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NZ Sport Fishing Council submission on the proposed Ministerial purpose for issuing a special permit

NZ Sport Fishing Council

1. The New Zealand Sport Fishing Council (NZSFC) appreciates the opportunity to submit feedback on the proposed Ministerial purpose for issuing a special permit. The Ministry of Primary Industries (MPI) released their proposals on 24 August with submissions due by 7 September 2012.
2. NZSFC representatives are available to discuss this submission in more detail if required. We look forward to positive outcomes from this review and would like to be kept informed of future developments. Our contact is Roz Nelson, secretary@nzsportfishing.org.nz.
3. The NZ Sport Fishing Council is a national sports organisation with over 32,000 affiliated members from 57 clubs nationwide.
4. The New Zealand Sport Fishing Council is committed to ensuring that sustainability measures and management controls are designed and implemented to achieve the Purpose and Principles of the Fisheries Act 1996.
5. The NZSFC is also committed to promoting [LegaSea](#) as an opportunity for the public to contribute towards advocacy for 'more fish in the water for future generations'. This submission represents one channel of this advocacy.

Executive Summary

6. The NZSFC notes the truncated consultation timeframe. While we understand the urgency applying in this instance, we would not want to see 10 working days becoming the norm.
7. The NZSFC has no objection to finding a suitable mechanism that will provide temporary relief for set net fishers facing a sudden displacement in Taranaki waters. Great care is needed, however, to ensure that the mitigation mechanism chosen does not introduce a weakness into the catch reporting and balancing edicts of the Quota Management System (QMS).

8. The New Zealand Sports Fishing Council (NZSFC) submits that the existing deemed value regime and 6th Schedule are the appropriate provisions for addressing the circumstances of unexpected or unwanted catch. Any assistance to fishers affected by the set net ban should be offered from within these provisions.
9. Adding a new purpose for special permits, to exempt some commercial fishers from complying with the provisions of the QMS, creates unnecessary risks. The Fisheries Act 1996 does not need further complexities that address matters in an oblique way – benefits will accrue from simple and direct measures.
10. The deemed value regime is the appropriate mechanism to use when offering assistance to fishers. It is a wholly owned government provision, needs no changes and is specifically designed to provide for the circumstance the Taranaki fishers face – taking catch for which they hold no Annual Catch Entitlement (ACE).
11. There are benefits to retaining Government control of the extent and duration of the interim relief measures. Government can rebate affected fishers a portion of the deemed value payments and collect complete catch data - an important factor should further litigation arise, and necessary for the Minister to be confident of all catch remaining within the Total Allowable Catch (TAC).

Background

12. The Initial Position Paper (IPP) is bereft of information as to the species and anticipated volumes of fish that would be returned to the sea under special permits issued for this purpose.
13. The IPP proposes that the Minister approve issuing special permits under s. 97(1)(c) of the Fisheries Act for the purpose of returning fish to the water that would otherwise be required to be landed and balanced with ACE.
14. The proposal is predicated on the assumption that the need for mitigation will be short-lived, perhaps only six months.
15. Only vessels with observers will be able to use special permits for this purpose, and it is assumed that released fish will survive.

Associated risks with current proposal

16. The risks can be identified as:
 - a. No data gathered on volumes and species returned to the sea.
 - b. Relying on observers' judgment on fish health and survival.
 - c. The set net ban rolling out for years rather than six months; and
 - d. Setting a precedent for future instances of fishers with poorly balanced ACE holdings.
17. Without gathering release data there is no way of knowing if the special permits are achieving their intended purpose, or if they are driving confounding outcomes. A basic tenet of management, and special permits in particular, is to require full reporting of the catch and effort to enable good quality reviews.
18. Using best available catch data is a necessary requirement of the Minister's decision-making process when setting Total Allowable Catches (TACs) and Total Allowable Commercial Catches (TACCs).

19. Observers have no particular understanding of the effects of the stress and injury of fish caught in set nets in respect of its likely survival after release. This is a complex physiological issue with many non-obvious conditions affecting survival – it is not a trivial matter that a simple observation is able to reliably determine.
20. While the current set net measures are interim, the future closures or conditions to be incorporated into the Threat Management Plan are unknown. It is quite likely that some form of set net ban will continue requiring an extension to the time that fishers will be operating without ACE to balance catch.
21. There is no indication that the new purpose for issuing special permits is time-bound in any way, meaning that their use could continue in Taranaki and extend to other areas in later years.
22. The NZSFC is concerned that this “temporary” solution mirrors the scenario that led to the size concession in CRA3. What began as a temporary measure to mitigate a large Total Allowable Commercial Catch (TACC) reduction has, over time, become a new minimum legal size for commercial catch. There is now unnecessary and ongoing conflict in the Gisborne Rock Lobster fishery. Had this outcome been foreseen, recreational fishers would have objected strongly rather than give tacit support to the “temporary” proposal.

Existing Provisions

There are currently two legal strategies available for fishers to deal with unwanted catch:

23. The deemed value regime applies to all species and serves as a tool to have catch landed and recorded, but it rightly denies the fisher the full value of the catch. It accommodates unexpected catch and is not intended as an alternative to balancing catch with ACE.
24. The 6th Schedule lists species that may be returned to sea alive if assessed as likely to live, and do not require reporting (except for Kingfish). This not only addresses unexpected catch, but also unwanted catch. There are about 24 species listed in the 6th Schedule, with many being shellfish and crustaceans.

A simple solution within the existing deemed value regime

The New Zealand Sport Fishing Council considers that the deemed value regime is the most suitable vehicle for the Government to offer assistance to those fishers displaced by the set net ban.

25. The deemed value regime is entirely under Government control – it sets the rates, receives and manages the revenue. There are several provisions relating to ensuring that deemed value rates are set uniformly for each fisher, and set with regard only to the economics of the catch.
26. There are no obstacles for Government to rebate all or part of monies collected. This ability to rebate is the preferred, simple mechanism for offering temporary assistance to those set netters suffering hardship from the set net ban.
27. All catch will be landed and recorded, so the real magnitude and nature of the change in catches will be known accurately - an important factor given the litigious history related to this fishing method and earlier controls.
28. Government can determine the rate, the level and duration of any assistance it provides to affected fishers.
29. The future conditions of the Threat Management Plan are currently unknown, and as they become known, or change, deemed value rebates can be altered or abolished.