

# SUMMARY OF SUBMISSIONS: SCHEDULE 5 SPECIES (45% AGGREGATION)

## Submissions Received

- M. Hardyment
- Independent Fisheries Limited (**Independent**)
- New Zealand Rock Lobster Industry Council (**NZRLIC**)
- Sanford Limited (**Sanford**)
- Seafood Industry Council Limited (**SeaFIC**)
- Talley's Fisheries Limited (**Talley's**)
- Te Ohu Kai Moana Trustee Limited (**Te Ohu**)

## Issues Raised in Submissions

- 1 MFish sought stakeholder views on the proposed analytical framework (including both the analytical steps and the indicators) to assess suitability for Schedule 5. MFish also sought views on the list of proposed species for listing on the Schedule. In particular, views on the assessment of ANC, BAR, PHC, PIL, EMA, SPR, RSK and WAR were requested.
- 2 Specific issues addressed in submissions include:
  - Purpose of quota aggregation limits
  - Analytical framework
    - Step 1 to 3: Three species categories appropriate for the Schedule
    - Step 4 to 6: Avoiding unwanted consequences
  - Species
    - Barracouta (BAR), red cod (RCO) and common warehou (WAR)
    - Pilchard (PIL), anchovy (ANC) and sprats (SPR)
    - Packhorse rock lobster (PHC)
    - Kahawai (KAH)
    - Rough skate (RSK)
    - Scampi (SCI)
    - Southern bluefin tuna (STN)
    - Spiny dogfish (SPD)

## Purpose of Quota Aggregation Limits

- 3 The **SeaFIC** submission (endorsed by **Sanford** and echoed by **NZRLIC**) suggests that reviewing the Schedule highlights the policy question around the purpose of aggregation limits in the Act and suggests a review of this provision.
- 4 SeaFIC submits that such a review is warranted for three reasons:

- the progressive relaxation of aggregation limits over time, the absence of any limit on ACE ownership, and the absence of limits on all quota holders;
  - the unclear purpose of aggregation limits, and the existence of other agencies to address market competition issues; and
  - the need for greater flexibility to achieve fisheries objectives via fisheries plans.
- 5 **Te Ohu** submits that the desire to avoid the potential for monopoly power has now disappeared since aggregation limits were introduced, and that section 59 can be removed from the Act. The Commerce Commission should address issues of market power.
- 6 **Independent, Talley's** and **NZRLIC** submit that the exemptions from the limits granted to some parties illustrate the failure of the aggregation limits system. Talley's submits that MFish should not impose ownership restrictions on commercial fishers when no such restrictions apply to Maori interests. NZRLIC further points out that ACE is the currency of fishing access, and that quota aggregation will neither prohibit nor encourage the possibility of anti-competitive behaviour.
- 7 **Independent** is a strong advocate of the quota aggregation limits, and submits that they should be strengthened: all finfish should be subject to a 35% limit, without exception. The ability to aggregate ACE without restriction will provide industry with sufficient flexibility.

### **Analytical Framework**

- 8 **Talley's** submits that the framework is flawed since it is based on personal views. **Te Ohu** submits that the criteria used are subjective, and that the assessment should be based on more objective criteria. **NZRLIC** submits that the framework is a manufactured method based on outdated and unfulfilled social and economic objectives.
- 9 **SeaFIC** supports the framework, and its proposition that species are listed if significant quota holdings are required to achieve economies of scale, and that such economies of scale increase the viability or efficiency of the industry. However, whether such investment is *required* or simply *desirable* is a matter of judgement.
- 10 The proposal to use the framework for assessing new QMS species is supported by SeaFIC (if the framework is modified), and rejected by NZRLIC.

### **Step 1 to 3: Three species categories appropriate for the Schedule**

- 11 **SeaFIC** and **Sanford** both reject the contention that any substantial recreational or customary catch means that substantial investment is not required for a commercial fishery. Levels that are substantial for the non-commercial sectors may be well short of the investment required for a commercial harvesting operation or the associated processing. Sanford submits that increased commercial aggregation will not adversely affect non-commercial interests, and may in fact be a positive influence.
- 12 Aside from this concern, SeaFIC supports the indicators for Steps 1 – 3. In addition, SeaFIC suggests that small, specialised fisheries (e.g. Packhorse rock lobster) that are not likely to support a large number of players are also appropriate for listing on the Schedule.

#### **Step 4 to 6: Avoiding unwanted consequences**

- 13 **SeaFIC** does not support the use of steps 4, 5 or 6 in the process, not because the risks don't exist, but because the risk does not increase as a result of aggregation moving from 35% to 45%. Three reasons are given:
- the risk relates to the stock level, and aggregation limits apply at the species level;
  - limits do not apply to all of industry, and therefore the level of risk exists irrespective of the aggregation limits; and
  - there is no evidence that the risks exist for the species currently listed on the Schedule, and the *potential* for risk cannot be used to either remove current species or not adding new species to the Schedule.
- 14 **SeaFIC** adds that properly set deemed values mitigate the risk of monopolising the supply of bycatch ACE; and that the risk of reduced opportunity to enter into the fishery will be dealt with by the industry itself (if necessary). Entry is usually achieved by purchase of ACE or participating in non-QMS fisheries.
- 15 **M Hardymont** submits that aggregation in stepping stone fisheries should be limited, as these fisheries require considerable information, which only comes from having many participants.

#### **Species**

- 16 **SeaFIC, Talley's** and **Sanford** submit that no species should be removed from the Schedule. These submissions endorse the proposal to add the species listed in the IPP. Further information to support some species (supplementing the rationale in the IPP) is provided below. Reasons to maintain species proposed for removal, or to add new species, are detailed below.
- 17 **Te Ohu** submits that any quota owner that would be in breach of aggregation limits if a species is removed from the Schedule (i.e. the limit changes from 45% to 35%) should have access to a transparent and equitable process to transition to the new limit.

#### ***Barracouta (BAR), Red Cod (RCO) and Common Warehou (WAR)***

- 18 **SeaFIC, Talley's, NZRLIC** and **Sanford** submit that BAR, RCO and WAR be retained, as they fit Category 1. Sanford operates processing facilities that require substantial landings to be profitable. A 45% limit would allow for the continued efficient use of this capital infrastructure, as well as that required for harvesting.
- 19 The Talley's submission provided detailed information to support its position; please refer to the submission itself. Briefly:
- BAR requires significant holdings to develop marketing and catching initiatives. Access to BAR is needed to support four processing plants in the South Island, and its trawl vessels. BAR is currently a low value species, but Talley's has developed greater value-added products. Restricting holdings of one of a mix of species inhibits Talley's ability to provide a balanced quota mix to harvesters. Talley's submits that BAR fits each of Category 1, 2 and 3.

- Talley's currently plans to acquire up to the 45% aggregation limit to support its desire to be the leading processor and marketer of RCO. Limiting ownership to 35% would severely curtail these plans, and miss an opportunity for development internationally. Having secure access to sufficient quantities of RCO is critical to participation in the McDonald's 'fillet of fish' programme, and was the basis for a \$15 million investment in a processing operation. Talley's submits that RCO fits each of Category 1, 2 and 3.
- Talley's rejects the IPP's contention that WAR is a common bycatch, and that aggregation may limit ACE availability. Talley's submits that WAR fits each of Category 1, 2 and 3, and that none of the concerns at step 4, 5 or 6 are valid.

20 **M Hardyment** submits that BAR is a significant bycatch in the pilchard, anchovy and sprat fisheries in the northern part of the south island.

*Pilchard (PIL), Anchovy (ANC) and Sprats (SPR)*

21 **M Hardyment** submits that PIL, ANC and SPR are all stepping stone fisheries, with a low TACC. Large quota owners are not likely to invest in these fisheries, concentrating only in larger scale fishing operations.

*Packhorse rock lobster (PHC)*

22 **SeaFIC** and **NZRLIC** submit that PHC be retained. SeaFIC submits that it is a small and specialised fishery that is not likely to support a large number of players.

*Kahawai (KAH)*

23 **SeaFIC** and **Sanford** submit that KAH be added, as it fits Category 1, and is a crucial part of the purse seine fishery (most of which is proposed for the Schedule). Both blue mackerel and jack mackerel are equivalent, and are included or proposed for inclusion on the Schedule. Sanford submits that these three species make up the mixed catch plan for purse seiners as both target and bycatch. Sanford's five purse seine vessels generate revenues of \$18 to \$25 million, employs over 100 full time jobs (vessel and onshore staff), and is the focus of tens of millions of dollars of investment.

*Rough Skate (RSK)*

24 **SeaFIC** submit that RSK be added, as it fits Category 1 and Category 3.

*Scampi (SCI)*

25 **Sanford** submitted strongly in favour of adding SCI to the Schedule, and considerable detail is provided to support this view; refer to the submission itself. Briefly:

- Scampi is a very high value species with high investment costs for both harvesting and marketing, and Sanford has made considerable investment in both these areas. This point has been supported by SeaFIC and accepted by MFish in its advice to the Minister regarding the aggregation of scampi in April 2005.
- Sanford's standing in the international market will only continue if they are able to deliver a premium product in sufficient quantities at the right price – each element of which requires increased aggregation.

- There are no significant problems that could be expected from increased aggregation – no adverse effect on the functioning and competitiveness of the market.

26 Sanford elaborated on many these points in its 2004 request for an aggregation limit exemption for scampi.

*Southern bluefin tuna (STN)*

27 **Sanford** submits that STN be added, as the fishery and the international market are very specialised, and have been subject to considerable rationalisation. New Zealand competes internationally with countries whose allocations are owned or managed by relatively few enterprises. In some cases, the holdings by individual companies exceed the entire New Zealand quota by 2 or 3 times. STN fits Category 1.

*Spiny dogfish (SPD)*

28 **Sanford** submits that SPD be added, as it is a low value species and that international competitiveness will only result from further specialisation in processing and marketing. Quota aggregation is required for this to occur. SPD fits both Category 1 and 3.

# RESTRICTION ON THE POSSESSION AND DISPOSAL OF LIVE BROWN BULLHEAD CATFISH – SUMMARY OF SUBMISSIONS

## Submissions Received

- Auckland Conservation Board
- Auckland Regional Council
- Department of Conservation (DOC)
- East Coast Hawke’s Bay Conservation Board
- Bay of Plenty Regional Council (Environment Bay of Plenty)
- Fish & Game New Zealand (Fish & Game)
- Jonathan Harness (former Ranger, Department of Conservation)
- New Zealand Conservation Authority (NZCA)
- Northland Conservation Board
- New Zealand Eel Processing Company Ltd
- Taranaki-Wanganui Conservation Board
- Wellington Conservation Board

## Risks Associated With the Use of Catfish

### *Extent of Use*

- 1 **Jonathan Harness** (former Ranger, DOC) has considerable concern about the availability of live catfish through retail and market outlets. He notes that it is obvious that at least some of these fish are being held in a live state at other locations, raising concerns as to the possible escape and establishment of new catfish populations in waterways.
- 2 **Fish & Game New Zealand** (Fish & Game) notes that while there is obviously a commercial industry around catfish, they are also popular with recreational anglers. Fish & Game officers often come across between ten and twenty anglers on any day during the week, and there are probably a lot more in the weekends, targeting catfish. These anglers are usually recent immigrants from Asia or Eastern Europe who catch the catfish on bait and often take them home alive. Fish & Game observe that it is common practice for some of these anglers to have a children’s paddling pool in the back of a utility which is filled up with live catfish and koi. In addition to those specifically targeting catfish, coarse anglers targeting perch, tench and rudd also catch catfish and they always return their catch to the water live, including any catfish. On at least two occasions live catfish have been observed (by the writer) for sale in Sunday markets.

- 3 The **Auckland Regional Council** (ARC) submits that the prevalence of live catfish in Auckland fishmongers is likely to increase as the recent lifting of the harvest moratorium (1 October 2004) increases commercial fishing pressure as more players enter the market. This serves to heighten ARC's concerns regarding the trade and the need to prohibit the holding of live catfish.
- 4 The **New Zealand Eel Processing Company Ltd** notes that to date, the export markets for catfish have not been worthwhile, with high inputs and little returns. The Company does not know what the future will hold, as each year more and more enquiries come from Asia. There is also talk of a fishmeal plant being developed in the upper North Island, which could be another outlet for the use of catfish.
- 5 The New Zealand Eel Processing Company Ltd notes that one or two fishers have successfully developed a market for live catfish in Auckland through fish retail outlets, and considers that while this is not huge, it is significant in providing income to individual fishers.

### ***Risk Assessment***

- 6 **Fish & Game** notes that requests have been made for MFish and the Department of Conservation to ban the sale of live catfish for at least fifteen years.
- 7 **Northland Conservation Board** submits that the only good brown bullhead catfish is a dead one.
- 8 The **Wellington Conservation Board** is concerned that MFish has not explored options for eradicating catfish in the Wellington Region and encourage MFish to do this.
- 9 The **New Zealand Conservation Authority** (NZCA) challenges the statement in the IPP (refer para 3, page 3) "There is a lack of knowledge of scientific information available in New Zealand to quantify the impacts of catfish in freshwater systems...". NZCA believes increasing knowledge of the impacts of introduced species on aquatic ecosystems suggests cause for concern, and NIWA scientists have advocated a moratorium on further releases of coarse fish.
- 10 **ARC** supports MFish's initiative to address the spread of catfish via the live commercial market. ARC submits that this is a matter of urgency given the adverse impact catfish can have on water quality and freshwater biodiversity and the apparent spread of catfish through the Auckland Region.
- 11 The **Auckland Conservation Board** notes that catfish, although not formally classified under legislation, are considered a pest fish in New Zealand as they stir up sediment, turning the water turbid, and prey on fish eggs, small native fish and koura. Auckland Conservation Board also notes that although catfish are not yet widespread throughout New Zealand, their range is steadily increasing due to their robustness and the fact that they can survive in a wide range of temperatures and water quality.
- 12 Because of these concerns, Auckland Conservation Board therefore supports a decisive, conservation-based approach to the management of catfish in order to ensure the natural indigenous character of New Zealand's freshwater ecosystems is maintained. Both the range and population size of introduced fish species continues to expand in New Zealand.

Auckland Conservation Board is concerned with the translocation of introduced species, either plant or animal, especially where there is insufficient comprehensive information about potential impacts, and where potential impacts are considered to be adverse.

- 13 The **Taranaki-Wanganui Conservation Board** supports MFish's efforts to minimise the spread and establishment of catfish. The Board believes that catfish and other introduced coarse fish pose serious threats to the ecological values of New Zealand's rivers, wetlands and lakes.
- 14 **Environment Bay of Plenty** submits that the environmental benefits of having the region's waterways free of catfish and the economic benefits of not undertaking eradication work outweigh any potential costs to commercial operators.
- 15 Environment Bay of Plenty considers catfish to be an issue with significant implications for the exercise of Council's functions and responsibilities, particularly in terms of biosecurity and the maintenance of indigenous biodiversity and water quality. The Council supports a precautionary approach to controlling the spread of catfish in the absence of conclusive scientific evidence on their effects on indigenous species and water quality. The Council considers there is certainly circumstantial evidence that the biomass of catfish present in some Waikato waterways is building to levels that will inevitably impact on their ecology.
- 16 The **New Zealand Eel Processing Company Ltd** submits that while the eel industry recognises the risks of catfish, the industry believes it can develop the right conditions to mitigate catfish spreading to other waterways. The New Zealand Eel Processing Company Ltd also notes that prohibiting the possession and sale of live catfish will not stop the further spread of this species. Commercial fishers contribute to the control of catfish that could become more common throughout waterways if no fishing was allowed.

