlement and the Settlement Act. Commercial fishing rights are managed through the QMS, under the Act, and Maori are allocated 20% of quota shares in a stock on introduction. As North Island eel stocks were introduced into the quota management system on

1 October 2004, commercial eel fishing is now constrained to sustainable catch levels. A claim to Maori commercial fishing rights, founded on statute or common law, no longer exists. Therefore, commercial eel fishing may be undertaken within the Lake Horowhenua and Hokio Stream on a similar basis to other waterways within New Zealand.

Recommendation

- 21 The Ministry of Fisheries recommends that you:
- a) **Agree** to revoke r 15 of the Fisheries (Central Area Commercial Fishing) Regulations 1986.

THE INCLUSION OF KINGFISH ON THE SIXTH SCHEDULE OF THE FISHERIES ACT 1996 – INITIAL POSITION PAPER

Executive Summary

- 1 Kingfish (KIN) is a highly valued shared fishery. Kingfish were introduced into the Quota Management System (QMS) on 1 October 2003 and, at that time, the total allowable catches (TACs) were set in order to improve stock status by reducing current use (estimated) by 15%. At the same time, deemed values were set (\$8.90, annual) with the objective of ensuring the integrity of total allowable commercial catches (TACCs). Kingfish deemed values were subsequently reduced for KIN 2 (\$4.92, annual) to reflect the lower port price for this stock (new port price information became available in 2004).
- 2 In the first year of QMS management for kingfish, the TACC for KIN 8 (and by inference the TAC) was significantly exceeded and year-to-date catch (as at March 2005) is close to the TACC.

Table 1 TAC (tonnes), TACC (tonnes), catch (tonnes), catch YTD (tonnes), and deemed value liability (\$) for 2003-04

Kingfish stock	TAC	TACC	Catch 2003-04	Catch YTD	Deemed Value Liability 2003-04 (\$)
KIN 1	673	91	48.5		2 638
KIN 2	170	63	50.2	29	968
KIN 3	3	1			
KIN 4	3	1			
KIN 7	21	7	3	1.3	819
KIN 8	83	36	57.1	34.5	307 345
KIN 10	2	1			

- 3 Industry are concerned at the high cost of over catch, which is said to be threatening the viability of the high-volume, low-value Jack mackerel (JMA 7) fishery and the snapper (SNA 8) and trevally (TRE 7) fisheries. The Ministry of Fisheries (MFish) is concerned that the integrity of the KIN 8 TACC is not being ensured.
- 4 The use of the Sixth Schedule as a mechanism for assisting fishers to manage bycatch to available annual catch entitlement (ACE) for kingfish was contemplated on the introduction of this species into the QMS. MFish assesses that kingfish is a robust species that is often brought on board the fishing vessel alive and can survive return to the water in most instances after capture by most methods other than set netting. The Minister of Fisheries anticipated further discussion of this option after the introduction of kingfish into the QMS.
- 5 The purpose of this proposal is to reconsider the listing of kingfish on the Sixth Schedule of the Fisheries Act 1996 to allow the release of kingfish taken commercially, subject to conditions. Only kingfish with a high likelihood of survival

could be released under this provision (reducing the mortality on the stock as a whole) and released fish would therefore not count against ACE. The likely survival of kingfish when released after being taken by commercial fishing methods will be a key criterion for this proposal to proceed.

Proposal

- 6 MFish proposes that kingfish (all stocks) be listed as a species on the Sixth Schedule of the Fisheries Act 1996 to allow kingfish to be returned to the sea, subject to the condition that fish are:
 - a) Not taken by the method of set netting;
 - b) Likely to survive;
 - c) Returned to the same waters from which they are taken;
 - d) Returned as soon as practical; and
 - e) Returned catch is recorded and reported on catch and effort forms using an appropriate code.

Background

- 7 The catch limits and associated sustainability measures for kingfish were set prior to the introduction of this species into the QMS on 1 October 2003. At that time MFish concluded the minimum legal size (MLS) of 65 cm should be retained for kingfish taken by commercial fishers.
- 8 MFish considered the role an increase to the commercial MLS from 65 cm to 75 cm could play in mitigating bycatch and providing a disincentive to the development of target fisheries for kingfish. This is because MFish accepted there could be socio-economic effects from adopting options of low TACCs in the absence of other management measures to assist fishers in managing their bycatch. An increase in MLS would assist in this regard by reducing the proportion of bycatch that could be lawfully landed. However, an increase in size limit would have increased the proportion of the kingfish catch (below the MLS) that had to be released whether dead or alive. An increase in fishing-related mortality could have resulted from this measure.
- 9 MFish's preferred option at the time of QMS introduction was to give consideration over time to the use of the Sixth Schedule for fishing methods (other than set netting) as a means of mitigating bycatch. Set net caught kingfish would not be considered for this provision because they are not likely to be taken alive.
- 10 MFish noted the Sixth Schedule can be used as a management tool at any level of TACC. Importantly, MFish considers that kingfish is a robust species and, if handled correctly, there is a high likelihood of its survival on release. This assessment is based on limited observations from 'catch at sea' sampling but extensive tag and release of kingfish.
- 11 In submissions on proposals for catch limits and other controls for kingfish, the New Zealand Seafood Industry Council and Te Ohu Kai Moana were silent on

options for managing commercial catch. They suggested that further discussion should occur once decisions on catch limits were known.

- 12 Recreational fishers supported using the Sixth Schedule, so that fish that are likely to survive could be returned to the sea as soon as is practicable after being taken. This support was given with respect to the Sixth Schedule provisions applying to kingfish taken that are above the MLS.
- 13 More generally, industry did not support using this provision to manage their kingfish bycatch. MFish assessed that ensuring compliance with the Sixth Schedule provisions to prevent the return of dead kingfish was potentially a significant problem, especially where a high deemed value relative to port price was proposed (as was the case with kingfish). Therefore, in the absence of majority industry support for the measure, and the associated commitment to manage the more complex compliance issues that result, MFish did not propose inclusion of kingfish on the Sixth Schedule at the time the species was introduced to the QMS.
- 14 However, MFish noted that this remained an option available to assist in the management of kingfish catch to the available ACE. This view was reiterated by the Minister of Fisheries when outlining his catch limit decisions as follows:

“With regard to the management of commercial catches the use of the Sixth Schedule of the Fisheries Act 1996 to allow the return of live kingfish to the water remains open for further consultation. This option (coupled with the removal of the MLS) could reduce substantially the allowance for other sources of mortality attributed to commercial fishing which is currently wasted fish. It is also a potential tool to manage the bycatch of kingfish either with or without a MLS to assist the commercial fishery to remain within the TACCs that I have set. However, I recognise that there are compliance concerns that would need to be resolved before this could occur. I urge commercial fishers to work with MFish to develop options to address these compliance concerns and to improve the management of commercial landings”.

