Review of the Fisheries Act 1996 and Regulations

Submission to achieve abundance in New Zealand's inshore marine environment

For: The Ministry for Primary Industries

From: New Zealand Sport Fishing Council and affiliated members, the New Zealand Angling and Casting Association and LegaSea supporters.

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8. Purpose of the Fisheries Act 1996 –

(1) The purpose of this Act is to provide for the utilisation of fisheries resources while ensuring sustainability.

(2) In this Act—

ensuring sustainability means—

(a) Maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations; and
(b) Avoiding, remedying, or mitigating any adverse effects of fishing on the aquatic environment:

utilisation means conserving, using, enhancing, and developing fisheries resources to enable people to provide for their social, economic, and cultural wellbeing.

Part 1. Background

1.1 On 19 August 2015 Nathan Guy, the Minister for Primary Industries (MPI) announced an operational review of the Quota Management System (QMS). The long-term aim is to "deliver greater net value to all sectors – commercial, recreational and customary, while enhancing the sustainability of our fisheries…This programme of work is about refreshing and improving our fisheries management system, not replacing it".

1.2 A week later LegaSea, a public outreach initiative of the New Zealand Sport Fishing Council, issued a media release supporting the proposed review while highlighting the need for the review to take into account the value of recreational fishing.

1.3 A project is currently underway to measure the contribution that recreational fishing makes to the New Zealand economy. The outcome of this economic research is highly anticipated given the Government's continued commitment to the goal of "doubling the value of primary sector exports by 2025. Adding value to the seafood products we export is crucial because we can't just double the number of fish we take", continued Mr. Guy.

1.4 The New Zealand Sport Fishing Council (NZSFC) is a National Sports Organisation with over 32,000 affiliated members from 57 clubs nationwide and a growing number of organisations aligning with our policies and principles.

1.5 This submission is a joint effort by the New Zealand Sport Fishing Council and affiliated members, the New Zealand Angling and Casting Association, other organisations and LegaSea supporters, collectively referred to as 'the submitters'.

1.6 Our 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 Dave Lockwood, secretary@nzsportfishing.org.nz.

Part 2. Introduction

2.1 **The origin and intent of this review is unclear.** Cabinet has been struggling with marine protection areas legislation, poor economic contributions from industrial fishing, introducing recreational fishing parks, and a general growing voice of dissatisfaction within the electorate about the poor state of the near shore marine environment and depleted inshore fisheries.

2.2 **New Zealand has a 30 year experience with an Individual Transferable Quota (ITQ) based Quota Management System.** Only Iceland has more experience. The word 'review' conjures up an image of an examination of what has and has not worked, experiences gained here and abroad, all brought together in a coherent manner to refresh and improve New Zealand's QMS for another 30 years.

2.3 **In Iceland a full fisheries management review has been undertaken** and several fundamental changes were made after less than 30 years of experience. Some of the Icelandic lessons could apply here, or be adapted to suit issues peculiar to New Zealand.

2.4 **Transparency of information is one example where New Zealand could benefit** from the Icelandic experience. In Iceland commercial unloads are undertaken using a qualified, independent weigh master. Landings and sale price data are made public on the fisheries website that same day. There is no comparison with our system that establishes the Licenced Fish Receiver (LFR) as the gatekeeper – the weigh master and receiver of the harvested fish - when the LFR is financially enmeshed in the transaction.

2.5 In the near future the results of **a project to reconstruct catch from New Zealand's fisheries,** from 1950 to 2010, will be released. A draft working paper is online at the Sea Around Us project run out of the University of British Colombia. In general terms, the reconstruction assesses actual catch at almost three times the reported catch. At the heart of the report is the clear demonstration that New Zealand has not collected or reported anything close to actual catch, and lacks the ability, or will, to do so.