### **Existing Management Mechanisms**

- 17 The **Department of Conservation (DOC)** states that it is charged under the Conservation Act with the preservation of indigenous freshwater fisheries, controlling introduced species causing damage to freshwater habitats and species, as well as controlling the transfer of freshwater species to new waters or conservation lands. DOC also has responsibility under the Biosecurity Act to protect natural habitats and indigenous biodiversity and therefore has a strong interest in MFish's management of fisheries resources.
- 18 **DOC** is pleased to see MFish working towards implementing fisheries controls on catfish to minimise the risks associated with recreational and commercial fisheries. DOC notes that there is a range of other potential tools in legislation that may augment and supplement the options outlined in the IPP and the department may consider these options to further reduce the risks of the spread of live catfish.
- 19 **Jonathan Harness** would support the listing of catfish as a noxious species under the Freshwater Fisheries Regulations 1983 to allow better control of the fish in the wild and to ensure compliance by those people who may be in possession of them.
- 20 **NZCA** is alarmed that the moratorium on permits to catch species not in the quota management system was lifted on 1 October 2004, before changes were made to the regulations to restrict the possession or sale of live catfish. NZCA notes that it would have

been logical and precautionary to postpone the lifting of the moratorium to coincide with the amendments to the regulations.

- 21 NZCA is also concerned that new fishing permits are to be issued by FishServe, for species such as catfish which require management objectives other than ‘sustainable utilisation’, as well as other species which may be subject to restrictive controls under other legislation. NZCA suggest that such other species include those listed as ‘restricted fish’ under section 26ZQA of the Conservation Act 1987 (i.e. grass carp, silver carp) and ‘unwanted organisms’ under the Biosecurity Act. NZCA requests MFish to reconsider the process by which fishing permits for catfish are to be issued.

## **Response to MFish Proposals**

### ***Option 1 Proposal***

22

- a) Amend the Fisheries (Commercial Fishing) Regulations 2001 to prohibit the *possession and disposal* of live catfish;
- b) Amend the Fisheries (Amateur Fishing) Regulations 1986 to prohibit the *possession and disposal* of live catfish;
- c) Agree to support a code of practice to:
  - i) clean fishing gear in salt baths;
  - ii) ensure boats and boat trailers are inspected adequately before leaving boat ramps.

### ***Option 1***

- 23 **Environment Bay of Plenty, Auckland Conservation Board, Auckland Regional Council, Fish & Game, Jonathan Harness, NZCA, Northland Conservation Board, and the Wellington Conservation Board** support Option 1 of the proposals from the IPP.
- 24 **Environment Bay of Plenty** notes that Option 1 is the most effective in terms of minimising the risks to indigenous biodiversity and water quality and is consistent with the operative Bay of Plenty Regional Pest Management Strategy (RPMS). Catfish is listed as an eradication pest animal in the Bay of Plenty RPMS. This is a classification given to pests that display a high threat in terms of spread or seriousness of adverse effects.
- 25 Environment Bay of Plenty notes that the objectives of the RPMS include the immediate destruction of any new occurrences of eradication pest animals in the Bay of Plenty region. There are currently no known populations of catfish in the Bay of Plenty. However, waterways in adjacent regions and close to the regional boundary do contain significant catfish populations (e.g. Waikato).
- 26 Environment Bay of Plenty considers that provisions that require both commercial and recreational fishers to kill all catfish on capture are those most likely to minimise the risk of catfish escaping or being released into new waterways and to prevent catfish populations becoming established in the Bay of Plenty. Therefore, Environment Bay of Plenty submits that the option with greater regulatory controls (Option 1) is the one that is most consistent with the objectives of the Bay of Plenty RPMS.

- 27 **Fish & Game** notes that although it supports Option 1, a major concern is the policing of the fishery, who is going to do it and who is going to pay. While Fish & Game has around 300 honorary rangers operating at different times, there is not a mandate for Fish & Game to police these species unless MFish additionally warrants Fish & Game rangers.
- 28 **Auckland Conservation Board** suggests the use of an education and publicity programme to promote understanding and awareness of the proposed regulatory amendment and voluntary measures. Such a programme should be targeted at both commercial and amateur fishers to ensure the proposed code of practice is effective.
- 29 **NZCA** also considers that a public education and awareness programme should be developed around any regulatory changes and to be implemented by MFish staff. NZCA says that such a programme needs to be targeted at all fishers.
- 30 **Jonathan Harness** suggests that Option 1 will alleviate the selling of live catfish in market places and will prevent the further spread of catfish.

### **Option 2 Proposal**

31

- a) Amend the Fisheries (Commercial Fishing) Regulations 2001 to prohibit the *sale* of live catfish;
- b) Amend the Fisheries (Amateur Fishing) Regulations 1986 to prohibit the *possession and disposal* of live catfish;
- c) Agree to support a code of practice:
  - i) to clean fishing gear in salt baths;
  - ii) to ensure boats and boat trailers are inspected adequately before leaving boat ramps;
  - iii) for commercial fishers to kill all catfish caught before disposing of them.

### **Option 2**

- 32 The **East Coast Hawke's Bay Conservation Board, DOC** and the **Taranaki-Wanganui Conservation Board** strongly support Option 2 of the proposals from the IPP.
- 33 The **Taranaki-Wanganui Conservation Board** notes that Option 2, to prohibit the sale, retention and disposal of live catfish, appears to provide the strongest level of protection.
- 34 The Taranaki-Wanganui Conservation Board would also like to see the Amateur Fishing Regulations changed as soon as possible to minimise the risk of further introductions, especially when the law changes (with the lifting of the moratorium on 1 October 2004) to allow further commercial access.

### **Code of Practice**

- 35 **DOC** notes that Option 2 would make it voluntary for commercial eelers who catch large quantities of catfish as bycatch to either kill them, or return them back into the waterbody from which they were caught. In comparison, Option 1 would require commercial eelers to kill all catfish that they catch, which would be overly onerous for eelers who may catch

tonnes of catfish in one night. DOC notes that Option 1 is unlikely to get support from the commercial eeling sector, and would require considerable enforcement to ensure it is abided by.

- 36 DOC feels that Option 2 needs to be more specific. If commercial catfishers or commercial eelers want to sell catfish, then there is a need to identify when the catfish are required to be killed. DOC suggests they need to be killed at the time of capture to minimise the risk of spread of live catfish. The killing method may also need to be specified. This is because catfish are notoriously hard to kill and an effective method is needed to minimise the risk of live catfish being ‘accidentally’ sold.
- 37 The **Wellington Conservation Board** suggests MFish include in the code of practice, a recommendation that commercial fishers kill all catfish caught before disposing of them.
- 38 The **Auckland Conservation Board** supports the intention of the voluntary code of practice as a measure to prevent possible transfers of catfish between sites. However the Board wonders about the logistics and practicalities of such a code for both recreational and commercial fishers. The Board also questions how the code of practice would work and whether it would be an onerous and unenforceable task that could be easily dismissed.
- 39 The **Taranaki-Wanganui Conservation Board** strongly supports control measures that will discourage the further spread of catfish. The Board supports tighter regulatory controls as well as the adoption of a code of practice.
- 40 **Environment Bay of Plenty** supports a voluntary code of practice for cleaning fishing gear in salt baths and undertaking boat and trailer inspections. The proposal is consistent with Environment Bay of Plenty’s education campaigns targeting recreational fishers.
- 41 **NZCA** is concerned about the effectiveness of a voluntary regime through a code of practice and considers that this kind of management needs to be kept under review. If it is found to be not working the NZCA supports a more regulatory approach.
- 42 The **New Zealand Eel Processing Company Ltd** says that a risk management plan for the sale of live catfish to Auckland Retailers should be developed, with input from eel fishers, MFish, DOC and other interested parties. A suggested plan to include requirements that:
- The take and sale of live catfish only be allowed by permitted fishermen;
  - These permits be special permits issued only by MFish;
  - Fishers develop and demonstrate an approved method of transporting live catfish;
  - Retailers become part of this Risk Management Plan and register with MFish;
  - Retailers develop approved holding and handling methods while holding live catfish; and
  - All catfish are killed before leaving the retail shop (e.g. spiking)

## SCHEDULE 6 NEW SPECIES – (OTAGO COCKLES (COC 3) AND SURF CLAMS) – SUMMARY OF SUBMISSIONS

### Submissions received

- Aotearoa Fisheries Limited
- Dr. H.J. Cranfield of Seabed Processes Consultancy
- Seafood Industry Council (SeaFIC)

43 **Aotearoa Fisheries Limited** submits it supports the addition of both Otago cockles and surf clams onto the Sixth Schedule.

44 **Dr. H.J. Cranfield of Seabed Processes Consultancy**, on behalf of Surfco Limited, Kai Moana Limited and Aotearoa Fisheries Limited, submits that there is significant benefit for the development of the surf clam fishery from addition to the Sixth Schedule and that economic efficiency, plus the potential for reducing environmental impact, are compelling reasons for the less damaging technology to be taken up by the entire New Zealand surf clam fishery.

45 Dr Cranfield submits that he was involved in the exploratory phase of the surf clam fishery in the late 1980s and carried out research on the biology of surf clams as well as estimating biomass of surf clams on beaches in stratified random dredge surveys in the 1990s. Dr Cranfield submits he is thoroughly familiar with New Zealand surf clams, the surf zone environment, and the technology of hydraulic dredging.

46 Dr Cranfield submits that the dredges used in earlier studies in New Zealand were based on the “Rabbit” hydraulic dredge (named for the Rabbit fire pump that supplied it water) originally imported in 1985. This dredge pumped large volumes of water at high pressure (greater than 5 bar) injecting it downwards into the substrate through jets. The fan of water effectively saturated the sandy seafloor so surf clams either floated up or could be readily dislodged by the dredge cutter bar and captured in the dredge bag. This process damaged many surf clams resulting in moderate to severe wounding of the foot as well as shell damage, apparently due to the injection of insufficient water to fully liquefy all the substrate. Captured surf clams also frequently had damage to the mantle and contained quantities of sand inside the shell. Damage apparently occurred as a result of the high pressure of the water injected into the substrate having effectively water blasted the open, feeding surf clams.

47 Dr Cranfield submits that damage like this caused high mortality and often rendered some 40-60% of the catch unmarketable, so this harvesting method was uneconomic and wasteful. Investigations in aquaria showed that the gentle injection of low volumes of water into the sand substrate below surf clams changed the physical properties of the sand. With the injection of 2% water, surf clams could no longer anchor themselves in the substrate using their foot or by adducting their shell. With injection of 6-8% water the substrate became fully liquefied so the buoyant surf clams could be readily captured. Kai Moana Ltd developed these principles into a new harvesting system. This clam rake has been extensively tested in 4 years of commercial fishing for surf clams in QMA 7. No sign of incidental fishing mortality has been observed on the beach and less than 5% mortality has been found among captured surf clams stored in running seawater.

- 48 Dr Cranfield further submits that as the new technology is less damaging on surf clams caught, any returned to the sea will quickly rebury and survive, thus meeting the proposed requirements of the Sixth Schedule.
- 49 Dr Cranfield recommends that MFish accept the proposal that all surf clam stocks are added to the Sixth Schedule of the Fisheries Act 1996, provided surf clams returned to the sea are likely to survive and are returned to the seabed as soon as practical.
- 50 In response to the request in the IPP for submission on level of up-take of the improved dredging technology across all surf clam fisheries nationally, Dr Cranfield submits that addition to the Sixth Schedule will significantly assist with the economic success and development of surf clam fisheries. As addition to the Sixth Schedule is contingent on the use of this harvest technology, developing surf clam fisheries in QMA 2, QMA 3, and QMA 7 will definitely use this gear alone. Furthermore, the companies comprising Surfco Ltd (a surf clam joint venture vehicle) also have significant quota holdings in QMAs 1, 5, and 8, which they envisage will be developed in the same way, so these companies will advocate the exclusive use of the improved dredge technology in these areas.
- 51 Dr Cranfield submits that the dredge technology is very gentle on other macrofauna in the surf zone and its use is seen by the companies exploiting surf clams in QMA 2, QMA 3, and QMA 7 as playing an important part in reducing adverse environmental effects of harvesting. The primary obligation Surfco Limited adopts under the surf clam fishery plan is to avoid, remedy or mitigate any adverse effects of commercial surf clam fishing on the aquatic environment. The company will take into account the environmental principles of section 9 of the Fisheries Act 1996. Surfco Limited will develop a management deed with a civil contract to harvest surf clams in QMA 2, QMA 3 and QMA7 exclusively with the improved dredge technology.
- 52 The economic efficiency of using this harvesting technology, as well as the more environmentally sensitive methodology are compelling reasons for the improved dredge technology to be taken up by the entire New Zealand surf clam fishery.
- 53 Dr Cranfield submits that, although he is retained by Kai Moana Ltd and Surfco Limited as a consultant to give scientific advice on development of this fishery, he is an independent expert with no financial interest in these companies.
- 54 The **Seafood Industry Council (SeaFIC)** supports the addition of COC 3 and surf clam stocks to the Sixth Schedule. Sea FIC submits that the omission of COC 3 from the Sixth Schedule was an oversight rather than a considered management decision. Inconsistencies in basic management settings among the various cockle stocks should be removed in order to facilitate stakeholder management initiatives; and the development of improved harvesting technology (the hydraulic clam rake) is a positive industry initiative that has reduced post-harvest surf clam mortality to a level at which inclusion on the Sixth Schedule is appropriate.

# **CRA 8 ROCK LOBSTER FISHERY– PROPOSAL TO ALLOW THE SALE OF SOUTHLAND CONCESSION AREA ROCK LOBSTER IN NEW ZEALAND – SUMMARY OF SUBMISSIONS**

## **Submissions received**

- CRA8 Management Committee Incorporated (**CRA 8 Committee**)
- New Zealand Rock Lobster Industry Council (**NZRLIC**)
- Seafood Industry Council (**SeaFIC**)
- Te Ohu Kai Moana Trustee Limited (**TOKM**)

## **Proposal to allow the Sale of Southland Concession Area Rock Lobster in New Zealand**

- 55 All four submissions support Option 2 enabling the sale of Southland Concession Area lobsters within New Zealand subject to appropriate packaging and documentation requirements. No submissions were received from customary and recreational interests.
- 56 The **CRA 8 Committee** (proponent of the proposal) is the commercial stakeholder organisation representing the interests of the commercial rock lobster industry in the southern South Island, including South Westland, Fiordland, Stewart Island, Foveaux Strait and adjacent islands.
- 57 The CRA 8 Committee supports Option 2 stating the ‘export-only’ rule is outdated and does not reflect current industry practices or requirements. The CRA 8 Committee notes the reality of the live lobster trade is that at various times of the year CRA 8 exporters can take advantage of windows of opportunity in the market to achieve best prices on offer. These opportunities arise from competing countries still retaining closed season provisions in the management of their lobster fisheries. However, when the competing countries are supplying the markets the opposite applies. It is at this time that better prices for lobster may be achieved on domestic markets. Retaining the ‘export-only’ rule impedes the ability of the CRA 8 industry to maximise economic efficiency. The CRA 8 Committee believes the removal of the rule is not a sustainability issue.
- 58 The CRA 8 Committee contends the compliance risk in the IPP is overstated. It disagrees with a number of statements and assumptions in the IPP that suggest this risk is likely to increase with the removal of the ‘export-only’ rule. The CRA 8 Committee believes this view is based on no information or any supporting analysis, and as such, retaining the *status quo* is without foundation and untenable.
- 59 The CRA 8 Committee states there will always only be a limited number of outlets (wholesale and retail) that will deal in rock lobster, and this number is unlikely to increase if Southland Concession Area lobsters can be sold domestically. MFish’s view that removing the ‘export-only’ rule will increase the compliance risk effectively admits that government is unable to provide an effective deterrent against fish thieving. CRA 8 quota share owners currently pay around \$168 000 per annum in compliance levies and the CRA 8 Committee has an expectation this money would be used to mitigate any compliance risk, and protect the value of the property right held by CRA8 quota share owners.