- 15 Following a year of managing kingfish within the QMS, it is clear the management problems anticipated exist in the KIN 8 stock. Over catch of kingfish is at an unacceptably high level in this stock, and this is creating a sustainability risk for this stock and high costs for industry. While these issues are only apparent in one kingfish stock, MFish sees no reasons that the option of Sixth Schedule listing, if accepted, should not apply to all stocks but seeks feedback on the alternative. That is, restricting the application of the Sixth Schedule provisions to the area of the KIN 8 fishery only.
- 16 Maintaining the *status quo* is not considered to be an option, as it will result in continued over catch of the KIN 8 TACC, the associated cost to the industry, and an ongoing risk to the sustainability of the stock.
- 17 The option of reducing deemed values for KIN 8 will result in reduced costs to industry per tonne of catch in excess of ACE. Realistically, no reduction in bycatch can be anticipated if this measure is implemented. A reduction in the deemed value could well create an incentive for an increase in landings of kingfish bycatch, and it is

therefore not proposed as an option. The alternative of an increase in deemed values carries the risk of increased dumping and, therefore, the potential that further steps to ensure compliance would need to be taken. As a result, such an increase is not considered a viable option at this stage.

Statement of the Problem and Need for Action

- 18 Kingfish is subject to the QMS and all kingfish taken by commercial fishing must be landed unless they are below the 65 cm minimum legal size limit. The deemed value for kingfish has been set at twice the port price and differential deemed values apply. The level of kingfish bycatch may be threatening the commercial viability of some associated fisheries (JMA 7 and SNA 8) because of the liability for deemed value payments. More particularly, in some stocks (KIN 8) the sustainability of kingfish (a highly valued shared fishery) is at risk because fishers continue to over catch this species.

Preliminary Consultation

- 19 Preliminary consultation indicates the initial opposition of some industry sectors to the listing of kingfish on the Sixth Schedule may have moderated.

Options for Management Response

Non-regulatory

- 20 There are no non-regulatory mechanisms available to address this problem.

Regulatory

Inclusion of kingfish on the Sixth Schedule

- 21 Inclusion of kingfish on the Sixth Schedule (subject to the conditions in paragraph 6 above) will provide a mechanism to allow management of bycatch, and assist in ensuring that commercial fishers landing kingfish do not exceed the TACCs. The Sixth Schedule provides a mechanism to better match catch to available ACE, but more importantly, adherence to the conditions associated with release will result in a reduction in fishing mortality for kingfish. This mechanism is applied in a number of fisheries for this reason.
- 22 The initial industry opposition to the use of this mechanism is likely to have moderated because of the current over catch difficulties in the KIN 8 stock. The level of support for this proposal will be important because a commitment from the industry will be required to ensure that the conditions of Sixth Schedule release are adhered to.

Statement of the Net Benefits of the Proposal

Benefits

- 23 There will be a benefit from this proposal if, as anticipated, the use of the Sixth Schedule allows for better management of kingfish bycatch and helps match landings to ACE. Benefits are reduced costs to industry (unwanted deemed value payments) and reduced fishing-related mortality for kingfish.

Costs

- 24 There will be a cost to fishers who wish to utilise Sixth Schedule provisions. For example, special handling procedures will be required to provide for the immediate release of kingfish if they are to be returned. Recording and reporting procedures will also be required for any kingfish catch that is returned alive.
- 25 There will be a biological cost if this mechanism merely provides a match between landings and ACE, and fishing-related mortality of kingfish remains at the same levels. Commercial fishers will also need to consider other mechanisms to minimise the capture of kingfish as bycatch (eg, area and time of fishing).

Administrative Implications

- 26 Administrative implications include the initial administrative process of listing these stocks on the Sixth Schedule and the ongoing requirement to record and report kingfish returned under the provisions of the Sixth Schedule (but not count these against quota).
- 27 Section 72 (7) of the Fisheries Act 1996 provides for the Governor-General, by Order in Council made on the recommendation of the Minister of Fisheries, to add the name of any stock and any new provisions to the Sixth Schedule. An Order in Council will be required to give effect to this proposal.
- 28 Educational material will be required to inform fishers of the availability of this option and to inform them of the requirements associated with its use.

Compliance Implications

- 29 MFish assumes that industry systems are in place to ensure that undersized kingfish are returned to the sea as soon as possible in order to maximise the likelihood of their survival. Such provisions would also apply (or would require development) in order to satisfy the provisions of return under the Sixth Schedule.
- 30 The introduction of this measure, and adherence to the Sixth Schedule conditions, would rely to a large degree on industry support because 'on the water' enforcement of these provisions would be difficult. The requirement to report returned catch under the provisions of the Sixth Schedule (but not count this catch against ACE) will also provide information to assess whether incentives to minimise kingfish bycatch by means of area and/or seasonal changes in fishing patterns remain.

- 31 There is a risk that fishers may use the Sixth Schedule provision to discard kingfish whether or not it is likely to survive in order to avoid deemed value penalties. MFish notes this risk also exists under current management arrangements. However, in order to mitigate any increased risk of discarding, MFish would anticipate that a code of conduct for assessing fish for release and to guide their handling would be a necessary pre-requisite for the current proposal to proceed.

Conclusion

- 32 MFish considers the provisions of the Sixth Schedule have the potential to significantly assist the management of kingfish bycatch when taken by line, trawl or purse seine. The support of industry will be required for its successful application in establishing and maintaining procedures to ensure that kingfish that are returned have the maximum likelihood of survival. In addition, other mechanisms to avoid kingfish bycatch (such as avoiding areas or times of high kingfish bycatch) will also need to be applied. At this stage, the alternative to including kingfish on the Sixth Schedule is an increase in deemed values (and a subsequent increase in compliance measures).

Preliminary Recommendation

- 33 MFish recommends that:
- a) Kingfish is listed as a species on the Sixth Schedule of the Fisheries Act 1996 to allow kingfish to be released to the sea, subject to the condition that fish are
 - i) not taken by the method of set netting;
 - ii) likely to survive;
 - iii) returned to the same waters from which they are taken;
 - iv) returned as soon as practical; and
 - v) returned catch is recorded and reported on catch and effort forms using an appropriate code.
 - b) A code of conduct is developed to allow ready identification of kingfish likely to survive release and to guide their handling.