2.6 **Iceland realised the need to establish a 25-mile inshore buffer zone,** to protect and enhance the opportunities of small regional ports for commercial and non-commercial use of fisheries resources. This initiative will undoubtedly have further iterations as experience is gained. This contrasts to New Zealand where our inshore zone is sometimes described as being economically inefficient, however, the social and cultural reasons for establishing coastal zones are compelling.

2.7 Iceland also found that there was **no mechanism to return to the nation a dividend for the commercial exploitation of its fish stocks**. A Resource Royalty based on the unloaded price of fish has now been established and this rate is set to increase above 10% over time. Instead of giving away its marine resources, New Zealand could receive improved benefits from establishing a Resource Royalty on every kilo of fish harvested for sale.

2.8 **The context the submitters have taken** in responding to this review is to examine both institutional structures and the legislation supporting them, and then operational policy and regulations, and finally test the contribution flowing to New Zealand Inc – the resource owners – across three fields:

- The international reputation of New Zealand;
- The contribution to economic growth of New Zealand made by fisheries; and
- The community acceptance of the methods and outcomes from commercially exploiting New Zealand's fisheries.

2.9 In broad terms **this submission examines the efficacy of the Quota Management System** in relation to the current goals and outputs of sustainable depletion, the economy of fishing, the public's acceptance of current management, and the increasing awareness of the need to restore abundance to grow New Zealand's wealth, people's health and wellbeings by applying LegaSea's 5 Principles.

2.10 LegaSea's 5 Principles

1. Let's rebuild the fishery.
2. Stop senseless waste.
3. The public (NZ Inc) owns the fishery.
4. Equal size limits for all.
5. Value recreational fishing.

www.legasea.co.nz/5principles.php

Part 3. Executive summary

3.1 Fisheries Management 101

- First, set a very strong environmental standard and stick to it.
- Second, ensure that commercial users pay a fair fee for the commercial exploitation of common property fisheries resources.

The rest is detail.

New Zealand's fisheries management system fails on both counts.

3.2 The Principles of the Fisheries Act 1996 (the Act) need bolstering by introducing a more explicit direction to the Minister than simple "have regard to". The Minister must be directed to act in a precautionary manner and this means setting lower Total Allowable Catches (TACs) when information is poor.

3.3 All stocks need a reliable index of abundance and target, and limit reference points. The TAC must be set to achieve the target within a specified time frame. The Purpose of the Act needs elevating as a primary objective when setting the target.

3.4 Sections 20 and 21 of the Act need amending to re-establish a priority for recreational interests that existed in the 1986 Act and was intended to pass into the new 1996 Act.[1]

3.5 The important contribution that both commercial and non-commercial fishing makes to New Zealand's economy must be used to guide allocation decisions when applying sections 20 and 21 of the Act.

3.6 Section 308 needs amending to explicitly excuse the Crown from any compensation claims for any change in the Total Allowable Catch (TAC) or Total Allowable Commercial Catch (TACC) for a stock.

3.7 Section 311 must be amended to provide a Minister with a simple mechanism for altering Quota Management Areas (QMAs).

Part 4. Fisheries 2030

PRINCIPLES 1 & 3

4.1 **Fisheries 2030.** It might seem odd to begin with Fisheries 2030 (2030), a non-statutory strategic plan however, Fisheries 2030 is endorsed by Cabinet and used by the Ministry for Primary Industries (MPI, the Ministry) as a guiding, operations planning document. Fisheries 2030 has several fatal passages and these lie at the centre of many localised depletion disputes.

4.2 **Fisheries 2030 sets out the overarching purpose against which operational policy success is measured.** The New Zealand Sport Fishing Council (then NZBGFC) submitted in detail on the 2030 proposals when they were being developed.

[1] Cabinet paper containing advice from Solicitor General.

[2] Internal MPI Fisheries 2030 Planning Document

[3] The opposition to the ITQ-system has not been homogenous, and there has been little agreement about what the

4.3 **The bias embedded in 2030** sets in train a series of MPI actions that promote private interests at the expense of the national interest. The kernel of this bias lies with the Ministry adopting the role of industry partner to increase export earnings[2].