- 60 **The CRA 8 Committee** states retaining the *status quo* is even more unacceptable given the importation of rock lobsters (of the same species) smaller than the New Zealand national minimum legal size (MLS) from Australia and sold within New Zealand. These lobsters are sold without the country of origin displayed or with any other form of visible identification.
- 61 **The CRA 8 Committee** supports additional packaging and documentation measures to address compliance risk with the removal of the ‘export-only’ rule. It suggests that where people are in possession of Southland Concession Area lobsters they must hold all required documentation that includes specific information on stock, quantity (by number), and weight, and that in situations where these and other lobsters are sold in the same transaction, details relating to Southland Concession Area lobsters should be recorded separately. In relation to packaging, outer packaging should include the words “Southland Concession Pack” or similar.
- 62 The CRA 8 Committee does not support the tagging of Southland Concession Area lobsters. It notes use of security tags attached to the horns of each lobster has been suggested as one method of ensuring compliance by requiring every lobster to be tagged and by restricting access to security tags to Licensed Fish Receivers only. The CRA 8 Committee does not accept the need to tag each lobster if requirements relating to packaging and recordkeeping are introduced. Any requirement to attach security tags is an extra cost (through the price of tags and employee’s time) that would be borne by the LFR.
- 63 The **NZRLIC** endorses the CRA 8 Committee’s submission. The NZRLIC supports Option 2 subject to further consultation and agreement between MFish and the rock lobster industry on additional packaging and recordkeeping requirements.
- 64 **SeaFIC** supports Option 2, as the current restriction serves no sustainability purpose and prevents the industry from maximising the economic value of the TACC.
- 65 SeaFIC believes the analysis in the IPP focuses on presumptions of increased compliance risk but there is a lack of any information or analysis to substantiate the presumption of increased risk. SeaFIC believes compliance considerations should not drive fisheries management objectives — compliance services should be designed to support and defend management initiatives. MFish’s compliance services should be designed to prevent the operations of fish thieves (and therefore support the objectives of both the CRA 8 quota owners and MFish) regardless of whether Southland Concession Area lobsters are sold domestically or exported.
- 66 **TOKM** supports Option 2 providing similar packaging and documentation requirements as those which currently apply to the Otago Concession Area lobsters are imposed. TOKM’s support is conditional on phasing-out the Southland Concession Area. It suggests increasing the MLS for female lobsters at the rate of 1 mm per annum, commencing from 1 April 2007 or 2008. It notes the Southland Concession Area was introduced when the national system of measuring lobsters was changed from carapace length to carapace width (about 5 years ago). CRA 8 operators contended the change would hit them unduly hard as their fishery was based on female lobsters, which were slow to reach the new MLS. The Southland Concession Area was inserted to ease the pain of the change but with a clear phase-out intention. TOKM considers there has now been sufficient time for the CRA 8 industry to adapt to the national measuring system and a condition of any access to the local market should be the phasing out of the concession area.

- 67 TOKM notes the IPP mainly focuses on enforcement issues if the ‘export-only’ rule is removed, and not at any management implications of such a change. This approach suggests there are no significant management issues arising from removing the rule. TOKM highlights that similar enforcement arguments were put forward by enforcement personnel when the Otago Concession Area was first implemented. Time has proven these arguments invalid, as supporting packaging and documentation provisions introduced for the CRA 7 fishery have largely distinguished those legal lobsters at market from illegally-taken ones. The Otago experience strongly suggests similar conditions will work also to distinguish legally taken Southland Concession Area lobsters from illegal take.

## **Other matters**

### ***Telson clipping***

- 68 The **CRA 8 Committee** supports the introduction of telson clipping in all non-commercial fisheries. It notes the recent New Zealand Recreational Fishing Council annual general meeting passed a remit that telson clipping of lobsters be mandatory for all non-commercial fishers. This initiative is currently before the National Rock Lobster Management Group for consideration. It notes that if marking lobsters is deemed necessary then responsibility should fall on the sector causing the compliance risk through the taking and selling of illegal lobsters.

# RECREATIONAL ISSUES RELATED TO TAKING BAG LIMITS – SUMMARY OF SUBMISSIONS

## Submissions received

- Akaroa Harbour Recreational Fishing Club
- B. A. Jamieson
- Bill Hartley
- Brian Dean
- G. A. O'Rourke
- Hilton Leith
- John Robertson
- Kaikoura Boating Club
- Keith Ingram
- Marlborough Combined Divers Association
- Marlborough Recreational Fishers Association
- Murray Little
- Ngati Whatua Fisheries Limited
- Option4 & the NZ Big Game Fishing Council
- Pelorus Boat Club
- Peter Saul
- Piako Underwater Club
- Raglan Sport Fishing Club
- South Recreational Fishers Advisory Committee
- South Taranaki Underwater Club
- Steve Hornby
- Tasman and Sounds Fishers Association (TASFISH)
- Te Runanga O Ngati Whatua
- The North Island-South East Regional Recreational Forum
- The North Island-South West Regional Recreational Forum
- The Top of the South Regional Recreational Forum
- The Seafood Industry Council (SeaFIC)
- Wanderers Surfcasting and Angling Club

## Background and Rationale for Management Options

- 69 **Peter Saul** comments that, in his view, “fishing” is quite different from “taking”. Fishing is an activity to catch fish, which may or may not result in fish being caught. It is his view that if the definition in the Fisheries Act 1996 (the Act) was altered to reflect common practice and common sense, all the current confusion about taking bag limits could be avoided. In particular he notes that the Act should specify that “taking” means that possession is, or is intended to be, permanent. A fish could then be brought onto the boat and immediately released and the daily bag limit would apply only to fish that were “taken” with the intention to keep them.
- 70 Peter Saul contends that there are a number of problems with the current interpretation on taking bag limits:
- a) It is utterly unenforceable without placing an observer on every single recreational vessel;
  - b) It does not recognise current practice in the recreational fishery; and
  - c) How does the current rigid interpretation of “take” apply to fish that are not brought on board (e.g. tagged in the water)? In his view, these fish are not in the possession of, or under control of, the angler.
- 71 **Option4 & the NZ Big Game Fishing Council** note that the Act defines taking as “fishing” and fishing is defined as “*any activity that may reasonably be expected to result in catching*” a fish; or “*any operation in support of or in preparation for any activities*” to catch a fish. The submitters consider that an error has been made in drafting the Act if amateur fishers are ruled to be “taking” as soon as they put a boat in the water. Further, they request that the Ministry of Fisheries (MFish) provide an improved definition of “taking” specifically for amateur fishers.
- 72 Option4 & the NZ Big Game Fishing Council specifically refer to a comment by MFish in the IPP that “*it is generally accepted that a fish is considered taken when it has been captured and a fisher has exercised possession and control over it*” (page 23). They believe that MFish have developed this conclusion as a means of obtaining prosecutions rather than through a policy development process that explains the necessity for this particular interpretation and the management goal it will achieve.
- 73 Option4 & the NZ Big Game Fishing Council therefore advise that any confusion amongst recreational fishers is largely a result of the new interpretations by MFish, which have been applied without consultation. They submit that MFish has a duty to consult on their re-interpretation and it should be brought into line with commonly accepted opinion with a focus on management objectives, which they believe is the fundamental purpose and intent of the regulations.
- 74 Option4 & the NZ Big Game Fishing Council also strongly recommend that MFish explain in the final advice paper that it has never been the intent of the amateur fishing regulations for daily bag limits to include fish that are released because they were under sized, tagged for research purposes or even if the fisher just chose to let it go. It is their view that it is MFish, not the fishing public, that is confused over this issue.

## **Undersize Fish and the Recreational Daily Bag Limit**

75 In the IPP, MFish proposed to clarify that undersize fish do not count towards the recreational daily bag limit.

### *Submissions received in support of the proposal*

76 **B. A. Jamieson, Hilton Leith, Keith Ingram, John Robertson, Kaikoura Boating Club, Bill Hartley, Peter Saul, Pelorus Boat Club, Te Runanga O Ngati Whatua, Ngati Whatua Fisheries Limited, SeaFIC, Akaroa Harbour Recreational Fishing Club, South Taranaki Underwater Club, Option4 & The NZ Big Game Fishing Council, the North Island-South West Regional Recreational Forum, the North Island-South East Regional Recreational Forum, Raglan Sport Fishing Club and Wanderers Surfcasting and Angling Club** are in support of the proposal.

77 Peter Saul notes that he is unaware of any confusion among fishers as to whether undersized fish that are released should count towards the daily bag limit and advises that he has never heard such an idea expressed.

78 SeaFIC supports the proposal, but does not in general support the application of minimum legal sizes (MLSs) for finfish for recreational fishing. It is their view that MLSs should be accompanied by other input controls to reduce the number of small fish caught. Such controls could include minimum hook sizes or minimum mesh sizes. It is SeaFIC's view that these measures are likely to be more effective for achieving the goal of a greater number of fish surviving to maturity.

### *Submissions received in opposition to the proposal*

79 No submissions in opposition to the proposal were received.

## **Releasing Fish Larger than the Minimum Legal Size**

80 In the IPP, MFish proposed to:

- a) Clarify that a recreational fisher's daily bag limit applies only to the number of lawfully taken fish that are actually retained; or
- b) Provide for special permits to be considered for recreational fishers to release fish of legal size over and above the daily bag entitlement for a specific stock or species; or
- c) Maintain the status quo and confirm that any fish taken of legal size must count towards the daily bag limit.

81 **South Taranaki Underwater Club** request that rather than allow all fish to be retained, there should be a regulation that states fish are only to be released if they have a good chance of surviving, and also measure between the MLS and the self-imposed size. Club members submit that this type of regulation will be more effective and gain a better understanding among other fishermen than the options proposed in the IPP.

**Option One: Specify that the daily limit relates to retained fish only**

*Submissions received in support of the option*

82 **Hilton Leith, Keith Ingram, John Robertson, Brian Dean, Piako Underwater Club, Kaikoura Boating Club, Bill Hartley, the South Recreational Fishers Advisory Committee, Peter Saul, Pelorus Boat Club, Marlborough Combined Divers Association, Marlborough Recreational Fishers Association, Te Runanga O Ngati Whatua, Ngati Whatua Fisheries Limited, Akaroa Harbour Recreational Fishing Club, Option4 & the NZ Big Game Fishing Council, the North Island-South East Regional Recreational Forum, the Top of the South Regional Recreational Forum, Raglan Sport Fishing Club and Wanderers Surfcasting and Angling Club** are in support of this option.

Current practice

- 83 Option4 & the NZ Big Game Fishing Council submit that the vast majority of the public believe that they can release fish in good condition above the MLS to help conserve the resource.
- 84 Steve Hornby comments that he has been recreationally fishing for 40 years and has always considered that the bag limit relates to those fish that are actually retained. He also notes that many other recreational fishers he has spoken to have been unaware of the interpretation of the Regulations. He submits that common sense dictates that lawful size fish caught then released have not been retained and therefore should not be counted as part of a fishers daily bag limit.
- 85 Peter Saul submits that releasing fish larger than the MLS is a personal decision that many experienced fishers currently make. It is generally practised by skilled fishers who are more likely to be aware of when fish are suitable for release. He notes that, in his experience, skilled fishers do not release fish that are above the MLS if they have swallowed a hook, are bleeding or suffering barotraumas. If caught in shallow water and are lip hooked, they are released.
- 86 TASFISH submits that the catch and release of fish is an integral part of fishing today and that the regulations need to reflect this. They consider it absurd to turn someone who releases an otherwise unharmed fish into a criminal, and they request that responsible fishing practices be recognised.
- 87 The Marlborough Combined Divers Association agrees that clarification is required as to when a fish is taken because the Association believes that fish that are quickly returned to the water unharmed should not be regarded as daily catch. The Association submits that there are some members who return particularly large fish back unharmed as these fish are regarded as the best breeding stock for the fishery.
- 88 The Raglan Sport Fishing Club advise that members were extremely surprised to learn that they are in breach of the law for imposing arbitrary size limits above MLSs, and not counting these fish against the daily bag limit. The Club submits that they provide information on best practice when releasing fish for this purpose.

## High grading

- 89 Brian Dean and the Marlborough Combined Divers Association recognise that there may be the possibility of high grading as a result of this option, but that the risk can be best managed by education, enforcement and stern penalties.
- 90 In contrast, members of the Pelorus Boat Club and Peter Saul believe that high grading is unlikely to increase as a result of this option.
- 91 Peter Saul submits that the whole point of releasing fish above the MLS is to take only what is wanted or needed. He submits that people who actually high grade will break any rule that is imposed in any case, and should be treated with appropriate penalties. The vast majority of people who release fish above the MLS would never contemplate “high grading”.
- 92 Keith Ingram submits that he and the wider recreational community do not support the suggestion that recreational fishers who voluntarily release fish above the MLS are actually high grading. He recognises that many fishers who enjoy fishing as a recreational activity frequently do not keep all the fish they land and in many cases these fishers might return with only enough for a feed and be well under the daily bag limit after releasing many healthy fish above the MLS caught that day.
- 93 Keith Ingram also advises that fishers hold strong views on the high-grading of dead fish and believe that if any fish above the MLS that cannot be released in a healthy uninjured state, then this fish must be retained and recorded against the daily bag limit.
- 94 Option4 & the NZ Big Game Fishing Council are concerned that MFish state that recreational fishers who release fish above the MLS are guilty of high grading. The submitters consider that releasing live fish to help conserve the resource is totally different to the practice that was once common in the commercial longline fleet of dumping dead fish (standard grade) so that they would have more quota available for high value export grades of fish (iki jime fish). Most recreational fishers do not come close to catching their bag limit so there is no incentive to swap one fish for another. The motivation for releasing fish is to contribute to a better fishery in the future, not greed.

## Fish handling practices

- 95 The Marlborough Combined Divers Association, some members of the North Island-South West Regional Recreational Forum and Ngati Whatua Fisheries Limited suggest that a code of conduct should be drawn up for proper fish-handling procedures when returning fish to the water to alleviate fish mortality.

### *Submissions received in opposition to the option*

- 96 **SeaFIC** opposes this option and does not consider it is correct to call the option a clarification of the law. The law at present does not equate a recreational fisher’s daily limit to the number of lawfully taken fish that are actually retained. In SeaFIC’s view amending the law in this way will not ensure sustainability because such an amendment might result in large numbers of fish being caught and dumped by recreational fishers.
- 97 SeaFIC also note that the information currently held or gathered about recreational catch is already sparse and limits the ability of MFish to manage shared fisheries. They contend that

this option could, in fact, make the situation worse because there would be no obligation for recreational fishers to report over-sized fish that they had released. Combined with the lack of information on survivability of most fish stocks, SeaFIC believe this could further undermine sustainability.

- 98 Some members of the **North Island-South West Regional Recreational Forum** raised concerns that the proposal will increase high grading of fish as some fishers attempt to maximise the size of fish retained.

### ***Option Two: Issue special permits***

#### *Submissions received in support of the option*

- 99 **B. A. Jamieson** and **SeaFIC** are in support of this option.
- 100 SeaFIC consider that this option will provide a degree of flexibility for recreational fishers in comparison to the status quo. SeaFIC also consider that MFish should retain a degree of control over the release of fish larger than MLS because unless that practice is sufficiently regulated it could lead to the wastage of large numbers of mature fish. They advise that there should be a mandatory reporting requirement attached to the special permit because this would make it easier for MFish to ensure compliance and enable it to gather information on over-sized fish that are released. Finally, SeaFIC consider that special permits should be tied to specific groups or organisations with some status such as fishing clubs or competition organisers.