THE INCLUSION OF KINGFISH ON THE SIXTH SCHEDULE OF THE FISHERIES ACT 1996 – FINAL ADVICE

Initial Proposal

- 1 MFish proposed that pursuant to an Order in Council made under s 72(7) of the Fisheries Act 1996, kingfish (all stocks) be listed as a species on the Sixth Schedule of the Fisheries Act 1996 to allow kingfish to be returned to the sea, subject to the condition that fish are:
 - a) Not taken by the method of set netting;
 - b) Likely to survive;
 - c) Returned to the same waters from which they are taken;
 - d) Returned as soon as practical; and
 - e) Returned catch is recorded and reported on catch and effort forms using an appropriate code.

Submissions

- 2 Submissions regarding the kingfish proposal were received from:
 - a) **Lady Marcella Fishing Ltd** (LMF)
 - b) **Area 2 Inshore Finfish Management Company Ltd** (Area 2)
 - c) **United Fisheries Ltd** (UFL)
 - d) **Ocean Fisheries Ltd** (OFL)
 - e) **Independent Fisheries Ltd** (IFL)
 - f) **New Zealand Seafood Industry Council** (SeaFIC)
 - g) **New Zealand Royal Forest and Bird Inc** (NZRFB)
 - h) **Sanford Ltd** (Sanford)
 - i) **Snapper 8 Company Ltd** (SNA 8 Co)
 - j) **New Zealand Big Game Fishing Council** (NZBGFC)
 - k) **option4**
 - l) **New Zealand Recreational Fishing Council** (NZRFC)
 - m) **New Plymouth Sportfishing and Underwater Club Inc** (NPSUCI)

Management Measures

- 3 LMF support the inclusion of KIN 8 on the Sixth Schedule but wishes to have the condition removed that would prohibit the release of kingfish taken by set net.

LMF suggest that kingfish caught by set net is often in good condition and, if handled correctly (fishers would cut their nets), kingfish can be released in good condition.

- 4 **Area 2** is a commercial stakeholder organisation (CSO) representing inshore finfish quota owners in Fisheries Management Area 2 (FMA2). Area 2 submits that kingfish in all FMAs should be included on the Sixth Schedule providing:
- a) That the existing minimum legal size (MLS) is removed;
 - b) That it is optional to immediately return to the sea, kingfish of any length that are highly likely to survive;
 - c) That kingfish returned immediately to the sea do not come off ACE;
 - d) That an estimate of all kingfish returned immediately to the sea is reported on CELR or TCEPR/CLRs;
 - e) That the Sixth Schedule conditions exclude the setnet method;
 - f) That the reporting codes for all the above are clearly defined;
 - g) That the MLS with respect to the recreational sector may need to be re-visited.
- 5 Area 2 is concerned that the value of ACE and quota shares may be eroded or compromised by the effects of introduction of kingfish onto the Sixth Schedule. Fishers will release kingfish subject to the Sixth Schedule requirements to avoid paying deemed value. Area 2 submit that this will significantly reduce the value of both ACE and quota. Where fishers have sought quota and paid premiums on its value, then any drop in the commercial value of that quota should be compensated for by the Crown because of the regulatory change so soon after the species inclusion into the QMS.
- 6 Area 2 believes that if the MLS is removed, then the allowance made for the mortality of fish under 65cms should be re-allocated to the TACC. Area 2 is well aware that MFish will need to weigh up all options and the impacts of those options (and combinations thereof) very carefully and offer further opinion on this topic should MFish request it.
- 7 **UFL** contend that the large deemed values incurred by fishers for bycatches of KIN 8 are an unreasonable burden on commercial fishing activities, particularly in the JMA7 fishery. JMA 7 is an important export fishery, but as a high volume / low value species its profitability is severely compromised by deemed values incurred on unavoidable KIN 8 bycatches.
- 8 UFL submit that the deemed value is considerably higher than the prices received for dressed kingfish. For instance in the 2003–04 fishing year UFL were charged an overall differential deemed value of \$15.39 per greenweight kg for KIN 8 bycatches. This equates to \$27.70 per kg landed (dressed) weight. UFL submits that the prices it has received for the dressed kingfish on the local market range between \$2.65 and \$3.00 per kg. UFL say that this is more in line with the average surveyed port price of \$3.71 mentioned in submissions regarding the introduction of kingfish into the QMS.
- 9 UFL owns no KIN 8 quota and says that it is impossible to obtain more than very small amounts of ACE from a low TACC. UFL notes that the deemed value has been

lowered for KIN 2 because of a lower port price for this stock. UFL suggests that the port price for KIN 8 justifies a similar reduction in deemed value.

- 10 UFL submits that MFish's only proposed option (to include kingfish in the Sixth Schedule of the Fisheries Act) to allow the return to the sea of fish which are likely to survive would be of no benefit to it in its operation of freezer trawlers in the JMA7 fishery and says that it is unlikely that any ACE freed up in respect of returned fresh kingfish would be available to them.
- 11 UFL submits that the Ministry should consider setting a lower deemed value for frozen-at-sea KIN 8. Alternatively, UFL submit that if deemed values are not to be reduced, then a higher KIN 8 TACC needs to be set to address the problem of ACE availability. UFL submit that it seems that punitive management decisions in regard to commercial fishing have been made to placate the recreational sector, which was not in favour of kingfish becoming a QMS species.
- 12 **OFL** has two trawl vessels that operate in KIN 3. OFL is concerned at the high costs of deemed values for kingfish and refers to the potential for these to rise as kingfish stocks rebuild. OFL supports the proposal to list kingfish on the Sixth Schedule. OFL say that the advice from its fishermen is that a high percentage of the KIN 3 caught would be likely to survive release on retrieval of the trawl net.
- 13 **IFL** supports the inclusion of all kingfish on the Sixth Schedule of the Fisheries Act. IFL request some policy consistency and request a review of other species that should be included on the sixth schedule or are currently on the Sixth Schedule but are dealt with in a different manner e.g. spiny dogfish which is returned alive but must count against ACE.
- 14 **SeaFIC** supports the inclusion of all kingfish stocks on the Sixth Schedule of the Fisheries Act 1996 to allow kingfish to be returned to sea (subject to some conditions).
- 15 SeaFIC says that, while it is factually correct that SeaFIC did not comment on the inclusion of kingfish on the Sixth Schedule at the time of introduction of the species into the QMS, its submission most certainly foreshadowed all the problems that are becoming apparent now.
- 16 SeaFIC notes that the conundrum presented by the options of increasing or decreasing deemed values illustrates the point that it has made previously that tweaking deemed values is not a substitute for setting a TACC based on sound information. This is particularly important in multi-species fisheries, where TACCs for jointly caught stocks need to be considered in an integrated manner.
- 17 SeaFIC notes that the IPP proposes to exclude kingfish taken by the method of set netting from the Sixth Schedule listing. The justification for this decision is an assertion that "*MFish assesses that kingfish is a robust species...that can survive return to the water in most instances after capture by most methods except set netting*". SeaFIC submits that this assertion without any supporting evidence is not at all persuasive and therefore cannot support the method exclusion.