4.4 **The assumption around maximising exports.** It is assumed that maximising export returns is the best and preferred utilisation choice. This assumption is not just misplaced – it is demonstrably wrong in many cases. In Part 8 of this submission, The Economy of Fishing, we explore some alternative use options and offer alternate use choices that can deliver far greater economic benefits to New Zealand and New Zealanders.

4.5 **The consequences of the Ministry adopting the role of partner** with commercial interests can be seen in many of the science and management delivery models being routinely adopted. Commercial interests' scientists gather and analyse the data, then present summaries to MPI under strict confidentiality agreements and Memorandums of Understanding.

4.6 **The results from this "partnership" model** are becoming increasingly unreliable, and the lack of public scrutiny is proving fatal. What begins as an attempt to prevent public outcry at specific events evolves into a series of planned deceptions. An example is given in Part 7 Transparency.

4.7 **There is little point in only refreshing fisheries management** while Fisheries 2030 is used to justify a government and industrial union that operates, in the main, in secret, for private interests while ignoring the national interest. This may not have been the original intention of the Fisheries 2030 policy or the Quota Management System, but is where we find ourselves today.

- The Ministry's Fisheries Directorate need to focus on developing high quality outcomes that deliver maximum national benefits that are not tied to an industrial complex bent on capturing all the benefits for itself in a quasi partnership.
- Fisheries 2030 serves as a noose around the Ministry's neck and prevents creating value for New Zealand by methods other than commercial fishing.

Part 5. The QMS needs a major review

PRINCIPLE 3

5.1 After 30 years the Quota Management System (QMS) is in need of a major review. A once over lightly 'refreshing' of the Fisheries Act will not achieve the step change NZ fisheries need to acbieve a truly abundant state delivering maximum value to New Zealand.

5.2 The QMS sits upon foundations of deceit and incoherence, and tbe recent increases in dysfunction will only be exacerbated over time. Localised depletion, habitat destruction, low economic performance, captured science, and a strengthening monopoly of major

[2] Internal MPI Fisheries 2030 Planning Document

quota shareholders will only increase and compound additional political costs while the QMS is parked in a silo and considered untouchable. This is to the detriment of the nation and our people.

5.3 No secrets. As the public learns more about New Zealand's fisheries management and politics there will be an increasing demand on politicians to respond in the public interest. It is inevitable. The costs of maintaining and protecting the monopoly of quota shareholders will land squarely on Government's desk, and Government relies on high quality advice, and most importantly honesty from officials.

5.4 The QMS is not all it is cracked up to be. Government needs to know that they have been persuaded, without evidence, that the QMS is a world leading management system, that New Zealand's fish stocks are thriving, and the best fisheries policy is to divert the fisheries sector of MPI to work as partners with industrial fishing interests, to collaborate and increase exports. There are alternative ways to use fewer resources and deliver greater value for NZ Inc.

5.5 Amendments to Fisheries Act required. This submission includes proposed amendments to Part 2 of the Fisheries Act. If these amendments are applied they will go some way towards limiting the environmental and economic damage resulting from the simplistic policy advice that is currently given to Cabinet.

5.6 Transitioning to a high value economy. The NZSFC is hosting an International Fisheries Symposium in 2016, its purpose is to explore a pathway to transition from our low value, high volume commodity trading commercial industry cocooned within the QMS, to a high value, low volume use model for near shore fisheries.

5.7 Getting more value from our inshore stocks. The Quota Management System has delivered some economic benefits from exploiting large volume, deepwater stocks, but the same system burns value in the near shore stocks. Examples of the pitifully low economy generated by bulk harvesting and commercially fishing the near shore can be found later in this submission.