#### *Submissions received in opposition to the option*

- 101 **Peter Saul** considers that special permits are a bureaucratic, expensive and clumsy option that is not appropriate for this purpose. He also considers that special permits will have no effect on people who wanted to indulge in “deliberate offending”.

### ***Option Three: Status quo***

#### *Submissions received in support of the option*

- 102 **G. A. O’Rourke** and **Murray Little** are in support of this option.
- 103 Murray Little notes that he is concerned about the quantity of legal sized snapper that is taken then released by recreational fishers. In his submission, he provided information from a popular fishing website providing evidence that many fishers are unaware they must count legal size fish against their bag limit even if they are returned to the sea. He advises that an average of 25% of line-caught, released snapper do not survive.
- 104 Murray Little also advises that he has researched the high-grading practices of non-commercial fishers for the past two years utilising NIWA research, questions at boat ramps, a survey of charter operators, a questionnaire recently posted on a popular website forum and feedback from articles published in a fishing magazine. He has concluded that non-commercial fishers in this country think it is good to high grade, and that less than 5% of the people questioned keep all legal sized fish.

105 Finally, Murray Little submits that the existing take rule needs to be enforced and it needs to be explained to fishers the need to account for released fish mortality. He advises that an extensive education campaign to encourage better line fishing practices is required.

*Submissions received in opposition to the option*

106 **Peter Saul** believes that status quo is unenforceable. He refers to the statement in the IPP that “maintaining the status quo has the benefit of being an unambiguous management framework.” In his view, the framework may be unambiguous but it is not actually working.

**Tagging and Releasing Fish for Research Purposes**

107 In the IPP, MFish proposed to:

- a) Provide a defence for tagging and releasing certain stocks or species in the Regulations; or
- b) Provide for special permits to be considered for recreational fishers to release fish of legal size over and above the daily bag entitlement for a specific stock or species; or
- c) Retain the status quo and confirm that the maximum number of fish that can be tagged and released on any day is the daily bag limit that applies to that particular fish.

108 **Akaroa Harbour Recreational Fishing Club** and the **North Island-South East Regional Recreational Forum** consider that fish that are tagged and released should not be part of the bag limit at all.

***Option One: Create a tag and release defence***

*Submissions received in support of the option*

109 **B. A. Jamieson, Hilton Leith, Peter Saul, Option4 & the NZ Big Game Fishing Council, Raglan Sport Fishing Club, Wanderers Surfcasting and Angling Club and Keith Ingram** are in support of this option.

110 Keith Ingram submits that to suggest that a fish tagged and released for science should be recorded as part of the daily catch entitlement is an erosion of rights and has the ability to destroy voluntary research tagging programs at a time when everyone is seeking more information on recreational catches.

111 The Raglan Sport Fishing Club advises that members have engaged in a personal crusade to tag yellowtail kingfish off the west coast, where little or no data exists for this species. Members submit that they were horrified to become the subject of an inquiry for taking more than their daily bag limit of this species, particularly as yellowtail kingfish is part of MFish’s own tagging programme.

112 The Club submits that any fish that is within MFish’s tagging programme should be able to be tagged and released in good health to the water for research purposes. They believe that the fact recreational fishers take part in these programmes shows recreational fishers to be taking responsibility for these fisheries.

113 Option4 & the NZ Big Game Fishing Council note that MFish has been facilitating a cooperative programme for over 30 years that has promoted the tag and release of certain species of fish for research purposes. The submitters advise that not once have MFish suggested that that tagged fish count toward the daily bag limit until now, even with species such as sharks in the South Island where the bag limit is one per person. They submit that it has not been the intent of the legislation or regulations to prohibit these activities.

*Submissions received in opposition to the option*

114 No submissions in opposition to this option were received.

**Option Two: Issue special permits**

*Submissions received in support of the option*

115 **SeaFIC** supports this option. In their view this encourages better management of the practice of tagging and releasing fish for research purposes.

*Submissions received in opposition to the option*

116 No submissions in opposition to this option were received.

**Option Three: Status quo**

*Submissions received in support of the option*

117 No submissions in support of this option were received.

*Submissions received in opposition to the option*

118 **SeaFIC** do not support retention of the status quo. In their view it is important that recreational fishers be encouraged to contribute to the knowledge and sustainable management of fish stocks in fisheries in which they are involved. SeaFIC considers that amending the law to provide for special permits to tag and release fish over and above the bag limit is one positive way to encourage recreational fishers to better manage those fisheries.

# REMOVAL OF SOUTH ISLAND FRESHWATER EEL STOCKS FROM THE SECOND SCHEDULE – SUMMARY OF SUBMISSIONS

## Submissions Received

- Canterbury Customary Fisheries Regional Forum
- Te Ohu Kai Moana Trustee Limited (Te Ohu)
- The New Zealand Seafood Industry Council Limited (SeaFIC)

## Response to MFish Proposals

### *General*

- 119 **Te Ohu Kai Moana Trustee Limited (Te Ohu)** submits support for the removal of all South Island eel stocks from the Second Schedule of the Fisheries Act 1996 (the Act). Te Ohu recognises the Second Schedule of the Act lists species which have a short lifespan and whose abundance can vary widely from year to year. Te Ohu notes that eels have a long lifespan and spawn once at the end of their lives. Therefore freshwater eel stocks do not fit the conditions applicable to the Second Schedule.
- 120 **The New Zealand Seafood Industry Council Limited (SeaFIC)** submits the proposal to remove South Island freshwater eel stocks from the Second Schedule raises no generic issues of concern.

### *Lake Ellesmere*

- 121 **Te Ohu** submits there is no longer a need for the Te Waihora – Lake Ellesmere (ANG 13) eel stock listing on the Second Schedule. Te Ohu notes the problems associated with managing take out-of-season and take in-season is common throughout fisheries and is not unique to the ANG 13 fishery. All fishers operating on spawning aggregations of their species face the same problem, although the timing of the spawning period can make catch management for the fishing year difficult.
- 122 Te Ohu considers the change to the ANG 13 fishing year has removed the problem of managing take out-of-season for ANG 13 fishers, as the bulk catching period now occurs at the start of their fishing year. Catches taken during the migratory period are known and therefore control out-of-season fishing.
- 123 The **Canterbury Customary Fisheries Regional Forum** has verbally requested to MFish that there should be no change to the current management settings for the Lake Ellesmere eel fishery. The Forum considers that changes to management measures for Lake Ellesmere eels should take place as a review of eel plans for South Island stocks. This would allow for further consideration and buy in by all stakeholders to any changes of the Lake Ellesmere eel fishery.
- 124 The Canterbury Customary Fisheries Regional Forum notes that NIWA and Ngai Tahu are carrying out research on age and size of male shortfin eels as part of a wider programme to determine customary indicators of well-being for Lake Ellesmere.

# MAXIMUM SIZE LIMIT FOR FRESHWATER EELS IN THE NORTH ISLAND AND CHATHAM ISLANDS – SUMMARY OF SUBMISSIONS

## Submissions Received

- Aotearoa Fisheries Limited (AFL)
- Aotea Moana Kaitiaki
- Department of Conservation (DoC)
- Eel Enhancement Company Limited (EECo)
- Motakotako Marae
- NZ Eel Processing Company Limited (NZEel)
- New Zealand Seafood Industry Council Limited (SeaFIC)
- Te Ohu Kai Moana Trustee Limited (Te Ohu)
- Wellington Conservation Board (WCB)

## Maximum Size Limit

- 125 **Aotearoa Fisheries Ltd (AFL), Aotea Moana Kaitiaki, Eel Enhancement Company Limited (EECo), Motakotako Marae, New Zealand Eel Processing Company Limited (NZEel), New Zealand Seafood Industry Council Limited (SeaFIC), and Te Ohu Kaimoana Trustee Limited (Te Ohu)** support the proposal to implement a maximum size limit of 4 kilograms (kg) for freshwater eels nationwide.
- 126 **Department of Conservation (DoC) and the Wellington Conservation Board (WCB)** seek a further reduction of the 4 kg maximum size limit.
- 127 DoC recommends lowering the present maximum size limit to 2 kg or less and notes that the maximum size limit should apply to eel populations in all New Zealand fisheries waters. DoC submits that the complex ecology of eels, the depleted state and the high risk of collapse of the eel fishery warrants a far more proactive and precautionary management approach.
- 128 DoC considers that the maximum size limit of 4 kg in the South Island is insufficient to protect the longfin eel fishery as the likelihood of finding eels that reach 4 kg is likely to be less than 10% due to slow growth and pressure from commercial fishing. DoC believes that adding further pressure to those fish that can be taken between 220 grams (g) and 4 kg provides less confidence that an eel will reach 4 kg. In DoC's view, if there is to be any significant bearing on the sustainability of the longfin fishery, then a lower limit of 2 kg should be implemented, and harvest tonnage decreased.
- 129 DoC believes that implementing a lower and upper size limit adds further pressure to those eels weighing between 220 g and 4 kg providing less confidence that an eel will reach 4 kg. DoC advises that this is likely to produce an uneven or unnatural population structure resulting in very large eels or very small eels which could lead to increased rates of

cannibalism. DoC notes that many commercial fishers will agree cannibalism amongst longfin eels is not uncommon and this type of population structure could lead to increased cannibalism. DoC notes that this view is often used by commercial fishers to justify the 'benefits' of harvesting the larger eels from the eel fishery. For these reasons DoC considers that a greater number of eel populations should be entirely protected from the impacts of commercial fishing throughout New Zealand.

- 130 DoC is concerned that greater fishing pressure will be exerted on males as eels larger than 4 kg are often females. DoC considers that a lower maximum size limit could help to protect male eels.
- 131 DoC advises that there are gaps in information about recruitment dynamics. There are many variables associated with mortality rates of larvae returning to New Zealand, the levels of susceptibility of eels to predation during migration, and the number of males that are required to escape to ensure fertilisation is unknown. However, it is well known that there have been dramatic declines in the longfin fishery caused by commercial fishing since the 1970s. For these reasons DoC emphasises the requirement for MFish to manage eels using the precautionary principle.
- 132 The WCB agrees with imposing a maximum size limit of 4 kg for one year to achieve national consistency. However, this agreement is conditional upon MFish consulting within the first year to lower the maximum size limit to speed up the restoration of the eel fishery.
- 133 The WCB proposes that the maximum size limit should be set at 3 kg instead of the proposed size limit of 4 kg in order to increase the proportion of the longfin eel population that is left to reach reproductive maturity. The WCB notes that managing fishing of eels may not be adequate to rebuild the eel population as eels are susceptible to other threats including drainage, pollution, poaching and hydro dams. Therefore, it is important for MFish to work collaboratively with councils to find effective ways to address these concerns.
- 134 The WCB has also deduced that, for eels landed to one licensed fish receiver, only 325 kg of longfin eels over 4 kg are taken per year, which amounts to fewer than 80 longfin eels. This is based on the estimation of a North Island licensed fish receiver estimating that of the 8% of recent annual catch of longfin eels landed to his factory only 2-3% would be over 4 kg.
- 135 The WCB advises that given there is little information about structure and abundance of longfin eel populations, a more precautionary approach should be adopted. The WCB considers that a 3 kg maximum size limit should be adopted to speed up the rate of recovery of eel populations and maintained at this level until there is clear evidence that eel stocks are recovering.

### **Application of size limit to non-commercial fishers**

- 136 **Te Ohu** observes that customary interests tend to favour harvesting of larger eels than commercial fishers. Te Ohu notes when the South Island eel fisheries were introduced into the Quota Management System (QMS) Maori insisted on a maximum size limit being implemented in the South Island which is consistent with traditional practice.

- 137 **DoC** and **WCB** understand that the proposal protects eels above 4 kg from commercial fishing and is concerned that eels are still vulnerable to non-commercial fishers. DoC notes that it is important to not underestimate the potential impacts of non-commercial fishers on eels. DoC advises that a significant amount of eels can be removed during fishing competitions like the ‘Big Five’ and ‘Chatham Islands Annual Pig Hunt’.
- 138 The **WCB** recognises that the maximum size limit will only apply to commercial fishers while still enabling non-commercial fishers access to unlimited numbers of eels above 4 kg. The **WCB** is not convinced that non-commercial fishers take fewer eels and are unlikely to affect the overall sustainability of improving spawning escapement. The **WCB** suggests that some non-commercial fishers may be focussing their effort on larger eels which may lead to a disproportionate impact on spawning escapement.
- 139 The **WCB** advises that customary fishers in the South Island were very supportive of implementing a maximum size limit and anticipate that North Island customary interests may show similar support.
- 140 Accordingly, **WCB** proposes that **MFish** commence a review within the next 12 months to assess the policy that continues to allow recreational and customary eelers to take unlimited numbers of longfin females weighing more than 4 kg.

### **Other Management Measures**

- 141 **DoC** submits the reduction of a maximum size limit to 2 kg or less should also be coupled with a reduction in harvest levels and a greater number of catchments should be set aside from fishing in both the North Island and South Islands for complete protection and escapement of longfin eels.
- 142 A maximum size limit is not enough on its own to address concerns about recruitment unless harvest rates are also significantly less in the same water bodies. DoC believes that the best approach would be to significantly increase the number of unfished catchments. DoC acknowledges the research conducted by Graynoth (2005) concluding that a total of 20-25% of freshwater areas are totally protected for eels. DoC believes these freshwater areas should not be included when assessing the proportion of waterways contributing to spawning escapement of eels. DoC notes that although at present the smaller waterways tend not to be fished due to their size or inaccessibility, these same waterways may become subject to greater attention as the eel fishery decreases. DoC further notes the probability of capture in small systems is high in comparison to large waterways.

# RED GURNARD (GUR), TRUMPETER (TRU) AND BLUE COD (BCO) RECREATIONAL SIZE LIMITS – SUMMARY OF SUBMISSIONS

## Submissions Received

### *Red Gurnard*

- Akaroa Harbour Recreational Fishing Club
- Denis Petty (ProDive NZ)
- Garry Workman
- Hartley Family
- Hilton Leith
- John Forrest / Wanders Surfcasting and Anglers Club
- John Robertson
- K.B. Turner
- Kaikoura Boating Club (Inc)
- Keith Ingram
- Mark Iggo
- Marlborough Combined Divers Association (Inc)
- Marlborough Recreational Fishers' Association
- New Zealand Seafood Industry Council Ltd
- Ngati Whatua Fisheries Limited
- North Island South-East Regional Recreational Forum
- North Island South-West Regional Recreational Forum
- Pelorus Boat Club
- Piako Underwater Club
- Raglan Sports Fishing Club
- South Taranaki Underwater Club (Inc)
- Tasman and Sounds Fishers Association (Inc)

- Te Runanga o Ngati Whatua
- The New Zealand Big Game Fishing Council (Inc) and option4
- Tim Hornby

### ***Trumpeter***

- Akaroa Harbour Recreational Fishing Club
- Brian Dean
- G.A. O'Rourke
- Hartley Family
- Hilton Leith
- John Robertson
- Kaikoura Boating Club (Inc)
- Keith Ingram
- Mark Iggo
- Marlborough Combined Divers Association (Inc)
- Marlborough Recreational Fishers' Association
- New Zealand Seafood Industry Council Ltd
- Ngati Whatua Fisheries Limited
- North Island South-East Regional Recreational Forum
- North Island South-West Regional Recreational Forum
- Raglan Sports Fishing Club
- Tasman and Sounds Fishers Association (Inc)
- Te Runanga o Ngati Whatua
- The New Zealand Big Game Fishing Council (Inc) and option4
- The South Marine Recreational Fishers Advisory Committee

### ***North Island Blue Cod***

- Hilton Leith

- John Forrest / Wanders Surfcasting and Anglers Club
- John Robertson
- K.B. Turner
- Keith Ingram
- Marlborough Combined Divers Association (Inc)
- Marlborough Recreational Fishers' Association
- New Zealand Seafood Industry Council Ltd
- Ngati Whatua Fisheries Limited
- Ngawi Sports Fishing Club)
- North Island South-East Regional Recreational Forum
- North Island South-West Regional Recreational Forum
- Pelorus Boat Club
- Raglan Sports Fishing Club
- South Taranaki Underwater Club (Inc)
- Stuart Marsh
- Tasman and Sounds Fishers Association (Inc)
- Te Runanga o Ngati Whatua
- The New Zealand Big Game Fishing Council (Inc) and option4
- The Top of the South/West Coast Regional Recreational Forum
- Tim Hornby

## **Summary of Submissions**

### ***Red Gurnard***

#### *Submissions in support of a MLS (21)*

- 143 **K.B. Turner** submits that to sustain a red gurnard with a reasonable sized fillet, a MLS (MLS) of 25 cm would be appropriate.
- 144 **John Robertson** is in agreement with specifying a recreational MLS of 25 cm for red gurnard.