- 18 SeaFIC is not convinced that a code of conduct for “ready identification of kingfish likely to survive releases and to guide their handling” is necessary. SeaFIC says that imposing the development of a code of conduct is an unrealistic and unnecessary solution to the possible problem of discarding dead fish. Either fishers can be trusted not to discard dead fish, or they cannot be trusted.
- 19 **NZRFB** support inclusion of kingfish on the Sixth Schedule allowing them to be released alive subject to the conditions suggested. NZRFB submits that this proposal increases the incentive for small fish to be returned to the water. NZRFB submits that, in addition, commercial operators need to avoid areas of high kingfish bycatch and if the over-catch in KIN 8 continues then measures should be taken to increase deemed values for kingfish.
- 20 **Sanford and SNA 8 Co** both support the inclusion of kingfish on the Sixth Schedule for all kingfish stocks. Both companies do so on the basis that it is the only practical alternative given that TACCs for kingfish have, in their view, been set at unreasonably low levels. Both companies would prefer the alternative of a TACC increase to better match the unavoidable bycatch in KIN 8.
- 21 Sanford and SNA 8 Co support the conditions proposed to govern the release of kingfish under the Sixth Schedule provisions. Both companies support in principle the development of a code of practice for returning live kingfish to the ocean and wish to be involved in the development of detail to ensure it is practical, and does not create compliance concerns.
- 22 The **NZBGFC and option4** are pleased that MFish are acknowledging a problem in KIN 8 and are looking to MFish to address the over-catch of kingfish by the commercial sector.
- 23 NZBGFC and option4 continue to support the inclusion of kingfish on the Sixth Schedule to allow the return of live kingfish to the water. Support for the inclusion of kingfish on the Sixth Schedule is conditional on the understanding that every effort is made to ensure that released kingfish are likely to survive.
- 24 NZBGFC and option4 consider it essential that commercial fishers develop and actively follow a code of conduct that will allow ready identification of kingfish that are likely to survive when released. NZBGFC and option4 say that initially this code of conduct will require some independent monitoring to determine whether the urgency required to ensure the survival of kingfish can in fact be given sufficient priority by the crews aboard trawl vessels when landing catches.
- 25 NZBGFC and option4 submit that if commercial fishers are found to not be complying with the Sixth Schedule requirements, or the code is unable to deliver the desired outcomes, then other management controls must be devised and implemented by the MFish.
- 26 In addition option4 submit that MFish should inform the Minister that management controls proposed for the SNA8 fishery will likely result in less kingfish by-catch in KIN 8.

- 27 **NZRFC** support the inclusion of kingfish on the Sixth Schedule subject to the understanding that every effort is made to ensure released kingfish are likely to survive. NZRFC submit that if commercial fishers are found not to be complying then other management controls must be devised.
- 28 The New Plymouth Sportfishing and Underwater Club Inc (NPSUCI) would like to see a TAC reduction for kingfish in area 8.

MFish Discussion

Sixth Schedule listing

- 29 MFish notes the support for the proposal to list kingfish on the Sixth Schedule in the majority of submissions. MFish notes further that the majority of commercial stakeholder submissions favour the inclusion of all kingfish stocks. An exception to the majority support is the submission of UFL.

Reduction in deemed value

- 30 UFL submits that the deemed values for kingfish should be reduced and/or a separate deemed value should apply to frozen kingfish. UFL holds no quota and says it is unable to acquire more than very small amounts of ACE for kingfish. Under these circumstances differential deemed values immediately apply to its catch of kingfish. This explains the high deemed value payments quoted in submission.
- 31 MFish considers that a reduction in deemed values would merely result in reduced cost to fishers but no reduction in catch. As outlined in the IPP, MFish is concerned to maintain the integrity of current TACCs set for kingfish. These TACCs reflect the desire of the Minister to see a rebuild in kingfish stocks by reducing the level of use of the kingfish resource by both commercial and non-commercial fishers. MFish considers that there is an onus on fishers to ensure that they have adequate ACE to cover bycatch that is landed.
- 32 MFish suggests that if UFL considers that kingfish is an inevitable bycatch of the JMA 7 fishery then it should make every effort to obtain quota or ACE for this stock. Alternatively, MFish notes that there have been recent shifts in the distribution and seasonality of the JMA 7 fleet. UFL could consider how the area of its fishing operations may affect kingfish bycatch and consider spatial and or seasonal arrangements (or other bycatch reduction options) in order to minimise kingfish bycatch.

Increase in TACC for KIN 8

- 33 UFL submit that if no reduction is made to deemed values for kingfish then, alternatively, the TACC for KIN8 should be increased. SeaFIC, Sanford and SNA 8 Co all submit that their support for the Sixth Schedule provisions is premised on a preference of the alternative that TACCs are set to match required levels of bycatch in the multi-species fishery on the west coast of the north island. NPSUCI submit in favour of a reduction in the TACC for KIN 8.

- 34 As outlined in the preceding sections, TACCs for kingfish stocks have only recently been set (1 October 2003). MFish does not propose revisiting allocation decisions made at this time. Rather the focus of current proposals is how best to constrain landings within existing TACC

Effect of the Sixth Schedule on quota and ACE value

- 35 Area 2 is concerned that allowing the release of kingfish under Sixth Schedule provisions may undermine quota and ACE values and suggests that those fishers that paid high prices to acquire quota and ACE should be compensated if this occurs.
- 36 MFish does not agree. Area 2's concern that releasing kingfish under the Sixth Schedule may undermine quota and ACE, and that they should be compensated goes against the integrity of the QMS and the efficient use of the ITQ market. Releasing kingfish may affect the price of ACE (less demand equals lower price), however as the stock improves the quota value will increase. Compensating fishers is equivalent to a subsidy, which would distort trade and undermine the efficient use of the market to determine quota and ACE price.

Application of the Sixth Schedule to all kingfish stocks

- 37 Most commercial submissions in support of this proposal advocate that it should apply to all kingfish stocks. This is aptly summarised in the SeaFIC submission

‘SeaFIC supports including all kingfish stocks on the Sixth Schedule. While the current overcatch is occurring in KIN 8, the “problem” may well manifest itself in another QMA in the future’.

- 38 This option was contemplated in the MFish IPP. MFish concludes that while other areas may not have the same unavoidable bycatch issues currently, the Sixth Schedule provisions may well provide assistance to individual fishers to manage their individual bycatch in the short term and will also be available should bycatch issues arise for the fishery as a whole in the future.