5.8 Settling Maori claims. In our view, improving the QMS is potentially hampered by using Individual Transferable Quota (ITQ) class shares to settle Maori commercial fishing claims. The overarching requirement to not change policy settings that will devalue the 1992 Deed of Settlement is incoherent. Any reduction in share price can be interpreted as a devaluation, and these occur for many unrelated, or non fishing reasons. For example, a change in the Reserve Bank's interest rate often drives a change in Forex cross rates, and these impact export prices for fish, and these prices are driving the share price, most often downwards.

5.9 Detrimental dependence on government subsidies. The difficulty of transforming the Settlement assets into high quality income streams since 1992 is well known, and is unlikely to improve beyond the margin while the industry shelters in a monopoly, with a growing dependence on government subsidies.

5.10 The Maori component should be seen as a vehicle for change, not an impediment. The challenge is to find a future that is durable for Maori interests and transforms the low quality, low performing assets received as settlements into an improved and durable form.

- ITQ systems are difficult to change and NZ is not alone. Iceland is reforming its ITQ system after a major review, reversing some parts.[3] These reforms include recovering private harvesting rights and imposing a resource rental regime.
- While Iceland's reforms have been challenged they are already delivering benefits to Iceland's coastal communities and the State.

Part 6. Purpose and Principles of the Fisheries Act 1996

PRINCIPLE 1

6.1 Fisheries Act 1996. Section 8. Purpose. We accept the desire to leave the Purpose of the Fisheries Act 1996 (the Act) as currently written.

"s8(1) The purpose of this Act is to provide for the utilisation of fisheries resources while ensuring sustainability.

s8(2) In this Act—

Ensuring sustainability means—

(a) Maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations; and

(b) Avoiding, remedying, or mitigating any adverse effects of fishing on the aquatic environment:

Utilisation means conserving, using, enhancing, and developing fisheries resources to enable people to provide for their social, economic, and cultural wellbeing."

6.2 The Act's Principles need a refresh if they are to serve the intended purpose of conditioning the wide, discretionary powers exercised by Ministers and their officials. Part 2 of the Act contains all the 'religious bits" (Doug Kidd pers comm) and need to be explicitly applied to make the halance of the Act work in a cohesive manner.

6.3 Fisheries Act 1996 Section 9. Environmental Principles

"All persons exercising or performing functions, duties, or powers under this Act, in relation to the utilisation of fisheries resources or ensuring sustainability, shall take into account the following environmental principles..."

6.3.1 The requirement to "take into account" these Principles is weak and reads down their critical function of providing an environmental test for utilisation proposals. Replacing "take into account" with "have particular regard to" would bolster this section, as evidenced by the following Court of Appeal judgment:

"The Minister's decisions in 2004 and 2005 were unlawful to the extent that the Minister (a) failed to have particular regard to ss7 and 8 of the Hauraki Gulf Marine Park Act 2000

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[3] The opposition to the ITQ-system has not been homogenous, and there has been little agreement about what the alternative should be. In a poll among the general public, published in *Ægir*, the journal of the Icelandic Fisheries Association (1999), only 7,1% of the respondents wanted to keep the present system unchanged. However, only 17,3% wanted to abolish the quota system altogether. **One third (33,3%) of the respondents favoured some kind of regional allocation or "community quota"**. Almost one-third (29,2%) was favourably disposed to either resource rentals or quota-auction, while 10,5% wanted a special tax on quota transactions. Eythorsson 2003

when fixing the Total Allowable Commercial Catch for Quota Management Area KAH1…" [Court of Appeal, 20084]

s9(a) "Associated or dependent species should be maintained above a level that ensures their long-term viability…."

6.3.2 Section 9(a) attempts to modify the Purpose by suggesting associated or dependent species should be maintained above a level that ensures their long-term viability. The Act defines long-term viability as maintaining a low risk of stock collapse and the stock always retains the ability to rise to higher levels.

6.3.3 This implies that for every species or stock encountered by commercial or recreational fishing interests sufficient knowledge will be available to assess its long-term viability. Inshore trawl catch typically comprises 20 to 40 species, many of which are benthic dwellers. This catch mix and the reluctance by users to fund research means s.9 is ignored and never applied.

s9(b) "Biological diversity of the aquatic environment should be maintained…."