- 145 The **Kaikoura Boating Club (Inc)** submits the Club represents approximately 400 members and their families. The Club supports a MLS of 25 cm for red gurnard.
- 146 **Raglan Sports Fishing Club** supports specifying a recreation MLS of 25 cm for red gurnard in the Fisheries (Amateur Fishing) Regulations 1986.
- 147 The **Hartley Family** submits they support a MLS of 25 cm for red gurnard.
- 148 **The North Island South-East Regional Recreational Forum** generally supported the proposal to introduce a 25 cm MLS for red gurnard.
- 149 However, the Forum commented on the value of only imposing a MLS for the recreational sector as mainly commercial fishers catch and retain small fish, whereas recreational fishers generally return small back to the sea. In addition, many local clubs impose their own voluntary 500 g minimum weight. It was noted in the Forum that a MLS should apply to both commercial and recreational fishers
- 150 **Denis Petty of Pro-Dive Watersports Limited** submits that after 25 years there are finally a few gurnard returning to the inner Gulf area. The commercial over-fishing of previous times took its toll, virtually wiping them out. The size limit would be welcome by all.
- 151 **Mark Iggo** submits he is in agreement with a MLS of 25 cm for red gurnard.
- 152 The **Pelorus Boat Club** supports the introduction of a MLS of 25 cm for red gurnard.
- 153 **Tasman & Sounds Fishers Association (Inc)** (TASFISH) submits that the society is a recognized group covering recreational fishing issues in Area 7. The membership consists of individual and affiliate members including Dive and Fishing Clubs along with various Residents & Ratepayer Associations. Overall their membership exceeds 1500 and covers much of the Top of The South.
- 154 TASFISH supports the establishment of a MLS for red gurnard and cannot understand how policy promoting the taking of any species below its breeding size can be allowed. Most gurnard are lip hooked and small ones are generally able to be released in good condition. Recreational fishers in Area 7 are committed to improving the quality of the fishing experience and want to see a move to harvesting fish at best yield by species rather than trying to catch the last available fish.
- 155 The **Akaroa Harbour Recreational Fishing Club** support the introduction of a minimum size limit of 25 cm for red gurnard.
- 156 **Hilton Leith** supports a recreational MLS of 25 cm for red gurnard.
- 157 **The Marlborough Combined Divers Assn. Inc** agrees that there needs to be a minimum size introduced for red gurnard.
- 158 **Keith Ingram** submits that there has been some significant debate on the subject of a MLS for red gurnard. Mr Ingram supports the proposal that a recreational MLS of 25 cm be introduced for red gurnard nationally.
- 159 The **South Taranaki Underwater Club Inc.** submits that the club supports the introduction of a MLS of 25 cm for red gurnard. The Club notes the reason for their support to introduce

a size limit is that a large part of the fish is lost when separating the head from the edible trunk, any size less than 25cm would be counter productive. The Club also notes fishers find the gurnard a pretty tough customer and believe that if released in good order, it will survive.

- 160 **Ngati Whatua Fisheries Ltd** supports the introduction of recreational size limits for red gurnard, provided the regulations are in line with the Fisheries Act 1996 and would not create the effect of devaluing the present or future assets of Ngati Whatua Fisheries Ltd.
- 161 **Te Runanga o Ngati Whatua** supports the introduction of recreational size limits for red gurnard provided the regulations are in line with the Fisheries Act 1996 and do not create a dual layer which would be difficult and costly for compliance.
- 162 **Tim Hornby** supports the introduction of a recreational MLS for red gurnard at 25 cm. Mr Hornby submits that he has witnessed many recreational fishers taking sub 25 cm red gurnard as a replacement for the target species of blue cod and snapper when they cannot gain access to these two species due to weather, sea conditions and in some cases stock depletion. Mr Hornby also submits that when filleted, a sub 25 cm red gurnard does not return a great deal of edible flesh. Leaving them to reach sexual maturity at 25 cm and above is common sense as it allows them to breed and the fillets are of a larger size.
- 163 **Garry Workman** submits that he has been a regular recreational fisher for over 50 years and has fished extensively in Northland, Wellington and the Marlborough Sounds. Mr Workman submits that in his experience the proposed 25 cm MLS is far too small and recommends a MLS of 30 cm.
- 164 **The Piako Underwater Club** submits that the club does not agree to the size limit of 25cm as this would be a small fish. The Club would recommend a size limit of at least the same as Snapper (27cm) or a further increase to 30cm.
- 165 **The North Island South-West Regional Recreational Forum** had mixed views on this proposal. Several members agreed the proposed 25 cm MLS should apply to both recreational and commercial fisheries, but that no changes should be made at this time until recreational fishing rights are resolved.

#### *Submissions that do not support a MLS (4)*

- 166 **John Forrest** and the **Wanderers Surfcasting and Angling Club** submit that the *status quo* should be maintained for red gurnard.
- 167 John Forrest and the Wanders Surfcasting and Angling Club point out that the IPP states reports have been received on fish as small as 10 cm being landed and that this is the basis for the suggested size limit on red gurnard. No investigation appears to have undertaken to determine the real reason for these 10 cm fish being landed. Without knowing the reason for these fish being landed, it cannot be determined what action will correct the problem. The IPP also states that ramp surveys have determined that 98% of recreational caught red gurnard in the surveys are over the 25cm fork length. This would suggest there is little or no problem with recreational landings.
- 168 John Forrest and the Wanders Surfcasting and Angling Club submit the IPP states that MLSs are used to enhance fish populations by allowing them live long enough to spawn. It

also states that red gurnard reach sexual maturity at a fork length of about 23cm. John Forrest and the Wanders Surfcasting and Angling Club submit published information by Saul [sic] states that red gurnard reach sexual maturity at specific fork lengths greater than 25 cm and with one sex at a substantially greater fork length than the other sex. Should the information by Saul be correct, then a fork length of 25 cm would not achieve the suggested benefits.

- 169 John Forrest and the Wanders Surfcasting and Angling Club submit a far more beneficial way of enhancing the red gurnard stocks would be to reduce or eliminate the huge wastage of red gurnard from the commercial trawl fishery. Increasingly, recreational boat fishers are advising of sightings of large quantities of red gurnard floating where trawlers have been. Recreational fishers have used terms such as "enough gurnard to fill the boat" or "a trail of gurnard 300 metres long" to describe the quantities they have seen.
- 170 John Forrest and the Wanders Surfcasting and Angling Club submit a size limit on recreational caught red gurnard should not be introduced without a substantial reduction in the number of similarly sized commercially caught fish. It is not unheard to see tiny gurnard fillets of around 10 cm long in supermarkets. In saying that they would not advocate a minimum size limit as this will simply see a further wastage of this resource.
- 171 **The New Zealand Big Game Fishing Council Inc. and option4** do not support a MLS for red gurnard.
- 172 The New Zealand Big Game Fishing Council Inc and option4 also draw attention to the potential for post release mortality of returned red gurnard.
- 173 The New Zealand Big Game Fishing Council Inc and option4 submit that the IPP states recreational catch is "*likely to be relatively low in comparison to the commercial harvest of the species*". Recreational harvest estimates could be around 10% of the commercial harvest and just 2% of landed catch is smaller than 25 cm. So the bag limit proposal will affect 0.2% of the fish caught many of which may die on release anyway, therefore it will have no impact on the stock or local abundance. The only result of a recreational size limit is that some amateur fishers will be prosecuted for keeping a small red gurnard that was likely to die if released.
- 174 The New Zealand Big Game Fishing Council Inc. and option4 further submit if there is a lack of bigger size fish available to be caught then the cause for that needs to be explored including the cumulative effect of over-fishing on the biomass.
- 175 The submitters would support a well researched code of practice, with the objective of increasing yield per recruit, which would encourage amateur fishers to release red gurnard that they consider too small and have a good chance of surviving.
- 176 **The New Zealand Seafood Industry Council Ltd (SeaFIC)** opposes the proposed amendments to the recreational regulations for red gurnard.
- 177 SeaFIC submits almost no information has been provided about the impacts on sustainability of the proposed amendments. At the basis of the proposals for red gurnard (and trumpeter) is that undersized fish that are caught will be returned to the sea. There is no information, however, about the survivability of the fish that are returned except for vague assessments based on anecdotal reports.

- 178 SeaFIC submits section 10 of the Fisheries Act 1996 requires the Minister to take into account that decision makers should be cautious when information is uncertain, unreliable or inadequate. The lack of information on survivability of red gurnard (and trumpeter) suggests that the Minister should be very cautious about introducing MLSs for these fish. The MLSs could increase the risk of fishing-related mortality. SeaFIC considers the allowances made for non-commercial removals (including allowances for fishing-related mortalities) are likely to be impacted by the proposed changes to MLSs. Given the lack of information about whether current allowances will be breached SeaFIC considers that the proposed amendments to MLSs are untenable.
- 179 SeaFIC submits the overall level of removals by the recreational sector is already poorly monitored. Introducing exceptions to what must be retained through introducing MLSs will only exacerbate the problem. Given that MFish has little knowledge of the survivability of small red gurnards (and trumpeter) returned to the sea, the proposed amendments for these fish stocks can only increase the uncertainty around their sustainability.
- 180 In SeaFIC's view, compliance efforts for recreational catch should be concentrated on the primary input control of bag limits. MFish focus should be on well targeted regulations aimed at ensuring sustainability rather than on measures that may or may not provide for utilisation. The additional regulations that are proposed for red gurnard (and trumpeter) will require extra surveillance by MFish.
- 181 In SeaFIC's view the introduction of the proposed MLSs will not prevent smaller fish being caught, nor will this encourage recreational fishers to modify their fishing practices to reduce the incidence of small fish being landed. Instead, SeaFIC believes the amendments will have the opposite effect. They will provide incentives for recreational fishers to catch as many small fish as they wish until the bag limit is reached of fish over the MLSs stipulated.
- 182 SeaFIC considers that the introduction of MLSs (for red gurnard and trumpeter) will almost inevitably have to be followed up by additional regulations targeted at how fishing is undertaken by recreational fishers. To prevent small fish being taken in large numbers the regulations would have to be supplemented by rules governing such things as net mesh sizes and hook sizes. This could only increase the amount of surveillance required.
- 183 SeaFIC submits that the proposed MLS is completely unnecessary. In paragraph 16 the IPP states that 98% of 18,493 red gurnards taken since 1990 (and recorded in surveys) were larger than 25 cm. SeaFIC cannot understand, therefore, the basis for the request for a MLS when so few fish that are landed by recreational fishers are smaller than the MLS that is sought.
- 184 SeaFIC submits the increased compliance costs and decreased certainty that would accompany such a move together with the inability to achieve policy goals far outweigh the small benefits that might accrue to the recreational sector.
- 185 The **Marlborough Recreational Fishers' Association** submits that they do not support a MLS for red gurnard. The Marlborough Recreational Fishers' Association submits that in the light of "uncontrolled" commercial fishing, which kills fish under the proposed 25 cm limit, such a size limit becomes meaningless. The recreational catch of gurnard is low and fishers return small sized fish and particularly with gurnard that have a low flesh return relative to length.

## **Trumpeter**

### *Submissions that support a MLS (7)*

- 186 **Raglan Sports Fishing Club** submits that trumpeter is only occasionally caught off the Raglan Coast. Mostly these are mature fish taken from deep offshore reefs. All fish landed by the Club have far exceeded the proposed new size limit. Juvenile fish in shallow water do not seem to exist in the Raglan area.
- 187 Raglan Sports Fishing Club supports specifying a recreational MLS of 45 cm for trumpeter in the Fisheries (Amateur Fishing) Regulations 1986.
- 188 **John Robertson** is in agreement with specifying a recreational MLS of 45 cm trumpeter.
- 189 **Tasman & Sounds Fishers Association (Inc)** supports the establishment of a MLS for trumpeter and cannot understand how policy promoting the taking of any species below its breeding size can be allowed. Recreational fishers in Area 7 are committed to improving the quality of the fishing experience and want to see a move to harvesting fish at best yield by species rather than trying to catch the last available fish.
- 190 **Hilton Leith** supports a recreational MLS of 45 cm for trumpeter.
- 191 **The Marlborough Combined Divers Assn. Inc** agrees that there needs to be a minimum size introduced for trumpeter.
- 192 **Ngati Whatua Fisheries Ltd** supports the introduction of recreational size limits for trumpeter provided the regulations are in line with the Fisheries Act 1996 and would not create the effect of devaluing the present or future assets of Ngati Whatua Fisheries Ltd.
- 193 **Te Runanga o Ngati Whatua** supports the introduction of recreational size limits for trumpeter provided the regulations are in line with the Fisheries Act 1996 and do not create a dual layer which would be difficult and costly for compliance.

### *Submissions in favour of a smaller MLS (9)*

- 194 The **Hartley Family** does not support a MLS of 45 cm for trumpeter. The Hartley Family submits most inshore caught trumpeter are under 45 cm. Shore fishers and small boat fishers would no longer have access to a feed of trumpeter if the 45 cm MLS were applied. The Family note that a MLS of 30-35 cm would be acceptable.
- 195 **Mark Iggo** submits he is in favour of supporting the breeding stock of trumpeter but believes there is a need to consider areas on their ability to catch 45 cm plus trumpeter. Mr Iggo recommends a MLS of 35 cm as this size would allow most recreational fishers a chance to sample a trumpeter.
- 196 **The North Island South-East Regional Recreational Forum** generally supported the proposal to introduce a 45 cm MLS for trumpeter. A suggestion was made that 40 cm MLS may be more appropriate because trumpeter is related to moki (where a 40 cm MLS applies to both blue and red moki).
- 197 **The North Island South-West Regional Recreational Forum** had mixed views on this proposal. It was suggested a MLS should be set at 40 cm (not 45 cm as proposed) because

trumpeter is related to moki (where a 40 cm MLS applies to both blue and red moki). Some considered a 40 cm MLS was too small and must be set at a size that protects spawning fish.