Conditions of release

- 39 The majority of submissions in support of the proposal either made no comment on the proposed conditions of release or were in support of the conditions as proposed. Exceptions were the submissions of LMF and of SeaFIC. Both submissions suggest that kingfish taken by method of set net should not be excluded from the provisions. SeaFIC submits on the basis that there is little rationale provided for the condition proposed and LMF on the basis that kingfish in good condition could be released from set nets.
- 40 MFish remains of the views that in general kingfish taken by the method of set net are less likely to survive release than those taken by other fishing methods. The ensnaring nature of set nets and the duration that captured fish spend in the water are likely to result in the majority of catch being dead on retrieval of the fishing nets. Rather than put fishers in a position of making an assessment about kingfish condition and the likelihood of survival, MFish considers that it is better not to provide for release by this method. Further, retention of this condition may well act as an

incentive for fishers to avoid areas where there is likely to be a significant bycatch of kingfish including kingfish below the minimum legal size. Set nets can potentially cause significant mortality on undersized kingfish. There is a lawful requirement to return undersized kingfish to the sea whether it is dead or alive.

Removal of the MLS for commercially taken kingfish

- 41 Area 2 submits that the commercial minimum legal size (MLS) for kingfish should be removed so that live kingfish of any size can be released (and all kingfish of any size that are dead retained). Area 2 submit further that the allowance for other sources of fishing mortality could then be made available as increased TACC. This proposal has merit and was suggested by MFish as an option for consideration when kingfish were introduced into the QMS. At that time the proposal gained little support.
- 42 Since 2003 there has been no further consultation on this issue. It is likely to be of significant interest to non-commercial stakeholders. These stakeholders have all submitted that a code of practice and monitoring should be in place to ensure that all kingfish that are returned to the sea have a high chance of survival. MFish considers that once a code of practice has been developed and its implementation evaluated then it would be timely to consider the option of removing the MLS for commercially caught kingfish.

Reporting of discards

- 43 The MFish IPP included a proposal that fishers record and report discards of kingfish in order for MFish to monitor the frequency and quantity of discarding. All submissions in support of the proposal agreed with this suggested condition.
- 44 There is some confusion in reporting regulations regarding the code to be used for fish discarded under the provisions of the Sixth Schedule that are not required to be counted against ACE. MFish considers that it is important to monitor the level of use of the Sixth Schedule provisions for key species such as kingfish. For clarification, MFish considers that a separate generic code should be established for Sixth Schedule discard reporting where there is no requirement for discarded catch to be reported against ACE. This would require an amendment to the Fisheries Reporting Regulations and a recommendation to this effect is included in this advice paper.
- 45 UFL suggest that there should be a common policy on the release of species under Sixth Schedule provisions. The MFish position is that case-by-case consideration is required. For example in the case of kingfish there is some scientific information and widely held anecdote in support of the fact that this is a robust species capable of surviving capture and release. This is not the case for all species and it would be inappropriate to provide options for Sixth Schedule release if the prospects for survival of the species on return to the water were limited or non-existent. An exception is made for spiny dogfish in an attempt to limit the total mortality on the stock (by way of TACC) but acknowledging that requiring all fish to be landed would not recognise the limited market for this species. In this case Sixth Schedule releases are required to be reported against ACE.

Code of practice for release and monitoring

- 46 Sanford and SNA 8 Co support in principle the development of a code of practice to guide the release of kingfish under Sixth Schedule provisions. The SeaFIC submission is disappointing in this regard. The development of a code of practice for handling and release of kingfish is considered to be essential by non-commercial stakeholders. MFish considers that if the biological benefits of Sixth Schedule release are to be realised, then a change in handling practice may be required for some fishing fleets. This can best be realised by the development and adoption of a code of practice.
- 47 MFish is also of the view that industry is best placed to develop such a code and SeaFIC could well play a coordinating role in that process. If successful implementation of Sixth Schedule release is realised then the option of removing the commercial MLS for kingfish could be considered as outlined above. If it is unsuccessful, then MFish will need to reconsider alternative options and/or incentives to reduce kingfish bycatch.
- 48 MFish has proposed research for the 2006–07 year to examine the issue of handling and subsequent mortality of kingfish released from commercial fishing vessels. Observer coverage is also proposed for that year to assist in monitoring the application of Sixth Schedule provisions.

Conclusion

- 49 MFish concludes that the use of the Sixth Schedule can provide important flexibility in managing unavoidable bycatch of kingfish. MFish notes that the majority of submissions support both the use of the Sixth Schedule and the conditions proposed for kingfish. MFish has considered other matters raised in submissions and remains of the view that adjustments in deemed value are not appropriate at this stage and concludes that there is no basis for increasing the TACC for KIN 8 simply because commercial landings exceed this level.
- 50 Other matters raised in submission have not altered MFish views on the initial proposal, however, MFish notes that longer-term consideration of the role of an MLS in the commercial fishery is open to consideration subject to the successful implementation of Sixth Schedule provisions.

Final Recommendations

- 51 MFish recommends that you:
- a) **Agree** that kingfish is listed as a species on the Sixth Schedule of the Fisheries Act 1996 to allow kingfish to be released to the sea, subject to the condition that fish are:
 - i) not taken by the method of set netting;
 - ii) likely to survive;
 - iii) returned to the same waters from which they are taken;

- iv) returned as soon as practical; and
 - v) returned catch is recorded and reported on catch (effort) landing returns using an appropriate code.
- b) **Agree** to amend the Fisheries (Reporting) Regulations to include a generic code to apply to Sixth Schedule discards that are not required to be counted against ACE.
- c) **Note** that MFish will work with industry to ensure a code of practice is developed to allow ready identification of kingfish likely to survive release and to guide their handling.
- d) **Note** that observer coverage in trawl fisheries and directed research proposed for 2005–06 will provide an opportunity to monitor the application of Sixth Schedule provisions for kingfish.

