

# FINAL ADVICE PAPER - SHORTEN THE CLOSED SEASON FOR COMMERCIAL FISHING IN THE CRA 7 OTAGO ROCK LOBSTER FISHERY

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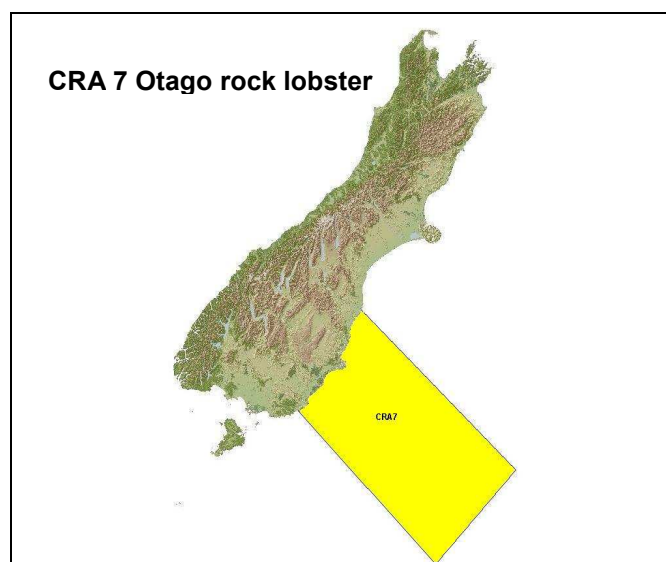


Figure 1: Map showing the CRA 7 Otago rock lobster fishery.

## Executive Summary

- 1 Ministry of Fisheries (MFish) recommends that you shorten the closed season for commercial fishing in the Otago rock lobster fishery (CRA 7 – refer Figure 1) by 19 days (to 20 November to 31 May, inclusive). This option was not consulted on in the Initial Position Paper (IPP).
- 2 Currently, CRA 7 is closed to commercial fishing from 20 November to 20 June inclusive of both days. An IPP, released 23 February 2009, proposed two options:
  - Option 1, the status quo, would retain the existing seven month closed season for commercial fishing in CRA 7; and
  - Option 2 would shorten the closed season for commercial fishing in CRA 7 by 80 days to approximately four and a half months (20 November to 31 March, inclusive).
- 3 MFish received six submissions on the IPP. In summary, recreational sector submitters supported Option 1 (status quo) whereas commercial sector submitters support Option 2 (shortening the closed season for commercial fishing).
- 4 In this paper, MFish presents and discusses an additional option (Option 3), which would shorten the closed season to commercial fishing by 19 days (20 November to 31 May inclusive). MFish considers this the best option because:

- a) Shortening the closed season by 80 days as proposed under Option 2 would likely negatively affect non-commercial utilisation by reducing ease of access to, and fishing success at, shared fishing grounds during autumn. Recreational submitters have identified spring and autumn as the important months for recreational fishing access and Option 2 would reduce the number of non-commercial only fishing days in spring and autumn by 59%.
  - b) Shortening the closed season as proposed under Option 2 would increase the flexibility of commercial fishers in the marketplace. Available price information does not suggest an immediate ability to increase the utilisation value of the CRA 7 commercial harvest; instead the value achieved is in the flexibility to create or respond to new markets as opportunities arise.
- 5 MFish considers it is not clear that an overall increase in utilisation value or well-being would be achieved by shortening the closed season by 80 days as proposed under Option 2, and a decrease in overall value is possible under this option.
- 6 MFish therefore considers Option 3– shortening the commercial closed season by 19 days – the best option. Under Option 3, the number of non-commercial only fishing days in spring and autumn would be maintained thus minimising possible negative impacts on non-commercial CRA 7 stakeholders. Additional flexibility would be provided to commercial fishers in the marketplace, however, MFish acknowledges the flexibility provided is significantly less than would occur under Option 2.