6.3.4 Section 9(b) requires biological diversity be maintained. Failing to maintain diversity means diversity has declined. There are no shades of grey in respect of maintaining biodiversity to some spatial scale; either diversity is present or it isn't. Providing all species are found somewhere presumably biodiversity is being maintained. Again, this implies a knowledge basket far beyond anything ever contemplated in NZ fisheries management. To have this provision sit in the Act posing as a biological diversity test is a myth and it needs amending to allow diversity aspirations to be tested and delivered, or deleted.

s9(c) "Habitat of particular significance for fisheries management should be protected."

6.3.5 Section 9(c) requires protection for habitats of particular significance. This means of known importance. This is another critical qualifying provision that is simply ignored and there is no routine test.

6.4 All sections in Part 2 of the Act clearly act in concert to establish the overarching constraints on utilisation; the Purpose and Principles are set to direct decision makers when exercising powers. Simply acting as if the Principles do not exist, because to comply would be difficult, permits highly damaging utilisation practices to run for decades without ever having to meet a test based on Part 2 of the Act encompassing the s9 Environmental Principles.

6.5 Fisheries Act 1996 Section 10. Information Principles. Again**, '**take into account' is insufficient and permits the Principles to be ignored.

"All persons exercising or performing functions, duties, or powers under this Act, in relation to the utilisation of fisheries resources or ensuring sustainability, shall take into account the following information principles…."

[4] Sanford Limited, Sealord Group Limited And Pelagic And Tuna New Zealand Limited V The New Zealand Recreational Fishing Council Inc, And New Zealand Big Game Fishing Council Inc And Ors Ca 163/07 [11 June 2008]

s10(a) "Decisions should be based on the best available information…."

6.5.1 Section 10(a) directs decision makers to use the **best available information**, and that is defined as the best information that, in the particular circumstances, is available without unreasonable cost, effort, or time.

6.5.2 In reality, the best available information is confined to that science information arising from stock assessment, or some other catch analysis. Sourcing and including other sources of information is eschewed on a vague assumption that they will be more unreliable than 'science' information.

6.5.3 **The best information must include anecdotal information,** as long time series of human observation can often be more informative than a description of commercial CPUE.

s10(b) "Decision makers should consider any uncertainty in the information available in any case..."

6.5.4 **Section 10(b) fails to guide** or indicate how a decision maker is expected to respond to varying degrees of uncertainty. For example, even the most studied stocks retain high levels of uncertainty around basic assumptions being imported into stock assessments, and infrequently, or unstudied stocks often lack even basic biological knowledge of recruitment, natural mortality and spawning locations etc.

s10(c) "Decision makers should be cautious when information is uncertain, unreliable, or inadequate..."

6.5.5 Section 10(c) is self explanatory and expresses common sense.

s10(d) "The absence of, or any uncertainty in, any information should not be used as a reason for postponing or failing to take any measure to achieve the purpose of this Act."

6.5.6 Section 10(d) is often cited by decision makers to justify their management decisions.

6.6 When read together the Information Principles clearly attempt to define the discretion of decision makers when information is uncertain, unreliable, or inadequate. This implies a risk based approach to decision making.

6.7 The lower the quality of information the higher the risk and the more cautious decision makers are instructed to act. It is not so much a matter of being cautious, but more a need to act in a precautionary manner.

6.8 The need to act in a precautionary manner must be explicitly stated.

6.9 The level of utilisation of stocks must be conditioned by all available information, not just outputs from desktop modelling exercises and science working group processes.

6.10 Applying a precautionary approach would likely mean only small Total Allowable Catches (TACs) being available for low information stocks, and Harvest Strategy Standard (HSS) targets for high information stocks. This is a matter of applying a discount to TACs relative to the risk.