Section Five

Summary of Recommendations

SUMMARY OF RECOMMENDATIONS

Section Two: Deemed Values

Deemed Values – Technical Adjustments

- 1 The Ministry of Fisheries recommends that you:
 - a) **Note** the stakeholder submissions on MFish’s proposals for interim and annual deemed values for the 2005–06 fishing year;
 - b) **Agree** to the following changes to annual deemed values for the species, classes of fish and classes of fishers for the 2005–06 fishing year in terms of s 75(1) of the Fisheries Act 1996, to take effect for all catch taken in excess of ACE for the 2005-06 fishing year:
 - i) The annual deemed value for BYX 1 to be decreased from \$2.98/kg (GST inclusive) to \$1.70/kg (GST inclusive);
 - ii) The annual deemed value for JMA 3 to be decreased from \$0.15/kg (GST inclusive) to \$0.10/kg (GST inclusive);
 - iii) The annual deemed value for RSK 1 to be decreased from \$0.44/kg (GST inclusive) to \$0.26/kg (GST inclusive);
 - iv) The annual deemed value for STA 8 to be decreased from \$2.42/kg (GST inclusive) to \$1.37/kg (GST inclusive);
 - v) The annual deemed value for TAR 4 to be decreased from \$1.05/kg (GST inclusive) to \$0.96/kg (GST inclusive) (and that the annual deemed value for TAR 4 landed and received by a LFR in the Chatham Islands to correspondingly be reduced from \$1.05/kg (GST inclusive) to \$0.95/kg (GST inclusive));
 - vi) The annual deemed value for SPE 4 landed and received by a LFR in the Chatham Islands to be decreased from \$0.18/kg (GST inclusive) to \$0.09/kg (GST inclusive);
 - vii) The annual deemed value for RSK 3 to be decreased from \$0.44/kg (GST inclusive) to \$0.34/kg (GST inclusive); and
 - viii) The annual deemed value for HPB 3 to be decreased from \$1.80/kg (GST inclusive) to \$1.69/kg (GST inclusive).
 - c) **Agree** that deemed values for those fishstocks for which the 1 October fishing year applies will be subject to a 12.5% increase, and that all figures in the *Gazette* Notice will be GST exclusive; and
 - d) **Note** that a *Gazette* Notice setting interim and annual deemed values for the 2005–06 fishing year will be prepared for your signature.

Pale ghost shark (GSP)

- 2 The Ministry of Fisheries recommends that you:
- Agree** that all stocks of pale ghost shark should be added to the list of stocks in clause 6(a) of the Fisheries (Interim and Annual Deemed Values) Notice 2003, with the result that fishers landing pale ghost shark in excess of ACE will not pay differential deemed values; and
 - Agree** that the amendment to the Notice should take effect from 1 October 2005.

Section Three: Fishstocks for Review

Elephant Fish (ELE 3 & 5)

- 3 The Ministry of Fisheries recommends that you:

Total allowable catch and allowances

EITHER

Option 1 (status quo)

- a) Retain the Total Allowable Catches, Total Allowable Commercial Catches, as follows (MFish preferred):

Stock	TAC	Customary allowance	Recreational allowance	Other sources of fishing-related mortality	TACC
ELE 3	960	5	5	0	950
ELE 5	136	5	5	6	120

OR

Option 2:

- b) Increase the TACs and TACCs as follows:

Stock	TAC	Customary allowance	Recreational allowance	Other sources of fishing-related mortality	TACC
ELE 3	1 055	5	5	0	1 045
ELE 5	142	5	5	6	126

Deemed values

- Agree** to remove differential deemed values for ELE 3 and ELE 5 (MFish preferred);
- Agree** to retain the current interim deemed value rates (plus GST) for ELE 3 and ELE 5 (MFish preferred);

AND EITHER

Option 1 (*status quo*)

- e) Retain the annual deemed value for ELE 3 at \$2.41 and ELE 5 at \$1.57 (plus GST);

OR

Option 2

- f) Decrease the annual deemed value for ELE 3 to \$1.41 and ELE 5 to \$0.99 (plus GST);

OR

Option 3

- g) Decrease the annual deemed value for ELE 3 to \$1.26 and ELE 5 to \$0.84 (plus GST).

Flatfish (FLA 1)

4 MFish recommends that you:

EITHER

- a) **Option 1** – set a TAC of 1 382 tonnes for FLA 1 and within that TAC set:
 - i) a customary allowance of 270 tonnes;
 - ii) a recreational allowance of 270 tonnes;
 - iii) an allowance of 27 tonnes for other sources of fishing related mortality;
and
 - iv) a TACC of 815 tonnes.

OR

- b) **Option 2** – set a TAC of 1 307 tonnes for FLA 1 and within that TAC set:
 - i) a customary allowance of 270 tonnes;
 - ii) a recreational allowance of 270 tonnes;
 - iii) an allowance of 27 tonnes for other sources of fishing related mortality;
and
 - iv) a TACC of 740 tonnes.

OR Retain the existing TACC and set allowances as follows:

- c) **Option 3** – set a TAC of 1 762 tonnes for FLA 1 and within that TAC set:
 - i) a customary allowance of 270 tonnes;
 - ii) a recreational allowance of 270 tonnes;

- iii) an allowance of 35 tonnes for other sources of fishing related mortality;
and
- iv) a TACC of 1 187 tonnes.

Grey Mullet (GMU 1)

5 MFish recommends that you:

EITHER

- a) **Agree** to retain the existing TAC and allowances for GMU 1;

OR

- b) **Agree** to Option 2a and set a TAC of 1 053 tonnes for GMU 1 and within that TAC set:
 - i) a customary allowance of 100 tonnes;
 - ii) a recreational allowance of 80 tonnes;
 - iii) an allowance of 42 tonnes for other sources of fishing-related mortality; and
 - iv) a TACC of 831 tonnes.

OR

- c) **Agree** to Option 2b and set a TAC of 1 053 tonnes for GMU 1 and within that TAC set:
 - i) a customary allowance of 100 tonnes;
 - ii) a recreational allowance of 100 tonnes;
 - iii) an allowance of 42 tonnes for other sources of fishing-related mortality; and
 - iv) a TACC of 811 tonnes.

OR

- d) **Agree** to Option 2c and set a TAC of 1 053 tonnes for GMU 1 and within that TAC set:
 - i) a customary allowance of 150 tonnes;
 - ii) a recreational allowance of 150 tonnes;
 - iii) an allowance of 42 tonnes for other sources of fishing-related mortality; and
 - iv) a TACC of 711 tonnes.

OR

- e) **Agree** to Option 3a and set a TAC of 994 tonnes for GMU 1 and within that TAC set:
 - i) a customary allowance of 100 tonnes;

- ii) a recreational allowance of 70 tonnes;
- iii) an allowance of 40 tonnes for other sources of fishing-related mortality; and
- iv) a TACC of 784 tonnes.

OR

- f) **Agree** to Option 3b and set a TAC of 994 tonnes for GMU 1 and within that TAC set:
 - i) a customary allowance of 100 tonnes;
 - ii) a recreational allowance of 100 tonnes;
 - iii) an allowance of 40 tonnes for other sources of fishing-related mortality; and
 - iv) a TACC of 754 tonnes.