## The Issue

- 7 The Otago Rock Lobster Industry Association (ORLIA) reported the existing closed season was preventing commercial stakeholders from maximising the value they received from harvesting rock lobster in CRA 7. Prices paid to commercial fishers fluctuate throughout the fishing year. The problem for commercial stakeholders is the current five month commercial fishing season does not always coincide with times when rock lobsters command high prices.

## Summary of Options

### *Initial Proposals*

- 8 The IPP proposed the following options:

*a) Option one - Retain the existing seven month closed season for commercial fishing in CRA 7 (status quo)*

Regulation 8 of the Fisheries (South-East Area Commercial Fishing) Regulations 1986 (the South-East Commercial regulations) provides that no commercial fisher shall take or possess any rock lobster from the waters of the Otago Concession Area, or fish using any rock lobster pot in these waters for the period from 20 November to 20 June, inclusive of both days.

Under Option 1, the existing commercial closed season would be retained.

***b) Option two - Shorten the closed season for commercial fishing in CRA 7 to four and a half months***

Under Option 2, an amendment would be made to the South-East Commercial regulations to shorten the commercial closed season from seven months to approximately four and a half months (20 November through to 31 March, inclusive of both days). This means commercial fishers would be able to take and possess rock lobster in the waters of the Otago Concession Area from 1 April to 19 November, inclusive of both days.

***Final Proposal***

- 9 MFish recommends that you agree to:
- a) amend Regulation 8 of the Fisheries (South-East Area Commercial Fishing) Regulations 1986 to shorten the closed season for commercial fishing to approximately six and half months (20 November through to 31 May, inclusive of both days).
- 10 MFish notes this option was not consulted on in the IPP. This option shortens the commercial closed season by 19 days rather than by the 80 days (Option 2) requested by ORLIA.

**Consultation**

- 11 MFish consulted on the options in the IPP with national and regional fishery stakeholders on your behalf. The IPP was also published on the MFish website.

**Submissions Received**

- 12 MFish received six submissions from fishery stakeholders. The submitters are listed below:
- South-Eastern Recreational Marine Fishers Advisory Council (SRMFAC);
  - Otago Rock Lobster Industry Association (ORLIA);
  - New Zealand Recreational Fishing Council (NZRFC);
  - New Zealand Rock Lobster Industry Council (RLIC);
  - Seafood Industry Council (SeaFIC); and
  - Te Ohu Kaimoana (TOKM).

## Overview of Submissions

- 13 SRMFAC and NZRFC support the status quo option. SRMFAC note the following points:
- i) Spring and autumn are the times that have the most stable weather and afford the best access for recreational fishers;
  - ii) During the commercial season, access becomes an issue as commercial fishers heavily pot all of the reef areas accessible to recreational fishers;
  - iii) Recreational access to lobsters in CRA 7 is already constrained because the North Otago area is largely a nursery area where it is rare to catch a recreational minimum legal size (MLS) lobster and because the commercial sector has a concession that enables them to take the lobster before they reach the recreational MLS; and
  - iv) The closed season controls effort into the fishery, ensuring it receives some respite and is not further fished down.
- 14 NZRFC support the submission of SRMFAC and also suggests the commercial sector should have to show the recent Total Allowable Commercial Catch (TACC) increase can be caught within the timeframe of the current commercial fishing season before any extension to the season is considered.
- 15 SeaFIC, ORLIA, TOKM and NZRLIC support shortening the closed season in CRA 7. SeaFIC and ORLIA believe shortening the closed season would not result in a loss of opportunity for other fishery stakeholders. SeaFIC and NZRLIC suggest shortening the closed season would increase the flexibility for commercial fishers to harvest rock lobster from CRA 7. NZRLIC request the closed season be removed in its entirety and state:
- i) There is no justification for retaining the closed season as it does not contribute to either utilisation or sustainability.
    - Sustainability is managed well above statutory limits by the CRA 7 Management Procedure.
    - Utilisation opportunities of all users are a function of stock abundance (managed by the procedure) and access to fishing grounds; recreational fishers have sole access to a number of fishing grounds year round.
  - ii) The preference and priority to recreational fishing implied in the IPP analysis does not exist in legislation or as a consequence of sector group negotiation or agreement.

