

# **REGULATORY IMPACT STATEMENT**

## **Amendments to Sixth Schedule of the Fisheries Act 1996**

### **Statement of the nature and magnitude of the problem and the need for Government action**

Kingfish was introduced into the Quota Management System (QMS) on 1 October 2003. Commercial fishers' catches for the North Island west coast stock (KIN8) have exceeded the total allowable commercial catch (TACC) in both subsequent fishing years. Fishers have complained that the law does not allow them to release fish that are alive when brought aboard a fishing vessel and as a result they are forced to pay deemed values (over \$300,000 during the 2003/2004 fishing year), as they are unable to balance their catch with annual catch entitlement (ACE).

Kingfish stocks were not listed on the Sixth Schedule to the Fisheries Act 1996 (the Act) following their introduction to the QMS on 1 October 2003. Unless a stock subject to the QMS is listed on that Schedule commercial fishers are not allowed to return any fish to the sea unless it is below the minimum legal size (i.e. they must land that fish). Requiring commercial fishers to retain unwanted catch of kingfish and some shellfish species that have recently been or will soon be introduced into the QMS (cockle, dredge oyster, pipi, and scallop), is inefficient and could lead to wastage. This is particularly the case where that fish is alive and catch is in excess of sustainable catch limits. The inability to return unwanted catch also forces fishers to pay deemed values, which are an economic disincentive to take catch in excess of ACE holdings.

### **Statement of the public policy objective**

To better provide for the effective utilisation of fisheries resources while ensuring sustainability.

### **Statement of feasible options (regulatory and/or non-regulatory) that may constitute viable means for achieving the desired objective and net benefit of the proposal**

#### *Status Quo*

Commercial fishers will continue to be legally required to land all kingfish, cockle, dredge oyster and pipi and will be required to land all scallop from 1 April 2006, even if catch is unwanted bycatch.

#### *Preferred Option - Amend Sixth Schedule to Fisheries Act through Order In Council*

Amend the Sixth Schedule to the Act to allow certain kingfish, cockle, dredge oyster, pipi and scallop stocks to be returned to the water subject to conditions. The specific conditions will be:

- Kingfish must not be taken by the method of set netting, likely to survive, returned to the same waters from which they are taken, returned as soon as practical and returned catch must be recorded and reported in catch landing returns;
- Cockles must be likely to survive the return and must be returned as soon as practicable after the cockle is taken;
- Dredge oysters must be likely to survive the return and must be returned as soon as practicable after the dredge oyster is taken;
- Pipi must be likely to survive the return and must be returned as soon as practicable after the pipi is taken;
- Scallops must be likely to survive on return.

The proposal will, in the case of the kingfish, cockle, dredge oyster and pipi stocks that are already in the QMS, take effect 28 days after their notification in the New Zealand Gazette. In the case of scallop stocks, the proposal will take effect when those stocks enter the QMS (1 April 2006).

**Statement of the net benefits of the proposals, including total regulatory costs (administrative, compliance and economic costs) and benefits (including non-quantifiable benefits) of the proposals and other feasible options**

*Government*

There would be no increase in the costs to Government from any of these proposals. The addition of kingfish to the 6<sup>th</sup> Schedule will however mean a decrease in deemed value payments received by the Crown. These proposals contribute to the Government's objective for fisheries resources of addressing potential sustainability issues in the aquatic environment as well as providing for efficient outcomes for commercial fishers.

*Commercial Fishers*

Commercial fishers will benefit from being allowed to determine whether their catch of the species proposed to be added to the Sixth Schedule should be returned to the water. By having this option, fishers will have increased operational flexibility. Commercial fishers will not be faced with paying deemed values for unwanted and excess catch. Annual deemed value payments for KIN8 were in the region of \$300,000 during the 2003/2004 fishing year. It is unknown how much kingfish landed in this region in particular would satisfy the conditions for release and therefore the likely reduction in deemed value payments.

As the other stocks concerned have either only just entered the QMS (cockle, dredge oyster, pipi) or will enter the QMS on 1 April 2006 (scallop) there is no information available as to how much catch may need to be returned to the water.

*Environmental /Sustainability*

The biology of kingfish, cockle, dredge oyster, pipi and scallops is such that if the fish is alive when it reaches the vessel, it is likely to survive if returned to the water, or seabed in the case of cockle and pipi. Allowing these species to be returned to the water will help ensure the sustainable utilisation of the fishery and associated target fisheries.

All fisheries covered by these proposals will benefit as harvesting will be carried out in a more sustainable manner, helping to ensure the health of the fishery for on-going sustainable utilisation.

There are no compliance costs to business resulting from these proposals.

### **Statement of consultation undertaken**

Detailed Initial Position Papers were developed for each proposal and sent out, seeking submissions, to members of the fishing industry, local iwi and the recreational sector who would be directly affected. The Paper was also available for review on the Ministry of Fisheries' website.

Consultation was also undertaken with Ministry of Justice, Ministry for the Environment, Ministry of Economic Development, Te Puni Kokiri, the Treasury, and Department of Conservation. Their comments have been taken into account in the final preparation of the proposals in this paper.