OR

- g) **Agree** to Option 3c set a TAC of 994 tonnes for GMU 1 and within that TAC set:
 - i) a customary allowance of 150 tonnes;
 - ii) a recreational allowance of 150 tonnes;
 - iii) an allowance of 40 tonnes for other sources of fishing-related mortality; and
 - iv) a TACC of 654 tonnes.

Hake (HAK 7)

6 The Ministry of Fisheries recommends that you:

- a) **Note** the submissions of stakeholders in relation to the IPP;
- b) **Note** the MFish response to submissions and MFish's full advice contained in the IPP and this FAP; and

EITHER

Option 1 – set the total allowable catch (TAC) for HAK 7 at 7 777 tonnes, and within the TAC, set:

- c) An allowance of zero tonnes for Maori customary non-commercial fishing interests;
- d) An allowance of zero tonnes for recreational fishing interests;
- e) An allowance of 77 tonnes for other sources of fishing-related mortality; and
- f) Set the total allowable commercial catch (TACC) at 7 700 tonnes.

OR

Option 2 – set the TAC for HAK 7 at 6 923.4 tonnes, and within the TAC, set:

- g) An allowance of zero tonnes for Maori customary non-commercial fishing interests;
- h) An allowance of zero tonnes for recreational fishing interests;
- i) An allowance of 68 tonnes for other sources of fishing-related mortality; and
- j) Retain the TACC at the current level of 6 855.4 tonnes.

OR

- k) **Choose an alternative option** within the range presented above that you consider best achieves the purpose of the Act, and set the TAC, allowances, and TACC accordingly.

Hoki

7 The Ministry of Fisheries recommends that you:

- a) **Note** the total allowable catch (TAC) will be retained at 101 040 tonnes for the 2005–06 fishing year;
- b) **Note** that within the TAC, the following allowances are retained:
 - i) A Total Allowable Commercial Catch of 100 000 tonnes;
 - ii) An allowance for other fishing related mortality of 1 000 tonnes;
 - iii) A customary allowance of 20 tonnes;
 - iv) A recreational allowance of 20 tonnes.
- c) **Note** that industry will implement a voluntary W40%: E60% catch split; that is, limit catch from the western fishing grounds to 40 000 tonnes and limit catch from the eastern fishing grounds to 60 000 tonnes.

Kahawai (KAH)

8 The Ministry of Fisheries recommends that you:

- a) Note the views of stakeholders on the option of managing kahawai stocks above B_{MSY} .

AND EITHER

- b) Retain *status quo* total allowable catches (TACs), allowances and total allowable commercial catches (TACCs) for KAH 1 with no change made to recreational bag limits, pending the availability of further information on the recreational take (Option 1).

OR:

- c) **Agree** to set a TAC of 3 315 tonnes for KAH 1 and within that TAC set:
 - i) A customary allowance of 495 tonnes;

- ii) A recreational allowance of 1 680 tonnes;
- iii) An allowance for other fishing-related mortality of 65 tonnes; and,
- iv) A TACC of 1 075 tonnes;
- v) with no change made to recreational bag limits, pending the availability of further information on the recreational take (Option 2).

AND **Agree** EITHER to

- d) Retain *status quo* TACs, allowances and TACCs for KAH 2 with no change made to recreational bag limits, pending the availability of further information on the recreational take (Option 1).

OR

- e) **Agree** to set a TAC of 1 530 tonnes for KAH 2 and within that TAC set:
 - i) A customary allowance of 185 tonnes;
 - ii) A recreational allowance of 610 tonnes;
 - iii) An allowance for other fishing-related mortality of 30 tonnes; and,
 - iv) A TACC of 705 tonnes;
 - v) with no change made to recreational bag limits, pending the availability of further information on the recreational take (Option 2)

AND **Agree** EITHER to

- f) Retain *status quo* TACs, allowances and TACCs for KAH 3 with no change made to recreational bag limits, pending the availability of further information on the recreational take (Option 1).

OR

- g) **Agree** to set a TAC of 935 tonnes for KAH 3 and within that TAC set:
 - i) A customary allowance of 115 tonne;
 - ii) A recreational allowance of 390 tonne;
 - iii) An allowance for other fishing-related mortality of 20 tonne; and,
 - iv) A TACC of 410 tonnes
 - v) with no change made to recreational bag limits, pending the availability of further information on the recreational take (Option 2)

AND

- h) **Agree EITHER** to
 - i) Retain *status quo* TACs, allowances and TACCs for KAH 4 with no change made to recreational bag limits, pending the availability of further information on the recreational take (Option 1).

OR

- j) **Agree** to set a TAC of 14 tonnes for KAH 4 and within that TAC set:
 - i) A customary allowance of 1 tonne;
 - ii) A recreational allowance of 4 tonnes;
 - iii) No allowance for other fishing-related mortality; and,
 - iv) A TACC of 9 tonnes
 - v) with no change made to recreational bag limits, pending the availability of further information on the recreational take (Option 2)

AND **agree** EITHER to

- k) Retain *status quo* TACs, allowances and TACCs for KAH 8 with no change made to recreational bag limits, pending the availability of further information on the recreational take (Option 1).

OR

- l) **Agree** to set a TAC of 1 040 tonnes for KAH 8 and within that TAC set:
 - i) A customary allowance of 115 tonnes;
 - ii) A recreational allowance of 385 tonnes;
 - iii) An allowance for other fishing-related mortality of 20 tonnes; and,
 - iv) A TACC of 520 tonnes;
 - v) with no change made to recreational bag limits, pending the availability of further information on the recreational take (Option 2)

AND **agree** EITHER to

- m) Retain *status quo* TACs, allowances and TACCs for KAH 10 with no change made to recreational bag limits, pending the availability of further information on the recreational take (Option 1).

OR

- n) to set a TAC of 14 tonnes for KAH 10 and within that TAC set:
 - i) A customary allowance of 1 tonne;
 - ii) A recreational allowance of 4 tonnes;
 - iii) No allowance for other fishing-related mortality; and,
 - iv) A TACC of 9 tonnes;
 - v) with no change made to recreational bag limits, pending the availability of further information on the recreational take (Option 2).

Rig (SPO 1)

9 The Ministry of Fisheries recommends that you:

EITHER

- a) **Option 1** - Set the Total Allowable Catch at 752.064 tonnes for SPO 1, and within that TAC set:
 - i) a customary allowance of 20 tonnes;
 - ii) a recreational allowance of 25 tonnes;
 - iii) an allowance of 15 tonnes for other sources of fishing related mortality; and
 - iv) a total allowable commercial catch (TACC) of 692.064 tonnes.

OR

- b) **Option 2a** - Set the TAC at 605 tonnes for SPO 1, and within that TAC set:
 - i) a customary allowance of 20 tonnes;
 - ii) a recreational allowance of 25 tonnes;
 - iii) an allowance of 15 tonnes for other sources of fishing related mortality; and
 - iv) a TACC of 545 tonnes.