## MFish Discussion of Submissions

### *The Proposal*

- 16 SRMFAC identifies spring and autumn as the seasons affording best access (and therefore the most important) to recreational fishing. Shortening the closed season would *change* recreational fishing access for two months (ie, April and May) in autumn. Access would change because of the presence of commercial fishing vessels and gear; non-commercial fishers would have to compete for fishing space and rock lobsters on shared fishing grounds. Currently, CRA 7 is open for non-commercial fishing only for 103 of the 183 days available in spring and autumn<sup>1</sup>. Under ORLIA's proposal (Option 2), the number non-commercial only days in this period would be reduced 59% to 42 days.
- 17 MFish has no information to quantify the impact of this change in access. Non-commercial fishers would not be prevented from accessing fishing grounds or harvesting lobsters but ease of access to, and fishing success at, shared fishing grounds may be reduced if the closed season was shortened. Shared fishing grounds include any accessible rock lobster habitat in CRA 7, with the exception of any regulated closed areas. Two areas in southern CRA 7 are closed to commercial fishing. They are the Otago Buffer Area and the Puna-wai-tōriki mātaimai reserve. The shortening of the closed season would not change access or utilisation opportunities in these non-commercial only areas.
- 18 SRMFAC indicates that it is rare to catch a legal size lobster in North Otago because it is largely a nursery area. Near shore rocky reefs like those found in North Otago do provide good habitat for juvenile lobsters. However, observer catch sampling shows a wide size range of juvenile and adult lobsters occur in the North Otago area. The catch sampling data during the period 1 April 2008 to 31 March 2009 shows similar size ranges for both female and male rock lobsters in each of statistical areas 920 and 921. For each sex and statistical area, lobsters above the recreational MLS were recorded and most lobsters sampled fell within the size range 41mm to 64mm tail width. Information from Fishery Officer interactions with recreational fishers also suggests legal sized rock lobsters are harvested in North Otago.
- 19 SRMFAC and NZRFC suggest the fishing season controls commercial effort into the fishery. This is not the case. It is above all the TACC and stock abundance that determines how much commercial fishing effort is applied. The existing closed season only constrains the *timing* of effort. The commercial sector has the option of deploying more pots and vessels if more fishing effort is required and worthwhile to catch the TACC within a constrained time period.
- 20 ORLIA and SeaFIC believe the additional fishing days would provide commercial stakeholders with more flexibility to target their fishing effort towards times when market prices for rock lobster are high.

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<sup>1</sup> Assumes recreational submitters demarcate spring as being the months of September, October and November and autumn as being the months of, and March, April and May.

- 21 Export price information for 2006-2008 shows the market prices of New Zealand rock lobster varies throughout the year and from year to year. In 2008 and 2009, export prices were generally lower in April, May and June than in the months currently open to commercial fishing in CRA 7. Export price information for 2006 suggests a market for early season lobster may have been exploited in 2006; however there is no continuation of this early season market trend in 2007 or 2008. Table 1 below shows the average and maximum price paid for live rock lobster exports for the period April to November over the last three calendar years.

		Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
2008	Ave	\$49.05	\$58.47	\$54.31	\$64.79	\$57.48	\$69.18	\$73.46	\$67.89
	Max	\$61.79	\$67.37	\$70.29	\$84.28	\$79.25	\$92.58	\$96.32	\$97.92
2007	Ave	\$42.64	\$53.39	\$53.15	\$56.29	\$60.53	\$60.53	\$47.76	\$48.93
	Max	\$55.51	\$58.59	\$67.53	\$64.80	\$75.94	\$75.94	\$75.94	\$55.21
2006	Ave	\$50.90	\$47.75	\$54.09	\$51.01	\$53.72	\$52.49	\$50.18	\$47.17
	Max	\$55.82	\$71.10	\$68.73	\$68.92	\$64.90	\$63.57	\$65.89	\$53.15

Table 1: Maximum and average price/kilogram (\$NZ) paid for live rock lobster exports