- 198 **The South Marine Recreational Fishers Advisory Committee** was concerned at the number of trumpeter around the 15 to 20 cm length that were being observed to be landed and considered this to be inappropriate. The Committee also considered a MLS of 45 cm would effectively exclude recreational fishers from the trumpeter fishery. The Committee recommended a MLS of 35 cm accompanied by some biological research into the age of maturity of trumpeter would ensure a better yield from the fishery while moving to ensure sustainability.
- 199 The **Akaroa Harbour Recreational Fishing Club (Inc)** submits that only juvenile fish are found in the shallow waters of their area, and the species is not common. However, it is a valued part of recreational catches and would be eliminated entirely if the size limit were to be set at 45 cm. It may be advisable to set regional size limits for those areas where the species may be under pressure.
- 200 If considered necessary for conservation reasons, the Akaroa Harbour Recreational Fishing Club proposes a minimum size limit of 35 cm.
- 201 **G.A. O'Rourke** is in favour of a MLS for trumpeter but considers that a MLS of 45 cm is too large as trumpeter in the inshore reefs do not attain this size. Mr O'Rourke proposes a MLS of 35 cm.
- 202 The **Kaikoura Boating Club (Inc)** submits the Club represents approximately 400 members and their families. The Club does not support a MLS of 45 cm for trumpeter. The Club submits shore fishers and small boat fishers would no longer have access to a feed of trumpeter as most inshore trumpeter do not grow that big. The Club is concerned about the catching of large numbers of trumpeter in the 15 to 20 cm range. The Club would not support a MLS above 35 cm for trumpeter.
- 203 **Brian Dean** submits that due to the size of trumpeter found in Southern waters, until there is sufficient scientific evidence to the contrary, the size limit for trumpeter should be 35 cm.

#### *Submissions that do not support a MLS (4)*

- 204 **Keith Ingram** submits that with respect to trumpeter, this proposal was raised by Southern fishers and has been given mixed responses. He notes the joint submission from Option 4 and NZBGFC and its suggestion of constraining the commercial catch in southern waters and the introduction of a well researched code of practice for recreational fishers. He acknowledges that it may well be best suited to manage trumpeter on a regional basis and introduce a more local MLS rather than a national one and, also acknowledges the need to introduce more robust management for this fish stock. Management should involve a review of the TAC and TACC and the introduction of a MLS for recreational fishers. He contends there is a strong view that this fish stock be managed on a regional basis. He recommends that MFish place some priority and urgency on this matter.
- 205 Mr Ingram supports maintaining the *status quo* pending a review of trumpeter both nationally and regionally.

- 206 **The New Zealand Big Game Fishing Council Inc. and option4** do not support a MLS for trumpeter.
- 207 The New Zealand Big Game Fishing Council Inc. and option4 agree with the suggestion in the IPP that, due to the localised nature of recreational trumpeter fisheries, it may be more appropriate to manage trumpeter stocks on a regional or local scale, rather than implement a national MLS. Considering the problems that have arisen for localised southern fishers the most effective way to improve the Southland trumpeter fishery would be to look at constraining commercial access to those areas.
- 208 The New Zealand Big Game Fishing Council Inc. and option4 would support a well researched code of practice that would encourage amateur fishers to release trumpeter that they consider too small and have a good chance of surviving.
- 209 **The New Zealand Seafood Industry Council Ltd (SeaFIC)** opposes the proposed amendments to the recreational regulations for trumpeter.
- 210 SeaFIC notes that concerns by recreational fishers about availability occur only in localised areas. SeaFIC believes that it is more appropriate that these specific issues be dealt with locally rather than imposing a national MLS.
- 211 SeaFIC is also concerned that there is no information on the reproductive biology or growth rates of trumpeter to assist decision making. SeaFIC believes there is only a limited basis for choosing 45cm as the MLS for trumpeter. Without information on reproductive biology the claim that it is likely that 45cm coincides with maturity is dubious.
- 212 The **Marlborough Recreational Fishers' Association** submits that due to the lack of information on stocks and population dynamics of trumpeter, they do not support a MLS for trumpeter.

### ***Blue Cod (BCO1, BCO 2, BCO 8, BCO 10)***

#### *Submissions that support lowering the MLS (12)*

- 213 **Raglan Sports Fishing Club** supports amending relevant regional amateur fishing regulations to decrease the blue cod recreational MLS from 33 cm to 30 cm in the North Island.
- 214 The Raglan Sports Fishing Club submits that blue cod are becoming more and more plentiful to fishers off the Raglan coast, but sadly very few are of legal size. The Club wishes MFish to take into account the variation between the North Island and South Island blue cod fisheries. The Club feels it is important that legal size limits are placed at sexual maturity of any species. The Raglan Sports Fishing Club notes that the sexual maturity of blue cod is around 28 cm.
- 215 **John Robertson** is in agreement with amending the recreational MLS from 33 to 30 cm in BCO 1, BCO 2, BCO 8, and BCO 10.
- 216 **The North Island South-West Regional Recreational Forum** expressed some support for the proposed 30 cm MLS, but noted that mortality of small returned fish can be high.

- 217 **John Forrest and the Wanders Surfcasting and Angling Club** submit that MFish should amend relevant regional amateur fishing regulations to decrease the blue cod recreational MLS from 33 cm to 30 cm in BCO 1, BCO 2, BCO 8, and BCO 10.
- 218 **Stuart Marsh** submits he has no problem in dropping the size of blue cod as long as the numbers can be governed.
- 219 **Hilton Leith** supports amending relevant regional amateur fishing regulations to decrease the blue cod recreational MLS from 33 cm to 30 cm in BCO 1, BCO 2, BCO 8, and BCO 10.
- 220 **Keith Ingram** supports the proposal to amend the relevant regional amateur fishing regulations to decrease the recreational MLS from 33cm to 30cm in BCO1, BCO2, BCO8, and BCO10.
- 221 Mr Ingram notes this is a species that has a history of both national and regional management and size limits. The introduction of a national MLS of 33 cm has had a negative impact on northern fisheries where blue cod released have a limited survival rate after hook damage, largely from the predominant use of curved octopus style hooks.
- 222 Mr Ingram notes that there appears to be no sustainability issues in northern waters and that those regional areas which retain separate management will still retain this right.
- 223 Mr Ingram acknowledges that in some areas a separate MLS is best suited and this may well be 33 cm.
- 224 **Ngati Whatua Fisheries Ltd** supports the introduction of recreational size limits for blue cod provided the regulations are in line with the Fisheries Act 1996 and would not create the effect of devaluing the present or future assets of Ngati Whatua Fisheries Ltd.
- 225 **Te Runanga o Ngati Whatua** supports the introduction of recreational size limits for blue cod provided the regulations are in line with the Fisheries Act 1996 and do not create a dual layer which would be difficult and costly for compliance.
- 226 **The New Zealand Big Game Fishing Council Inc. and option4** support a change of the North Island blue cod MLS from 33 cm to 30 cm.
- 227 The New Zealand Big Game Fishing Council Inc. and option4 submit there do not seem to be any current sustainability concerns in most North Island areas if the amateur size limit is decreased. However, they acknowledge they have not had time or resources to fully consult with members and supporters in the lower North Island.
- 228 The New Zealand Big Game Fishing Council Inc. and option4 observe blue cod do have a tendency to swallow the hook and gut hooked fish are known to have a higher mortality rate when released. Therefore, this change may reduce wastage and allow fishers to select fish to release that are likely to survive. Well researched information on how to handle and release small blue cod should be provided to assist recreational fishers reduce incidental mortality.
- 229 The **Marlborough Recreational Fishers' Association** submits that currently the MLS for blue cod in the Marlborough Sounds and Marlborough east coast area is 30 cm. Dropping other areas from 33 cm to 30 cms would bring consistency and facilitate compliance. On

bag limits for the Sounds/east coast, they strongly advocate a six cod limit and a reduction from the Cook Strait 20 limit to six, to facilitate compliance policing. The Marlborough Recreational Fishers' Association notes while their bag limit was reduced to three there was no drop in the allowable catch for the commercial catch. Raising the limit to six and reducing the Cook Strait and other areas to six, would make common-sense management and eliminate a conflict in bag limits. The Marlborough Recreational Fishers' Association submits that currently a number of Wellington boats operating under the 20 cod daily bag limit are fishing three cod limit areas - these have been observed by both recreational and commercial fishers. The Marlborough Recreational Fishers' Association submits that consideration should be given to a bag limit of six around most - if not all- of the South Island.

- 230 Not all members of **The Top of the South Island West Coast Regional Recreational Forum** supported the proposal to reduce the minimum legal blue cod size in the North Island from 33 cm to 30 cm as it is at present in the Top of the South. Some members believe the MLS should be increased to 33 cm in the Top of the South because it creates more breeding opportunities. There was some concern that a decrease in the MLS to 30 cm in the North will increase the opportunity for Wellington fishers to travel to the Marlborough Sounds and harvest more than the bag limit (3 per person) to take home to Wellington where the bag limit is higher.

*Submissions that do not support lowering the MLS (8)*

- 231 The **Pelorus Boat Club** supports a MLS of 33 cm for blue cod.
- 232 **South Taranaki Underwater Club Inc.** submits that a diver probably has a greater knowledge of the blue cod than the average amateur fisherman. In the South Taranaki bight, the blue cod is a sizable fish, both physically and in numbers, and makes up the bulk of fish taken by amateur fishermen. South Taranaki Underwater Club have noted that when this fish goes through the colour change spectrum to become a mature fish that is able to spawn and keep the fish stocks in good numbers, the fish by this stage is quite large.
- 233 South Taranaki Underwater Club members don't think a blue cod has reached full maturity at 30 cm and to allow any fish to be taken before full maturity is a fundamental mistake that will ultimately affect the stock. In areas North of Taranaki where blue cod is only caught on the odd occasion (usually small) it is treated as a nuisance by fishermen and often finishes up as chopped up bait. Reducing the size will do nothing for it's survival in these areas.
- 234 On these ground the South Taranaki Underwater Club does not support a reduction in MLS for North Island blue cod from 33 to 30 cm.
- 235 **The Marlborough Combined Divers Assn. Inc** does not agree that the size for blue cod should be reduced. They believe that in the areas where the size for blue cod is 30 cm it should be increased to 33 cm. While there may be a year or two till the fish size grows through, they believe that in general there will be more fish of better size available within all fisheries in years to come by increasing the minimum size.
- 236 **Tasman & Sounds Fishers Association (Inc)** submits that much of Area 7 already has a 30 cm size limit and suggests changes to the MLS elsewhere will have little effect. TASFISH submits that only significant bag limit changes are likely to change recreational harvest levels. TASFISH submits they are seeing a significant increase in the quality of blue cod

catches in parts of their fishery since the reduction to three as a bag limit and don't want any changes in the area until they see what happens in the next five years.

- 237 **The Ngawi Sports fishing Club** submits that the club is against decreasing the MLS of blue cod in the North Island South-East area (BCO 2)
- 238 The club submits there is an abundance of blue cod that is readily able to be caught by recreational fishers in their area and that every species should not be readily available in every area of the country. The club states that if an area has been over-fished to make it necessary to consider the decrease of the minimum legal length to 30 cm, then it would be better to change the daily bag limit from 20 to 15.
- 239 The submission includes data from fishing competitions held by the Club which show that substantial numbers of large fish are being landed into their competitions.
- 240 **Tim Hornby** supports maintaining the status quo of a MLS of 33 cm in the South Taranaki Bight, a sub 33 cm blue cod does not return a great deal of edible flesh when filleted, and as stated in the IPP, it allows a larger proportion of the overall cod population to spawn, if the MLS was reduced to 30 cm it would enable a larger amount of blue cod to be harvested but leave less fish to breed, possibly affecting the viability of the stock.
- 241 In the South Taranaki Bight, blue cod above the MLS of 33 cm are very common with catches up to the Recreational Daily Bag Limit quite common. Mr Hornby suspects those North Island recreational fishers concerned that they cannot catch blue cod above 33 cm are from areas that suffer from high fishing pressure, reducing the MLS to 30 cm would find them struggling to catch blue cod of 30 cm in 2 - 3 years after introduction of such a size as the stock will have been fished down to a 26 – 28 cm size range.
- 242 **The North Island South-East Regional Recreational Forum** does not support the proposed 30 cm MLS for North Island blue cod. Several members stated that fishers have no difficulty in catching blue cod bigger than 30 cm in local areas. Rather, the problem of catching large blue cod occurs mainly in more northern areas.
- 243 **The New Zealand Seafood Industry Council Ltd** (SeaFIC) opposes the proposed amendments to the recreational regulations for North Island blue cod.
- 244 In SeaFIC's view no concrete issue has been identified because there is no information about the sizes of fish caught in the North Island. It is insufficient to rely on the following statement as the justification for lowering the MLS for blue cod in the North Island: *“The NZRFC have reported that the MLS of 33cm is actually too high in most places, and that recreational fishers would like to see the limit reverted back to 30cm.”*
- 245 SeaFIC contends that amendments must be able to be assessed in terms of their impacts on sustainability. For blue cod there is no information about what is being caught by the recreational sector, the reasons for there being no large fish off the North Island or the size distribution of fish off the North Island. In SeaFIC's view this lack of information should preclude any change to the MLS at this stage.

## PAUA (PAU) 6 – SUMMARY OF SUBMISSIONS

### Submissions received

- New Zealand Rock Lobster Industry Council (**NZRLIC**)
- New Zealand Seafood Industry Council (**SeaFIC**)
- Te Ohu Kai Moana Trustee Ltd (**TOKM**)

### Submission from NZRLIC

- 246 The **NZRLIC** supports Option 1, which is to retain the minimum ACE holding at 1 tonne (*status quo*). It submits that minimum ACE holdings are an issue for quota owners to determine, not for MFish to prescribe.
- 247 The **NZRLIC** disagrees with MFish’s analysis of why PAU 6 quota share owners will be severely impeded from utilising the ACE generated from their quota shares under the status quo. MFish considered the combination of three factors was responsible for impeding utilisation of the fishery, but the **NZRLIC** submits that the greatest impediment to the development of the fishery is the existing quota aggregation limit.
- 248 As PAU 6 has such a small TACC, the **NZRLIC** submits the fishery does not present any economically viable opportunity for utilisation. It believes that when the Crown’s quota shares in PAU 6 are tendered, there will be an opportunity to ‘prove up’ the fishery with the aim of securing a larger TACC.
- 249 The **NZRLIC** submits there is an uneven playing field in the tender process for quota shares, as it notes two entities have a blanket exemption from aggregation limits, resulting in a lack of a proper market for quota shares. The **NZRLIC** submits the tender process would be fairer if aggregation limits were removed from PAU 6.

### Submission from SeaFIC

- 250 **SeaFIC** does not support Option 2 or Option 3, which propose lowering the minimum ACE holding for PAU 6. **SeaFIC** submits that proposals to remove or modify the minimum ACE holding for Eighth Schedule fisheries should be put forward by the quota owners of the stocks concerned. For PAU 6, **SeaFIC** submits the first step should be to tender the quota shares, and then the quota share owners can determine how the ACE generated from their quota can best be caught.
- 251 Like the **NZRLIC**, **SeaFIC** submits that the aggregation limit has a greater effect on the development of the PAU 6 fishery, than the minimum ACE holding, particularly as it is a small fishery. **SeaFIC** believes addressing the aggregation limit would be more worthwhile than lowering the minimum ACE holding.

### Submission from TOKM

- 252 **TOKM** supports Option 3, which is to reduce the minimum ACE holding for PAU 6 to 100 kilograms.