OR

- c) **Option 2b** - Set the TAC at 605 tonnes for SPO 1, and within that TAC set:
 - i) a customary allowance of 20 tonnes;
 - ii) a recreational allowance of 20 tonnes;
 - iii) an allowance of 15 tonnes for other sources of fishing related mortality; and
 - iv) a TACC of 550 tonnes.

Rig (SPO 3)

10 The Ministry of Fisheries recommends that you:

- a) **Note** that a new AMP proposal is to be evaluated for the SPO 3 fishery for the 2006–07 fishing year.
- b) **Agree** that, as an interim management measure for the 2005–06 fishing year, the current AMP for SPO 3 should roll-over for a one year period.
- c) **Agree** to set a Total Allowable Catch of 710 tonnes made up of the following allowances:
 - i) A customary Māori interests of 20 tonnes;
 - ii) A recreational allowance of 60 tonnes;

- iii) An allowance for other sources of fishing-related mortality of 30 tonnes; and
- iv) A Total Allowable Commercial Catch of 600 tonnes.

Snapper (SNA 8)

11 The Ministry of Fisheries recommends that you:

- a) Decide to rebuild the SNA 8 stock, according to one of the four TAC options below:

EITHER

Option 1 - Retain the existing TAC, TACC and allowances for SNA 8;

OR

Option 2 - Reduce the TAC for SNA 8 from 2060 tonnes to 1922 tonnes and either:

- i) Allocate the TAC with:
 - An allowance for recreational fishers of 335 tonnes
 - An allowance for customary interests of 50 tonnes
 - An allowance for other sources of mortality of 139 tonnes
 - A TACC of 1398 tonnes

OR

- ii) Allocate the TAC with:
 - An allowance for recreational fishers of 360 tonnes
 - An allowance for customary interests of 50 tonnes
 - An allowance for other sources of mortality of 137 tonnes
 - A TACC of 1 375 tonnes

OR

Option 3 - Reduce the TAC for SNA 8 from 2 060 tonnes to 1 785 tonnes and either:

- iii) Allocate the TAC with:
 - An allowance for recreational fishers of 311 tonnes
 - An allowance for customary interests of 50 tonnes
 - An allowance for other sources of mortality of 129 tonnes
 - A TACC of 1295 tonnes

OR

- iv) Allocate the TAC with:
 - An allowance for recreational fishers of 360 tonnes
 - An allowance for customary interests of 50 tonnes

- An allowance for other sources of mortality of 125 tonnes
- A TACC of 1 250 tonnes

OR

Option 4 - Reduce the TAC for SNA 8 from 2 060 tonnes to 1 510 tonnes and either:

v) Allocate the TAC with:

- An allowance for recreational fishers of 261 tonnes
- An allowance for customary interests of 50 tonnes
- An allowance for other sources of mortality of 109 tonnes
- A TACC of 1 090 tonnes

OR

vi) Allocate the TAC with:

- An allowance for recreational fishers of 360 tonnes
- An allowance for customary interests of 50 tonnes
- An allowance for other sources of mortality of 100 tonnes
- A TACC of 1 000 tonnes

b) Depending on the allowance approach taken, recreational catches be managed by:

i) Reducing the amateur bag limit in the northern part of the stock from 15 to 10, in line with bag limits for the southern part of the stock.

OR

ii) Reviewing the effect of increasing recreational catches on rebuild rates of the stock when better recreational catch estimates are available.

c) Increase the annual deemed value of SNA 8 to either:

i) \$8.68 (GST excl.), 200% of the 2004 port price

OR

ii) \$4.25 (GST excl.), which is marginally higher than the 2005 port price and the 90th percentile value of ACE trades.

Section Four: Regulatory Proposals

Beach cast seaweed commercial closures

12 The Ministry of Fisheries recommends that you:

a) **Agree** to amend the Fisheries (Beach Cast Seaweed Area Prohibition) Notice 2002 to open the following four new areas to commercial beach cast seaweed harvesting:

Fishery Management Area 1

The 'coastal area' between Anarake Point (Coromandel Peninsula) and Otamarakau (Bay of Plenty).

Fishery Management Area 2

The 'coastal area' between Tuaheni Point (near Gisborne) and Cape Runaway (East Coast, North Island).

Fishery Management Area 3

The 'coastal area' between Akaroa Head and the Rakaia River (south Banks Peninsula).

Fishery Management Area 7

The 'coastal area' between French Pass and Clarence River (South Marlborough Sounds).

Registration of vessels authorised to fish for southern bluefin tuna

13 The Ministry of Fisheries (MFish) recommends that you:

- a) **Agree** that MFish continue to provide the details of all New Zealand flagged vessels on the Fishing Vessel Register to the CCSBT Secretariat and establish routine update systems.

AND

- b) **Agree** that MFish amend vessel register application forms (the approved forms) to require vessels to identify that they intend to take or are likely to take southern bluefin tuna and to gather any additional information required for the CCSBT register **only** if administration of the status quo proves inconsistent with further CCSBT resolutions **or** if maintaining the status quo becomes administratively burdensome.

Revoking Commercial Eel Fishing Rights in Lake Horowhenua and Hokio Stream

14 The Ministry of Fisheries recommends that you:

- a) **Agree** to revoke regulation 15 of the Fisheries (Central Area Commercial Fishing) Regulations 1986.

The inclusion of kingfish on the Sixth Schedule of the Fisheries Act 1996

15 The Ministry of Fisheries (MFish) recommends that you:

- a) **Agree** that kingfish is listed as a species on the Sixth Schedule of the Fisheries Act 1996 to allow kingfish to be released to the sea, subject to the condition that fish are:
 - i) not taken by the method of set netting;

- ii) likely to survive;
 - iii) returned to the same waters from which they are taken;
 - iv) returned as soon as practical; and
 - v) returned catch is recorded and reported on catch (effort) landing returns using an appropriate code.
- b) **Agree** to amend the Fisheries (Reporting) Regulations to include a generic code to apply to Sixth Schedule discards that are not required to be counted against ACE.
 - c) **Note** that MFish will work with industry to ensure a code of practice is developed to allow ready identification of kingfish likely to survive release and to guide their handling.
 - d) **Note** that observer coverage in trawl fisheries and directed research proposed for 2005–06 will provide an opportunity to monitor the application of Sixth Schedule provisions for kingfish.

G T (Stan) Crothers
Deputy Chief Executive

APPROVED / NOT APPROVED / APPROVED AS AMENDED

Hon David Benson-Pope
Minister of Fisheries

/ /2005