- 22 Markets change regularly and there is therefore intrinsic value in having the flexibility to create or respond quickly to new market opportunities. This value benefit is difficult to quantify however.
- 23 NZRLIC suggests the existing closed season makes no contribution to sustainability or utilisation. The closed season is not the key sustainability measure for the CRA 7 fishery; the primary measure for managing sustainability in CRA 7 is the Total Allowable Catch (TAC); TAC setting is not affected by the proposal to shorten the closed commercial season. The closed season is probably contributing to non-commercial utilisation. The key utilisation measure is allocation of an allowance within the TAC but utilisation is also affected by access to fish and fishing grounds. As noted above, non-commercial fishers would not be prevented from accessing fishing grounds or harvesting lobsters. However, ease of access to, and fishing success at, shared fishing grounds may be reduced during the affected period because non-commercial fishers would have to compete for fishing space and rock lobsters on shared fishing grounds. This might also affect the quality of the non-commercial fishing experience.

### **Other Matters**

- 24 NZRLIC notes ORLIA amended its proposal in response to feedback from the MFish prioritisation process and recreational fishing representatives. NZRLIC says ORLIAs preference is for the closed season to be removed in its entirety and this should have been consulted on. MFish considers it appropriate and beneficial that ORLIA undertook pre-consultation with non-commercial stakeholders and amended its proposal in response to the input and views from other stakeholders.

- 25 NZRLIC believes the IPP gave priority to recreational fishing. As noted above, the key utilisation measure is allocation of an allowance within the TAC but utilisation is also affected by access to fish and fishing grounds. Rules applying to sectors within a fishery differ, making a direct comparison of access opportunities difficult. For example, in CRA 7 the commercial and customary fishers have the ability to take lobsters smaller than the recreational MLS. Similarly, recreational and customary fishers can fish some areas and at some times that commercial cannot. Consequently, both the IPP and this document focus on the potential *changes to* utilisation for all sectors that would result from *changing* the existing closed season arrangements and what change this would have on the overall well-being or value achieved from utilising the fishery. MFish does not consider this approach gives priority to either sector.
- 26 NZRLIC also is concerned about discussion of recreational values. MFish notes the key purpose of the ORLIA proposal to shorten the closed season is to *increase the value* achieved from harvest of the commercial CRA 7 allocation. The Minister of Fisheries, while ensuring the sustainability of all fish stocks, has a duty to consider the values all (customary, recreational, commercial and environmental) stakeholders derive from utilising CRA 7 when making a decision. Commercial and non-commercial fishery values have therefore been discussed and considered.
- 27 Both recreational and commercial submitters made references to other management measures affecting the access of other sectors that should be taken into account when considering this proposal. As noted above, both the IPP and this document focus on the potential *changes to* utilisation for all sectors that would result from *changing* the existing closed season arrangements and what change this would have on the overall well-being or value achieved from utilising the fishery.

## **The Management Problem and Rationale**

### ***Rationale for Management Options***

- 28 MFish believes consideration of management intervention is appropriate because the ORLIA proposal seeks to increase the value all New Zealanders achieve from utilising CRA 7.
- 29 In the IPP, MFish presented and discussed two options. In this final advice, an additional option, Option 3, is presented. The options are:
- a) Option 1: Retain the existing seven month closed season for commercial fishing (ie, 20 November to 20 June)
  - b) Option 2: Shorten the closed season for commercial fishing by 80 days to approximately four and a half months (ie, 20 November to 31 March)
  - c) Option 3: Shorten the closed season for commercial fishing by 19 days to approximately six and a half months (ie, 20 November to 31 May).