- **Given 30 years of experience it is clear that section 10 of the Act needs to be more explicit**, providing clear instructions that the decision maker must act in a precautionary manner when information is of low quality. Generally this will mean lower TACs for low information stocks.

Part 7. Transparency

PRINCIPLES 2 & 3

7.1 Commercial exploitation of a public resource has to occur in a fully transparent way if the activity is to have public acceptance. As an example, in Iceland every time a fishing vessel lands its catch the unloading is supervised by an authorised, independent weigh master and the quantities and price received for the catch is posted online the same day.

7.2 In New Zealand we have a culture of keeping fisheries data confidential, based on an outdated notion of commercial confidentiality. Namely, that fishing competitors must not be able to access others' catch data, and in many respects this data is treated as the intellectual property of the fisher[5]. This culture of confidentiality lacks any basis now that the days of open access have passed and there is far more technology applied to commercial fishing.

7.3 The claims of commercial sensitivity are bogus. Commercial catch and effort data is routinely collected and held in Fishserve[6], accessible to only selected parties. Information relating to where fishing effort is being deployed, and where those catches are being taken needs to be readily available to everyone. There is notbing secret about fishing and there is increasing public demand and interest in understanding how these national resources are being exploited for private profits.

7.4 The public and its agencies are losing access to knowledge on the commercial use of their fishery resources. Over the last 20 years commercial interests have steadily ramped up the influence of their in-house science team. They successfully tender for

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[5] MPI to Graeme Carter OIA request, 2015

The relevant point with discarding is that when self-reporting, most commercial operators are acting in accordance with legislation and are unlikely to be prosecuted. In fact we at MPI continue to encourage this reporting as it allows fisheries managers to build a better picture of the reported take of the commercial sector. Accordingly, if operators are acting legally they are protected by rules of privacy and also confidentiality regarding their "Intellectual Property" such as the detail of catch composition, locations and effort. It is for these reason we refuse many OIA requests for commercially sensitive data regarding legitimate commercial operators. This also includes our refusal to name the vessel and companies to avoid litigation risk for companies acting in accordance with the law. With this in mind MPI has provided you with the following response to your specific questions.

[6] FishServe is the trading name of a privately owned company called Commercial Fisheries Services (CFS). CFS is a wholly owned subsidiary of Seafood New Zealand. FishServe provides administrative services to commercial fishers.

research and fisheries monitoring contracts. Data is collected and analysed with only summary results being made publicly available. The lack of independent oversight provides opportunities to tailor these results to reflect a particular or pre-determined outcome.

7.5 **The Declaration on Open and Transparent Government,** which was approved by Cabinet on 8 August 2011, states that government data and information should be open, readily available, well managed, reasonably priced and re-usable unless there are necessary reasons for its protection. Personal and classified information will remain protected. Government data and information should also be trusted and authoritative.

7.6 **Active public data supply is becoming business as usual** for most central government departments with open data programmes. The 32 central government departments are increasingly seeking and responding to user and stakeholder demand for open data in accordance with the Declaration on Open and Transparent Government. Data should be released in re-usable, machine-readable format, preferably in their original state. The current 'Guidelines for the Release of Information from Fisheries Databases' were developed in the 1990s and last reviewed in 2005. The world, our Government and public policy have moved on, but not so in fisheries.

7.7 **Data from statutory catch and effort forms needs to be publicly available**, information collected by recreational fishing surveys and reporting on customary fisheries needs to be made available as long as it complies with Privacy Act provisions.

7.8 **The definition of sensitive data** in the Guidelines needs reviewing so that event level data can be provided to all researchers with a confidentiality agreement with MPI, for both independently funded projects and MPI funded projects.

Case study

7.9 The most recent example is the withholding of SNX (undersized snapper) data requested by the Minister following the 2013 decision for SNA1, on the North Island's northeast coast. A trial with cameras, observers, and self reporting (using the code SNX) was to be overseen by MPI and the results analysed to learn what level of sub-legal snapper was taken, by vessel and location, and time.