- 253 **TOKM** strongly believes Ngai Tahu's views on the proposal should be sought, as the PAU 6 fishery is wholly within Ngai Tahu rohe. (MFish notes the Runanga o Ngai Tahu was sent a copy of the Initial Position Paper).
- 254 There are three options that **TOKM** proposes will improve the ability of PAU 6 quota owners to utilise the fishery. These three options are a TACC increase, allowing a 100% aggregation limit (either for all paua fisheries or only PAU 6), or decreasing the minimum ACE holding.
- 255 **TOKM** notes that future PAU 6 quota owners may be prepared to contract research into PAU 6 stock abundance in order to show the fishery can support more than the current 1 tonne TACC.
- 256 In regards to making an application to vary the aggregation limit, **TOKM** suggests there would be little incentive for a PAU 6 quota owner to do so, due to the small TACC. **TOKM** notes the 20% aggregation limit for paua has been supported by the industry for years.
- 257 In addition to MFish's recommendation for the PAU 6 fishery, **TOKM** proposes other paua fisheries that have a TACC less than 5 tonnes (currently PAU 1 and PAU 10) should also have their minimum ACE holdings reduced to 100 kilograms. **TOKM** believes this would be a logical step. PAU 1 has a TACC of 1.930 tonnes, and PAU 10 has a TACC of 1 tonne.

## **SUMMARY OF SUBMISSIONS: APPLICATION FEES FOR FIVE YEAR PERMITS AND ALC**

### **Submissions Received**

- The New Zealand Seafood Industry Council Limited (SeaFIC)
- Sanford Limited

### **Application fees for five year permits and ALC registrations**

- 258 **SeaFIC** supports the proposal to enable applications to be made for permits and ALC registrations for up to five years. SeaFIC agree with the analysis in the IPP that this will increase administrative efficiency for FishServe and will reduce unnecessary paperwork and costs for commercial fishers.
- 259 SeaFIC seeks that provision be made for a refund if a fisher applies for a multi-year permit but subsequently cancels the permit before the expiry of its term. They believe that such a provision would increase the flexibility of the scheme and further encourage fishers to apply for multi-year permits.
- 260 **Sanford Limited** supports the IPP proposal to allow for fishing permit and ALC registration applications to be issued for a period up to five years. They believe this will further improve the administrative efficiency of FishServe and reduce the costs imposed on Sanford Limited.

# AMENDMENT OF REGULATION 19A OF THE FISHERIES (AMATEUR FISHING) REGULATIONS 1986 – SUMMARY OF SUBMISSIONS

## Submissions received

- Akaroa Harbour Recreational Fishing Club
- B. A. Jamieson
- Hilton Leith
- John Robertson
- Keith Ingram
- Marlborough Combined Divers Association
- Ngati Whatua Fisheries Limited
- North Island-South East Regional Recreational Forum
- North Island-South West Regional Recreational Forum
- Option4 & the New Zealand Big Game Fishing Council
- Raglan Sport Fishing Club
- Tasman and Sounds Fishers Association
- Te Runanga O Ngati Whatua
- The Seafood Industry Council (SeaFIC)

## Summary of submissions

- 261 In the Initial Position Paper, MFish proposed to amend the Fisheries (Amateur Fishing) Regulations 1986 to ensure that when a diver takes less than three times their individual entitlement under regulation 19A, it is not considered to be a serious non-commercial offence in law.
- 262 B. A. Jamieson, Hilton Leith, Tasman and Sounds Fishers Association, Marlborough Combined Divers Association, Te Runanga O Ngati Whatua, Ngati Whatua Fisheries Limited, Akaroa Harbour Recreational Fishing Club, Option4 & the New Zealand Big Game Fishing Council, the North Island-South East Regional Recreational Forum, Keith Ingram and Raglan Sport Fishing Club are in support of the proposal.
- 263 SeaFIC does not have any concerns in relation to the proposal.
- 264 Members of the North Island-South West Regional Recreational Forum are generally in support of the proposal.
- 265 No submissions in opposition to the proposal were received.

## **SCALLOP SEASON – SUMMARY OF SUBMISSIONS**

### **Submissions received**

- Stu Marsh
- Bob Rosemergy (Freediving NZ (Chairman))
- Grant Shaw
- KB Turner
- Dennis Petty (ProDive NZ)
- Bryn Jamieson
- Hilton Leith
- John Robertson
- Piako UnderWater Club
- Kaikoura Boating Club
- Hartley family
- Murray Little
- WJ Waugh (Tarakohe Sea Anglers)
- Coromandel commercial scallop fishers
- Kevyn and Corinne Moore
- Trevor Collings
- Mark Iggo
- Peter Saul
- John Duncan
- Challenger Scallop & Dredge Oyster Recreational Advisory Group
- Tasman & Sounds Fishers Association
- Pohara Boat Club
- Te Runanga o Ngati Whatua
- Ngati Whatua Fisheries Ltd
- Seafood Industry Council
- Whangamata Seafoods Ltd
- Collingwood Boat Club
- NZ Big Game Fishing Council and option4
- MFish Recreational Fishing Forums: Northland, Hauraki Gulf – Bay of Plenty, North-West Coast, North Island South-West, North Island South-East, Top of the South
- Raglan Sport Fishing Club

- Keith Ingram
- John Forest / Wanderers Surfcasting and Angling Club
- Bridget and Tony Orman

### **Submissions supporting the proposed season change**

- 266 **Stu Marsh (North Canterbury)** is in favour of shifting the dates. If scallop numbers decrease, then the season could also be shortened, so they can spawn more.
- 267 **Bob Rosemergy (Freediving NZ (Chairman))** the spearfishing section of NZ Underwater) states that the members were notified by their national newsletter, and the response was immediate, more so than in any almost any other issue taken to the members in the past. Most simply wrote “Good idea” or words to that effect.
- 268 **Grant Shaw (Whangarei)** agrees that the season needs to be changed to start later. He went out in July in the Whangarei Harbor to see what condition the scallops were in. This year they are in the poorest condition Shaw has seen (he has been diving this harbour for 20 years or so) and he will not be diving to target scallops for a further 6 weeks or so. The scallops were the smallest he has seen inside their shells, both the white flesh and the roes.
- 269 **KB Turner (Bay of Islands)** considers that shifting the season forward is a sound idea, but suggested that the closed season could be from 1 April to 1 December. He agrees that scallops are generally in poor condition later in the year. He collected 20 scallops in late July and found that the scallops were pale and anemic looking. The warmer weather is safer for divers that do not dive all year round.
- 270 **Dennis Petty (ProDive NZ)** states that the boating people he has talked to are happy that the season starts later on 1 September and be extended to April. He notes that scallops aren't in good condition nowadays by 1 July. Even this year with a more traditional winter, the scallops aren't in good condition yet. The seasons are getting later. From a diving industry point of view, Petty considers the change is not so good as the traditional scallop opening has always been an unofficial opening to the diving season. However, he feels that the September opening will create more interest especially with the long weekend occurring about then, and with better weather and fatter scallops. A concern mentioned to Petty was that the commercial harvesters should also have the same starting time to avoid the problem of the commercial dredges going in before the recreational season and cleaning out the beds.
- 271 **Bryn Jamieson (Auckland)** is in favour of the proposed season change.
- 272 **John Robertson (Christchurch)** supports the proposed season change.
- 273 **Piako UnderWater Club (Waikato)** strongly agrees with the proposed change of the scallop season to be closed from 1<sup>st</sup> April to 31<sup>st</sup> August. The Club hopes that commercial harvesters will be shifted out to line up with the amateur season as this would be beneficial to the scallop's sustainability.
- 274 **Kaikoura Boating Club** supports the change as proposed. The Club notes that the quality of the “early season” scallops is poor. Also, having the season continue to 31<sup>st</sup> March will allow people who holiday after the Xmas/New Year period a chance to get a feed of scallops.

- 275 **Hartley family (Kaikoura)** supports the change to the later open season. They believe that the original reason for the 15<sup>th</sup> July to 14<sup>th</sup> February season was to allow recreational fishers to get some fishing in before the commercial season started, but as pointed out by MFish, the quality of the “early season” scallops is poor. Having the season continue to 31<sup>st</sup> March would allow those people who holiday after the Xmas/New Year period a chance to get a feed of scallops.
- 276 **Murray Little (Warkworth)** is an MFish Honorary Fishery Officer (HFO) and an active recreational fisherman. He is in favour of changing the season to September – March as proposed for two reasons. Firstly, Little notes that there is always frenetic gathering activity at the beginning of the season and during July and August. In his area, dredgers return 10 undersize for every legal size scallop kept. This unproductive dredging activity damages the abundant immature scallops and unnecessarily damages the habitat. In the endeavour to obtain a reasonable quantity, dredgers and divers are taking scallops in the 97-100mm range in the hope that HFOs will let them through.
- 277 Secondly, Little notes that when HFOs inspect scallops at boat ramps, the scallops are semi-open and it is easy to observe their condition. This can vary substantially, even between beds within close proximity to each other. During the first two months of the current season, two thirds of the scallops Little checked were in poor condition and roes were non-existent or immature. Most fishers commented that they persist early in the season for fear that they will become scarce later on.
- 278 **Kevyn and Corinne Moore (Hawkes Bay)** agree with the proposed season change.
- 279 **Peter Saul (Tutukaka)** has had 45 years recreational fishing experience in east Northland. He spent 25 years involved with fisheries management and research with the Ministry of Fisheries. Saul strongly agrees with the proposal and notes that in the early stages of a season, scallops are generally in poor condition, but are almost invariably in top condition when the season finishes.
- 280 **Raglan Sport Fishing Club** supports amending the regulation to shift the season when the recreational scallop fishery is closed to 1 April – 31 August (inclusive). The Club realises that this shift will not suit all areas, especially Tasman Bay. But, this shift for the North Island region, will allow more amateur fishers to have access to this fishery, when scallops are in better condition and the weather is warmer.
- 281 **Keith Ingram (Auckland)** considers there will be identifiable benefits to recreational fishers as a result of this proposal, as access will be provided to good conditioned scallops in autumn where previously this did not occur. He is not aware of any additional management costs this change will incur, nor has any sustainability risk been identified. Ingram notes that fishers in the Nelson – Marlborough region currently enjoy the opportunity to enter the fishery prior to commercial and may wish to retain the status quo.
- 282 **MFish’s North Island South-West Recreational Fishing Forum** generally supported the proposal to change the timing of the season to take better advantage of roe condition. Concern was raised about the likely increase in recreational scallop harvest given that the proposed season coincides with more favourable weather and sea conditions for fishing. Members supported retaining the daily bag limit.

- 283 **MFish’s North Island South-East Recreational Fishing Forum** noted that the scallop proposal had no implications for them as scallops are generally not found in their respective areas. Wairarapa representatives noted that some club members do fish in Wellington and the top of the South Island.
- 284 **MFish’s Northland Recreational Fishing Forum** generally supported the proposal to change the timing of the season to take better advantage of roe condition.

### **Submissions opposing the proposed season**

- 285 **Hilton Leith (Whangarei (commercial scallop quota owner))** supports maintaining the existing closed season for recreational scallop fisheries (15<sup>th</sup> February – 14<sup>th</sup> July (inclusive)). Leith comments that scallops are a luxury seafood and the current season provides divers more than adequate access to the scallop beds. Because scallops are often “skinny” at the beginning of the scallop season, Leith supports a delay in opening the season until local beds show suitable condition and are worth harvesting. Leith does not support an extension at the end of the season after 15<sup>th</sup> February. An extension will obviously coincide with Easter and result in large numbers of scallops being harvested at this time of the year. Leith’s suggestion will have the effect of shortening the season when scallops are skinny in July as has been the case for the last two scallop seasons.
- 286 **WJ Waugh (Tarakohe Sea Anglers)** represents a group of 85 amateur fishing families. He has also been an HFO for 15 years and has fished for scallops for over 40 years in the Nelson-Marlborough area. Waugh is against shifting the the season because the scallops in the Nelson – Marlborough area are generally in good condition at the beginning of the season as shown by the attached photo of scallops taken on 20 July 2006. Waught notes that in February the scallop larvae have turned into spat and have begun to settle on the bottom and to disturb them at this stage would be detrimental to future stocks.
- 287 **Trevor Collings (HFO (Manukau Harbour))** opposes the proposed change to the scallop season specifically regarding the southern Manukau scallop fishery. The Manukau Harbour scallop fishery is almost unique in that it is accessible to pedestrian pickers. Collings believes that there should be serious concerns now as to the sustainability of this resource. From Colling’s experience and observations over the last twenty years, the following matters need to be given serious consideration before there is any alteration to the scallop season in this area. Over the years there has been an obvious reduction in shell size gathered through the season and available annually.
- 288 Collings notes that for the first month or so after 15 July, harvested scallops are generally of poor condition and few gatherers venture out collecting due to the poor weather conditions and the poor quality of the catch. During mid August to about the end of September catches, usually consist of scallops measuring from 100-115mm in reasonable condition; there are significantly larger numbers of gatherers during this period. From about the end of September through to December, an even greater number of harvesters return with scallops in reasonable condition, however the size of legal sized scallops drops down to catches generally measuring 100-105mm. The number of undersize scallops being brought in as part of the catch quota increases significantly during this period. During January and February, catches are generally less than 100mm (the legal size).
- 289 Collings notes there does not appear to be any statistical data available, both on the scallop stock and on the natural replenishment of the stock. Compliance records should give some

information as to the actual history of quantities of legal size and undersize taken and the harvesting patterns described above. The numbers of harvesters vary greatly seasonally and due to weather patterns, tidal conditions and agal bloom events. Early season numbers range from 50 – 100 harvesters per month. Mid season gatherers can number to over 1000 harvesters per month. On extremely advantageous weather and tidal conditions (with more emphasis on weekends particularly), up to 3000 harvesters have been observed daily.

- 290 Collings considers that shifting the season to start seven weeks later would improve the quality of the early season catches, but will also mean more harvesters will visit the site during the better and warmer weather. It is known that harvesters have come long distances to gather scallops at this location eg. Hamilton/Cambridge in the Waikato, all Auckland suburbs including Henderson, Whangaparoa, and Pakuranga. Consequently, Collings believes this will mean that the quantity of available scallops will still run out in January and February or perhaps even earlier, resulting in more pressure on the undersized portion of the resource.
- 291 Collings believes that more compliance effort would be needed to police the resource if it is to be retained for the future. This in turn means other compliance issues cannot be policed during this very popular recreational fishing period. In particular, snapper fishing is in full swing with an abundance of undersize fish about in all harbours. A huge amount of volunteer compliance officer effort is expended each scallop season. Some days, compliance effort consisting of 8-10 personnel (not enough) can spend some 5 hours or more on the site. A significant amount of enforcement expense will be required to re-educate the public with pamphlets, signs, and Regulation changes.
- 292 Collings states that these comments have been discussed with colleagues from the North Manukau and Kaipara Harbour who concur with his concerns. Similar patterns occur in these areas. Early season - few gatherers with harvests compliant in number but quality of scallops generally poor. Mid season - harvest pressure increases with more gatherers, scallop size reduces, quality reasonable. End season - heavy harvesting pressure, size of scallops reduce to mostly undersize, quality deteriorating.
- 293 **Coromandel commercial scallop fishers (Avon Roksted, Erin Hallen, Karl Aislabie, Mike Astwood, Ron Smerdon, Bill Duncan, Paul Aislabie, Mark Aislabie, and Whangamata Seafoods)** made a joint submission stating that the season should stay as it is now. They consider that there appears to be a rush to push this proposal through when at the same time recreational, scallop industry, customary and MFish are in discussions regarding the Fisheries Plan for Coromandel scallops. They consider the plan would be the sensible forum to decide on this proposal.
- 294 The Coromandel commercial fishers note that the Minister states in his [decision] letter to stakeholders dated 24th August 2006 that the allocation for both recreational and customary for this fishing season has doubled ie. from 7.5 tonnes to 15 tonnes. The Minister states that the Fisheries Act imposes an obligation to provide for the utilisation of fishing resources as long as sustainability is ensured.
- 295 The Coromandel commercial fishers also note that there is no information as to what the later start will demand of the fishery. As a survey of the recreational areas has only been conducted recently and the results are not yet available, it would seem unreasonable to greatly increase pressure on these areas by changing the season and producing a conflict of seasons between commercial and recreational scallop fishing. They are concerned that

MFish will then want to increase the season to stop conflicting dates (ie. restart recreational on 15 July and carry through to 31 March).