**Rationale for Option 1: Retain the existing seven month closed season for**

### commercial fishing in CRA 7 (status quo)

- 30 Retaining the status quo would maintain the amount time customary and recreational fishers have sole access to CRA 7. Retaining the existing seven month closed season is appropriate if a shorter closed season negatively impacted sustainability or utilisation, or reduced the overall well-being (and value) New Zealanders achieve from utilisation of the CRA 7 fishery.
- 31 The purpose of the Fisheries Act 1996 is to provide for utilisation while ensuring sustainability. Utilisation means conserving, using, enhancing, and developing fisheries resources to enable people to provide for their social, economic, and cultural well-being. Recreational submissions indicate recreational well-being is increased by: (i) providing fishing opportunity in the key spring and autumn periods when recreational fishers state best access is afforded, (ii) minimising cost and time required for fishing; and (iii) providing the quality of fishing experience they value the most within the recreational allowance.
- 32 Recreational submitters indicate a shorter closed season would reduce recreational well-being by increasing competition for fish and fishing space in the important recreational fishing times and reducing the quality of the fishing experience. They also suggest commercial fishers already have an advantage (ie, commercial well-being is already very high) because of the concession, which provides commercial fishers access to lobsters smaller than the recreational MLS.

### Rationale for Option 2: Shorten the closed season for commercial fishing in CRA 7 by 80 days to four and a half months

- 33 Shortening the closed season would increase the flexibility commercial fishers have to target their fishing effort to times when rock lobsters return high market prices. Shortening the closed season is appropriate if the overall value-benefit to commercial stakeholders is not offset by a corresponding value-cost to other fishery stakeholders.
- 34 Commercial submitters indicate commercial well-being is increased by: (i) providing flexibility to target fishing effort to times when market prices for rock lobster are high; (ii) having safeguards against unseasonable periods of inclement weather; and (iii) providing ability to avoid fishing when lobsters are most vulnerable and lobster quality is low.
- 35 Commercial submitters indicate a shorter closed season would increase commercial well-being by increasing flexibility to target fishing effort to times when market prices for rock lobster are high and by providing a safeguard against unseasonable periods of inclement weather. They also suggest recreational fishers already have access advantages (ie, recreational well-being is already very high) by being able to fish in places and at times that commercial fishers cannot.

Rationale for Option 3 (new option): Shorten the closed season for commercial fishing in CRA 7 by 19 days to approximately six and a half months

- 36 Shortening the closed season would increase the number of harvesting days available to commercial fishers and would retain the existing number of non-commercial only fishing days in spring and autumn. This alternate option is appropriate if, based on existing information, it is more likely to increase overall well-being than Options 1 or 2 above.

## **Assessment of Management Options**

### ***Option 1: Retain the existing seven-month closed season for commercial fishing in CRA 7 (status quo)***

#### ***Impact***

- 37 Option 1 retains the existing closed season for commercial fishing in CRA 7. The commercial closed season is from 20 November to 20 June inclusive of both days.

#### ***Benefits***

- 38 Submissions from recreational fishers indicate the best times for recreational fishing access are spring and autumn. Retaining the existing closed season maintains the number of days non-commercial fishers have sole access to CRA 7 in spring and autumn at 103 days (of 183 available days).
- 39 Information in recreational stakeholder submissions indicates that recreational well-being or value is increased by excluding commercial fishers during this period. This is because recreational fishers don't have to compete for fish and fishing space, which improves fishing success and the quality of the fishing experience.
- 40 Recreational stakeholders consider retaining the existing closed season more credible because they believe the commercial concession already provides an advantage to the commercial sector that reduces recreational access and well-being by reducing the size of the pool of lobsters available to recreational fishers.
- 41 Retaining the status quo has the lowest implementation cost as no change to the South-East Commercial regulations is required.

#### ***Costs***

- 42 Information in commercial stakeholder submissions indicates retaining the closed season reduces the flexibility commercial stakeholders have to target their fishing effort towards time periods when the value of rock lobster is high. MFish has no information to quantify this loss of *potential value*. Available price information for 2007 and 2008 does not suggest increased market prices in April May and June currently exist. Markets change regularly, however, and there is intrinsic value in having the flexibility to create or respond quickly to new market opportunities.

- 43 ORLIA suggests the existing closed season impedes opportunities to reduce handling related mortality of post-moult rock lobsters caught in commercial rock lobster pots. Under Schedule 6 of the Fisheries Act 1996, any soft-shelled rock lobster caught by commercial fishers must be immediately returned to the waters it was taken from. The main moulting period for CRA 7 rock lobsters is thought to be between June and August<sup>2</sup> (known as the winter moult). Excess handling of soft-shelled rock lobsters may result in unnecessary mortality. MFish cannot quantify the potential lost benefit – if any – to the fishery. Many factors influence when commercial fishers decide to harvest lobsters, including prices in the marketplace, weather, fish availability, fish quality and fishing seasons.
- 44 Commercial stakeholders consider the rationale for adopting the closed season is no longer applicable and the closed season should therefore be either shortened or removed from the CRA 7 management framework. Commercial stakeholders note the closed season was introduced at a time when the management of rock lobster fisheries focused on an egg per recruit approach (ie, protecting the large male and female breeding stock during the breeding season).

***Option 2: Shorten the closed season for commercial fishing in CRA 7 by 80 days to approximately four and a half months***

***Impact***

- 45 Option 2 would shorten the closed season in CRA 7 by 80 days to four and a half months. The amended closed season would be from 20 November to 31 March inclusive of both days.

***Benefits***

- 46 Shortening the closed season would provide commercial stakeholders with more flexibility in the marketplace. Available price information does not suggest higher market prices are currently available in April May and June than in the months already open to fishing in CRA 7. The value benefit is, therefore, in having the flexibility to create or respond quickly to new market opportunities. This benefit is difficult to quantify.
- 47 Submissions from commercial stakeholders suggest the commercial sector would find it more credible to shorten the closed season because: (i) the rationale for adopting the closed season is no longer applicable; (ii) recreational fishers would retain sole access to the fishery from 20 November to 31 March; and, (iii) recreational fishers already have sole access to some fishery areas in CRA 7.
- 48 Shortening the closed season may provide an opportunity for commercial stakeholders to fish around the main moulting winter period for CRA 7 rock lobsters. As noted above, the potential benefit to the fishery – if any – cannot be quantified. In addition, it is unclear what effect either increased fishing

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<sup>2</sup> Annala, J. H.; Bycroft B. L. 1988: Growth of rock lobsters (*Jasus edwardsii*) in Fiordland, New Zealand. *New Zealand Journal of Marine and Freshwater Research*, 1988, Vol. 22: 29-41

from April-early June, or changed recreational fishing behaviour as a result of changed fishing access would have on handling-related mortality. Handling-related mortality is taken into account when setting sustainability measures in CRA 7.

- 49 Increasing the number of commercial fishing days would provide a safe-guard to commercial stakeholders against unseasonable periods of inclement weather that might reduce their ability to harvest the TACC. The additional time would be at the beginning of the season and therefore may not assist commercial fishers fishing late in the fishing season to target the higher quality rock lobster after the winter moult period and/or higher prices in the marketplace. The commercial sector do have the opportunity to deploying more effort (vessels and pots) in the fishery if required.

### **Costs**

- 50 Shortening the closed season reduces the number of days non-commercial fishers have sole access to CRA 7 in spring and autumn 59% from 103 days to 42 days.
- 51 MFish has no information to quantify the impact this change in access would have on non-commercial value and well-being. Non-commercial fishers would not be prevented from accessing fishing grounds or harvesting lobsters but ease of access to, and fishing success at, shared fishing grounds may be reduced during the affected time period.
- 52 Submissions from recreational stakeholders suggest they would find it less credible to shorten the closed season because it would reduce recreational fishing values and because they consider the commercial concession already impacts on recreational access and well-being.
- 53 Option 2 would result in administrative costs to undertake regulatory amendments and education costs to inform fishery stakeholders of the new shortened closed season. These costs would be low.

### ***Option 3 (new option): Shorten the closed season for commercial fishing in CRA 7 by 19 days to approximately six and a half months***

#### ***Impact***

- 54 Option 3 would shorten the closed season in CRA 7 by 19 days to approximately six and a half months. The amended closed season would be from 20 November to 31 May inclusive of both days.

#### ***Benefits***

- 55 Shortening the closed season by opening the commercial fishing season on 1 June maintains the number of days non-commercial fishers have sole access to CRA 7 in spring and autumn at 103 days (of 183 available days). Submissions from recreational fishers indicate spring and autumn are the best times for recreational fishing access.