- 296 The Coromandel commercial fishers consider that taking scallops in "fat" condition is preferable, but that taking "fat" scallops will also reduce the amount of "spat" for settlement. The scallop industry stops fishing from 21 December to reduce damage to juvenile scallops, and consider it would be a good idea if all sectors did the same. The Coromandel commercial fishers also consider that the recreational fishing has changed over the last 10 years with more boats/divers, and far more use of dredges.
- 297 **Mark Iggo (Golden Bay)** strongly recommends that the status quo be maintained for the top of the South scallop fishery as most scallops in this area have spawned or just finished spawning by 15 July. In the past five years, scallops have had good roes and flesh weight early in the season, indicating a good healthy scallop. Iggo considers that the other reason for opposing this proposal is that it provides the recreational sector a chance to fish before the industry starts (usually four weeks after opening day). There can be up to 70 [commercial] boats in a local area, depending on what areas have been closed for the season [to commercial fishing].
- 298 **John Duncan (Pelorous Boat Club)** supports retaining the status quo in the Marlborough Sounds for three reasons. First, based on local Ministry advice, spat settlement in the Sounds occurs principally in the late January to April period, and that prolonging the dredging period would be unhelpful. Second, recreational fishers currently have a two month advantage over the commercial opening season. Third, general opinion is that the local scallops are not necessarily in better condition late in the season.
- 299 **The Challenger Scallop & Dredge Oyster Recreational Advisory Group (CSDORAG)** is opposed to the proposed change. The CSDORAG was set up over ten years ago with a wide range of fishing club and ratepayer groups as members from the Top of The South. CSDORAG has been the primary consultative body meeting regularly with the Challenger Scallop Enhancement Company and MFish to discuss management and harvest proposals of scallops in Area 7.
- 300 CSDORAG's submission is limited to Area 7 and requests that this fishery be considered separately from other areas around the country. Members consider that in most years they are able to access scallops in good condition from mid-July onwards in various sectors of the fishery. Although not able to state with absolute certainty that scallops are in poor condition in the time covered by the proposed shift into March, it was generally noted that by the time of the present closing date (mid February) scallop condition is invariably rapidly declining. In addition, concern was expressed around extending the season to a time when spat settlement is known to have taken place, and vulnerable juvenile scallops have fallen to the sea floor. It was agreed that smothering them with the fine silt found in much of the Area 7 fishery at this time would most likely be fatal and may impact on future availability.
- 301 **Tasman & Sounds Fishers Association (TASFISH)** is a recognised group covering recreational fishing issues in Area 7. Overall membership exceeds 1500 and covers much of the Top of The South. As part of the CSDORAG group, TASFISH has submitted that there be no change to the present season dates in Area 7.
- 302 **The Marlborough Combined Divers Association** was formed after the Combined Dive Clubs of Marlborough (7 Clubs) were successful in their application for the first Marine

Reserve in the South Island at Long Island in the Queen Charlotte Sound (1992). The Divers Association is not in favour of any amendment to the current scallop recreational fishing season. The Association has found that there is ample good quality scallops available within the Challenger area at the start of the season and that nearing the end of the season the quality of the scallops is deteriorating.

- 303 The Association considers that there is a season by season difference when scallops are at their best, but generally the existing season works extremely well. There is evidence from the early research carried out for the Challenger Scallop Enhancement Company that after spawning the scallop spat settles out of the water column during the months of late February, March and into April. With a change in the season the bottom will be disturbed by the actions of dredging and the spat settlement will be disturbed. Therefore the fishery could come under stress from a less than ideal spatfall with an ongoing decrease in numbers as the seasons go on.
- 304 The Association states that if other areas require a different season, then that can be accomplished as the different scallop areas already have several differences in regulations. The Association asks how have fishers found that scallops could be in better condition later in the year without breaking the law because from 15 February to 14 July the season is closed to all people for any type of gathering.
- 305 **The Pohara Boat Club (Golden Bay)** supports the proposal to maintain the existing closed season for the Nelson Scallop fishery only. The Club believes the Nelson-Marlborough scallop fishery is in decline. Every year they see the same newspaper headlines proclaiming the upcoming season will be difficult but next year will be a boomer as there are tonnes of scallops coming up to minimum legal size.
- 306 The Pohara Club notes that commercial fishers generally work to time their harvest with peaks in scallop condition to maximise export returns. It suits commercial fishing interests to fish for scallops after the hoki season and to leave the scallop fishery when the tuna season starts. Recreational scallop fishing in the Nelson area has traditionally been an important part of amateur fishing effort and fishing enjoyment. The precise dates are extremely important to safeguard this very important recreational fishery.
- 307 The Pohara Club states that the condition of scallops at the beginning of the season does vary according to the season and perhaps the climate experienced over the previous months. Members agree that scallops can be in good condition as late as Easter. The shifting of the season by seven weeks to 1 September would have a huge impact on the catching ability of the Club's scallop fishers because recreational fishers would be in direct competition with the large dredges on commercial boats. The general public and most of the Club's members were unaware that a shift in the season was proposed or identified as a priority by the NZRFC.
- 308 The Pohara Club understands that the commercial scallop management plan for 2006 will revert to nominated fishing areas and some areas will be closed to commercial fishing. The Club applauds this move. There has been a steady decline in the scallop catch over decades. The Club has expressed its concerns to the recreational advisory board regarding the declining state of the enhanced Nelson scallop fishery. Sustainability risks are real and when the Club questions the Scallop Enhancement Company about the reasons for nearly mature fish dying off before reaching harvest size, the company has no answers.

- 309 The Pohara Club considers that if sustainability is an issue, it should be remembered that the crews of commercial scallop boats legally land recreational catch over the whole season. This amateur catch can be caught in weather that excludes small amateur boats. The commercial gear makes it easy to do one more tow for the crew at the end of the day when the allocated commercial catch has been caught. This amateur catch should always be considered when discussing recreational catch and sustainability.
- 310 The Pohara Club believes that the natural viability of scallops in Golden Bay is of concern to many local people. Tasman and Golden Bays have been dredged for 40 years and the seabed and natural habitat are totally transformed from the original habitat into deep mud sludge. Some of the Club's members want the committee to investigate section 311 of the 1996 Fisheries Act (areas closed to commercial methods) if the present amateur-fishing situation declines further and start dates are altered in Golden Bay to dates that disadvantage their members. They insist that their members' rights are protected by retaining the ability to take their allowance of scallops without the adverse effects of commercial fishing as referred to in this section of the Act.
- 311 The Pohara Club does not believe there will be benefits to recreational fishers if the scallop season is shifted, as there is no guarantee the commercial fishers will continue with the rotational scallop harvest plan. If there is open slather with recreational fishers and commercial fishers starting on the same day, it is obvious who will miss out. Traditionally, commercial fishers have cleaned out the easy access areas close to the harbour and in front of the beaches. This was much worse when there was no rotational fishing. Amateur fishers have always found it very difficult to catch any scallops once the commercial boats have been through an area. Some years the recreational fishery is simply abandoned, as there are no scallops accessible to small boats with small dredges. Last year was an extremely poor year and many of the Club's members did not bother fishing for scallops at all.
- 312 **Te Runanga o Ngati Whatua (Kaipara Harbour – Auckland)** opposes the proposed change to the scallop fishing year. Ngati Whatua considers that the proposal made by the NZRFC is ill-advised, and believes it would be in direct contravention of section 8 which sets out the purpose of the Act. This section defines sustainable utilisation as “Maintaining the potential of fisheries resources to meet the foreseeable need of future generations”, and “Avoiding, remedying or mitigating any adverse effects of fishing on the aquatic environment”. Ngati Whatua also considers that the proposal contradicts section 9 in that scallops would be an associated species to other species within the aquatic environment.
- 313 Ngati Whatua, Te Uri o Hau, and the local Kaipara community sought and were granted a temporary closure for statistical area 044 (Kaipara Harbour) from 15 July 2005 for a two year period. This “rāhui” was sought so that the scallop fishery within the Kaipara would have time to rebuild. The proposal to change the scallop fishing season would undermine any progress made on the Kaipara and in other areas that are in the process of developing and rebuilding scallop fisheries owing to the enormous pressure that will be placed on these fisheries throughout the whole of the spawning period. Consequently, Ngati Whatua recommend that the status quo remain.
- 314 **Ngati Whatua Fisheries Ltd (commercial fishing operation)** opposes the proposed change and is extremely concerned that a section of the fisheries interests is promoting a change that would accelerate the demise of the scallop fishery. To establish a situation whereby the fishery would be open to fishing only during the spawning period is a formula

for disaster and would put the Minister of Fisheries and Ministry of Fisheries in direct contravention of sections 8, 9 and possibly 11 of the Fisheries Act 1996.

- 315 **SeaFIC** is supportive of some of the ideas behind the proposed change in the recreational scallop season but considers there is insufficient information about sustainability in the Initial Position Paper (IPP) to support the proposed change at this stage. They agree in principle that harvesting should be permitted when scallops are in peak condition, but that any change should be demonstrated to be sustainable.
- 316 SeaFIC notes that paragraphs 18 and 19 [in the IPP] discuss how the change in season might affect sustainability, but there is no information to back up any of the tentative conclusions. Furthermore, the paragraphs are contradictory. Paragraph 18 states that “MFish considers that it is unlikely that shifting the recreational scallop season will have a significant impact on current recreational access or harvest levels because the actual length of the season is not changing”. But, paragraph 19 states that “MFish acknowledges that shifting the recreational scallop season may result in some increase in the levels of take.”
- 317 SeaFIC notes that the IPP states that the minimum legal size limit is the “most important management tool to ensure the sustainability of scallops” (paragraph 19). They do not agree, as the size limit will not stop the total recreational take from increasing. There are no limits on the numbers of recreational fishing events that can take place during a season and no surety that daily bag limits will be observed. In addition, it is likely that a greater number of recreational fishers will participate given the warmer months of the proposed new season. Cumulatively, SeaFIC considers this will result in more scallops being taken than was anticipated when the bag limits were imposed. This could potentially impact on the sustainability of the fishery. SeaFIC considers that the Final Advice Paper should refer to the potential impact on sustainability (and possibly on the Total Allowable Commercial Catch) in the analysis of costs and benefits in paragraphs 21 and 22 of the IPP.
- 318 SeaFIC is concerned that this proposal is being considered in isolation from the fisheries plan that is being developed for the Coromandel scallop fishery under section 11(2A) of the Fisheries Act. SeaFIC states that MFish has promoted fisheries plans as a means by which it will work with stakeholders to build consensus on objectives, develop risk assessments to evaluate management strategies and specify the services and measures that will be applied. Considering the proposed amendment through the regulatory review process cuts across those aims and undermines the credibility of the fisheries plan process.
- 319 SeaFIC is also concerned that the proposal for changing the season is being considered without a working group having had the opportunity to consider the impact on sustainability. They consider that the proposal to change the recreational season should be considered as part of a full review of all scallop regulations, building on the Coromandel Scallop Fishery Plan. As part of that review, the working group and plenary process should also be used. The issues could then be dealt with in a more integrated way. For example, there could be consideration of bag limits at the same time as the implications of the change in season.
- 320 **Whangamata Seafoods (commercial quotaholder)** holds approximately 34% of the quota for Coromandel scallops and 12% of the quota for Northland scallops. Whangamata considers there is a rush to push this proposal through, when at the same time, recreational, industry, customary, and MFish representatives have been involved with a Fisheries Plan for Coromandel scallops. This plan is one of four initiated by MFish as a guide to other sectors

as to what MFish will accept. Many sectors have tried to set up Fish Plans, but none have been accepted. Whangamata was quite shocked when the IPP arrived in the mail when there had been a Fish Plan meeting a fortnight beforehand, yet there was no discussion on the season proposal.

- 321 Whangamata considers that the recreational sector would have to have scientific evidence to back this change up. When industry proposed the change in the commercial size limit from 100 mm to 90 mm there was a lot of study and discussion. But, the recreational sector has done very little research, and NIWA has only just undertaken the first [biomass] survey of the recreational beds.
- 322 Whangamata considers that if “fat” scallops are important, then the commercial season should also be changed. This would also allow commercial to spread sales over a longer period which would involve taking less fish for the same meatweight. Whangamata considers that when the commercial sector conceded the closed areas, the industry lost all the shallow areas where the “fatter” scallops are found. Whangamata emphasises that there are a lot of New Zealanders who don’t have access to the scallop fishery through work (eg. night nurses and shift workers), who cannot afford the luxury of owning a boat and all the equipment needed to get scallops, and the old-aged. These people have a right to eat these delicacies, and the only way they can get this is through commercial scallop fisheries.
- 323 **The Collingwood Boat Club** submits that the scallop season in Golden Bay should remain the same for two reasons. First, spatting appears to cease around the end of May. By mid July, the majority of scallop roes have recovered. Second, commercial scallop fishing generally commences in September and they fish the approved beds to extinction. Therefore, the six weeks prior to commercial fishing is the only chance for recreational fishers to dredge undamaged scallops.
- 324 **John Forest / Wanderers Surfcasting and Angling Club (Manukau Harbour)** support the status quo. The seasons for the best quality scallops in many localities vary by a month or more for any year. Additionally they appear to be affected by toxic algae blooms more frequently in the later part of the season, especially the Manukau.
- 325 Members from MFish’ **Top of the South Recreational Fishing Forum** did not support a change because they were concerned about the affect dredging would have on settling larvae in late summer and because they considered scallops to be in good enough condition at the beginning of the season. Members also noted that recreational fishers enjoy access to scallops prior to the commercial season. Members considered the proposal might be relevant to the North Island fisheries, but not to the South Island. Some members were concerned that there might be a proposal to increase the scallop size limit, although other members noted they didn’t harvest scallops until they reached 100mm anyway.
- 326 **Bridget and Tony Orman (Marlborough)** do not favour any alteration to Area 7, for the current scallop recreational fishing season, as there is clear evidence that spatfall occurs after late February.

### **Neutral submissions**

- 327 **The NZ Big Game Fishing Council and option4** (NZBGFC / option4) provided a joint submission recommending that MFish take the time to engage with amateur scallop fishers in all regions and provide for the input of non-commercial Maori fishers before making the

change to the regulations. NZBGFC / option4 note that there is general support for a closed season (annual rahui) as a management tool in the scallop fishery. They agree that a shift in season would increase access by non-commercial fishers who are generally more active in the summer months than the winter months. They note that MFish has accepted the value of anecdotal information on the availability and condition of fish in making fisheries management decisions.

- 328 NZBGFC / option4 note that in scallop beds where the commercial and recreational fisheries overlap, the period of harvest and bed disturbance would be from 15 July to 31 March with the proposed change. There is support for a change to the scallop harvesting season for amateur fishers in some areas, but it is not universal. The best closed season in the Manukau Harbour may not be the same for Coromandel, Hokianga or Akaroa Harbour. They have not had sufficient time or resources to consult with their members and supporters nationally, so cannot agree to a “one size fits all” approach at this time. They note that the Coromandel scallop Fisheries Plan is still working through scallop management issues with stakeholders and a change to this regulation at this time would over-ride that process.
- 329 **MFish’s Hauraki Gulf – Bay of Plenty Recreational Fishing Forum** and the **North-west Coast Recreational Fishing Forum** discussed the proposal and decided not to make a formal submission. Instead, the general consensus was that members would report back to their clubs to discuss the issues before making individual submissions.