- 56 Shortening the closed season would provide commercial stakeholders with some additional flexibility in the marketplace and additional safeguard against inclement weather but significantly less than under Option 2. The increased number of days available for commercial fishing under Option 3 is 19 days (compared with 80 days under Option 2).

### Costs

- 57 Shortening the closed season reduces the number of days non-commercial fishers have sole access to CRA 7 in winter by 19 days. Non-commercial fishers have not indicated that winter is an important non-commercial fishing period.
- 58 Compared with Option 2, Option 3 provides commercial fishers with less flexibility in the market place and less safeguard against unseasonable weather. MFish has no information to quantify this loss of *potential value*.
- 59 Option 3 would result in administrative costs to undertake regulatory amendments and education costs to inform fishery stakeholders of the new shortened closed season. These costs would be low.

### Conclusion

- 60 MFish recommends that you shorten the closed season to commercial fishing in CRA 7 by 19 days to approximately six and a half months (Option 3). The best available information suggests:
- a) None of the options discussed would negatively impact on the sustainability of CRA 7 or the fishery environment because the closed season is not a key sustainability measure in the fishery. Sustainability factors that might be affected – such as handling related mortality – are already taken into account when setting the key sustainability measure, the TAC.
  - b) Shortening the closed season is likely to negatively affect non-commercial utilisation by reducing the number of non-commercial only fishing days in CRA 7. Non-commercial fishers would not be excluded from accessing lobsters or the fishery but ease of access to, and fishing success at, shared fishing grounds may be reduced during the affected time periods.
  - c) Shortening the closed season may positively affect commercial utilisation. More fishing days increases the flexibility commercial stakeholders have in the marketplace. Available price information does not suggest an immediate ability to increase the value of the CRA 7 commercial harvest by providing for commercial fishing in April-June, but more days would provide more flexibility for commercial fishers to create or respond to new markets if opportunities arose.
- 61 MFish considers it is not clear that an overall increase in utilisation well-being or value would be achieved by shortening the closed season by 80 days as proposed under Option 2, and a decrease in overall value is possible under this option.

- 62 MFish therefore considers Option 3 – shortening the commercial closed season by 19 days – the best option. Under Option 3, the number of non-commercial only fishing days in spring and autumn would be maintained thus minimising possible negative impacts on non-commercial CRA 7 stakeholders. Additional flexibility would be provided to commercial fishers in the marketplace, however, MFish acknowledges the flexibility provided is significantly less than would occur under Option 2.

## Statutory Considerations

- 63 In forming the options for reducing the closed season for CRA 7, the following statutory considerations under the Fisheries Act 1996 have been taken into account.

- a) **Section 5(a)** of the Act requires you to act in a manner consistent with New Zealand’s international obligations relating to fishing. MFish is unaware of any international obligations relating to fishing that would be affected by the management options proposed in this paper.
- b) **Section 5(b)** of the Act requires you to act in a manner consistent with the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. MFish considers the management options proposed in this paper are consistent with these provisions. None of the options considered negatively impact the availability of, or access to, rock lobster from CRA 7 for customary purposes. The actual and potential impacts of each management option on customary stakeholders, (including Maori commercial stakeholders) were explored and the consultation process provided the opportunity to gather more information via submissions.
- c) **Section 8(1)** of the Act states the purpose of the Act as being to provide for the utilisation of fisheries resources while ensuring sustainability. None of the management options proposed in this paper are contrary to the purpose of the Act, which is to provide for utilisation of fisheries resources whilst ensuring sustainability. MFish believes Option 3 is likely to improve the value of rock lobster harvested by commercial fishers while not adversely impacting on the value of customary, recreational and environmental stakeholders.
- d) **Section 9** of the Act requires you to take into account the following environmental principles:
  - **Section 9(a)** requires associated or dependent species to be maintained above a level that ensures their long-term viability.
  - **Section 9(b)** requires biological diversity of the aquatic environment to be maintained.  
MFish identified interactions between species (eg, predator-prey relationships). None of the management options proposed in the IPP would materially affect these interactions.
  - **Section 9(c)** requires habitat of particular significance for fisheries management to be protected. None of the management options proposed in the IPP would impact on habitats of particular significance for fisheries management.

Fishing methods used to target rock lobster, particularly UBA-based non-commercial and commercial potting methods, have a relatively low environmental impact. The non-commercial and commercial fishing methods for rock lobster will not change as a result of the options proposed in the IPP.

- e) **Section 10** of the Act sets out information principles which requires your decision to be based on the best available information, taking into account any uncertainty in that information, and applying caution when information is uncertain, unreliable, or inadequate. The best available information was incorporated into the assessment of management options proposed in the IPP. Uncertainties in information held by MFish regarding the value achieved by customary, recreational and environmental stakeholders make it difficult to accurately quantify costs and benefits of access to the fishery. Any uncertainties in information held by MFish were clearly identified and discussed in the IPP. MFish included matters relating to uncertain information for discussion with fishery stakeholders, and provided an opportunity to provide additional information and supporting evidence via submissions. Stakeholders provided additional information, in particular on important amateur harvesting times and on impacts of the options presented on fishing activity for the commercial and recreational sectors. The information provided has been considered and discussed in this paper.
- f) **Section 11** of the Act sets out matters to be considered when setting or varying sustainability measures via Gazette Notice or regulations under section 298:
- **Section 11(1)(a)** requires you to take into account any effects of fishing on any stock and the aquatic environment. MFish considers the options presented in the IPP would not contribute or detract from the sustainability of CRA 7. The potential environmental impacts of rock lobster fishing methods on the aquatic environment were considered. The non-commercial and commercial fishing methods for harvesting CRA 7 rock lobster will not change as a result of the options proposed in the IPP.
  - **Section 11(1)(b)** requires you to take into account any existing controls under the Act that apply to the stock or area concerned. The options presented in the IPP would not contribute or detract from the sustainability of CRA 7. All matters relating to the closed season for commercial fishers in CRA 7 are considered and discussed in the paper. Other regulations comprising the CRA 7 management framework, including the concession MLS for CRA 7 rock lobster, and the Otago Concession Area, were discussed in the IPP.
  - **Section 11(1)(c)** requires you to take into account the natural viability of the stock concerned. The options presented in the IPP would not contribute or detract from the sustainability of

CRA 7. The natural variability of the CRA 7 stock was considered in the IPP.

- **Section 11(2)(a)** requires you to have regard to regional policy statement, regional plan, or proposed regional plan under the Resource Management Act 1991. The options presented in the IPP would not contribute or detract from the sustainability of CRA 7. There are no provisions in any Regional Planning document that are relevant to the management options proposed in the IPP.
  - **Section 11(2)(b)** requires you to have regard to any management strategy or management plan under the Conservation Act 1987. There are no management strategies or plans under the Conservation Act 1987 that are relevant to the management options proposed in the IPP.
  - **Section 11(2)(c)** requires you to have regard to sections 7 and 8 of the Hauraki Gulf Marine Park Act 2000. None of the management options proposed in the IPP have any effect on the provisions contained in the Hauraki Gulf Marine Park Act 2000.
  - **Sections 11(2A)(a) and (c)** requires you to take into account any conservation services or fisheries services, and any decisions not to require conservation services or fisheries services. The options presented in the IPP would not contribute or detract from the sustainability of CRA 7. The management options proposed in the IPP will not be affected by, or require conservation or fisheries services.
- g) **Sections 297(1)(a)(ii) and (iii)** allows regulations to be made to regulate, authorise or prohibit the taking or possession of fish, aquatic life or seaweed from any area, at any time, or for any period.
- h) **Regulation 8 of the Fisheries (South-East Area Commercial Fishing) Regulations 1986** provides that no commercial fisher shall take or possess any rock lobster from the waters of the Otago Concession Area, or fish using any rock lobster pot in these waters for the period from 20 November to 20 June, inclusive of both days.