7.10 Three separate data sets would have been generated. First would be the observer reports with matching self reported data, these are detailed and would be the most reliable. Second would be the camera verified self reported records, and finally there would be a set of self reported records.

7.11 Despite repeated requests since July 2014 no data has been released, only a summary in August 2015.

7.12 There is no need to keep any of this data confidential. Vessel names are easily changed to numbers to make them anonymous, and numbers of undersized fish in the catch and locations are hardly intellectual property.

7.13 So what did the analysis and summary data released describe? In August 2015 MPI and commercial interests reported very low levels of sub-legal snapper catch – an average of 3.3% by weight across all the fleet and all methods. http://www.mpi.govt.nz/news-and-resources/media-releases/new-information-on-important-fishery/

7.14 The submitters are concerned about the results because the summary estimated SNX at a level that was about a third of all previous sampling programmes.

7.15 At the meeting of the Snapper 1 Strategy Group in August NZSFC formally requested two simple metrics to better understand what is going on. The first was the number of times zero SNX catch was reported by method in the data used. A high proportion of zeros would lower the average significantly. The second was the number of times the SNX catch was reported as 15% of legal snapper catch. This was the trigger for the voluntary move-on rule and would provide a rough guide to the effectiveness of this measure. SNX reporting and the move-on rule were both measures being considered in the Draft SNA1 Strategic Plan. Both measures underpinned a package agreed by the Minister and commercial interests as part of the 2013 Snapper 1 decision.

7.16 After three further meetings of the Snapper 1 Strategy Group without answers the NZSFC lodged an Official Information Act (OIA) request in October to obtain a copy of the data extract used by MPI, to do their own analysis. After all, it is publically owned data, generated and reported for the Minister. What could be the problem?

7.17 When the OIA was received MPI contacted commercial interests to let them know a request had been made for the Ministry-held data set. NZSFC and commercial interests had a short meeting where it was revealed there are indeed shortcomings in the data and some fishers were deliberately under reporting, but their records remain in the data set and are used to generate the average catch of undersize snapper published in the public summary.

7.18 The NZSFC was also asked by commercial interests to withdraw the OIA request so a collaborative solution could be found.

7.19 MPI has extended the OIA timeframe to allow for more consultation with the industry, apparently due to confidentiality agreements made between MPI and commercial interests.

7.20 Commercial interest have offered to provide their own, more detailed analysis of the SNX data at a Northern Inshore Working Group meeting in December. The submitters will want to ensure that the fundamental principles of MPIs Research and Science Information Standard (April 2011) are met. These are Peer review, Integrity, Objectivity and Reliability to "ensure that the quality of scientific methods, results and conclusions meet the accepted standards and best practices of the scientific community." [7]

7.21 This withholding of data and subsequent revelations about the veracity of the data is compounded by the blatantly political video produced and released on Sanford website two minutes after MPI put the summary data online.

7.22 Rather than judge on the facts above, we will leave it to the reader of this submission to decide if there were conflicts of interest, collusion, orchestration and if the Minister and public of New Zealand have been misled to achieve a managed outcome that best suits a particular sector, and what the primary motivation might be. This against a background where stakeholders, bureaucrats and politicians are calling for more transparency and a collaborative approach to fisheries management.

[7] MPI Research and Science Information Standard April 2011

7.23 Our concern is that the first time this new model of electronic monitoring and reporting of SNX discards is tested we come up against long delays, new confidentially agreements and lack of peer review prior to releasing the data. This hardly bodes well for a new era of transparency in commercial fishing or mainstreaming the culture of open Government.

7.24 We face a daunting future with the spectre of extractive industries gathering their own data and self-selecting what will be reported to Government and how. Treating the public as a body with no rights to know how their resource is being used is to treat the public with contempt. Section 10 of the Fisheries Act is the provision for providing full transparency in all aspects of New Zealand's fisheries.

- The Fisheries Act must have a new provision in section 10 that specifies all data used to manage fisheries is publicly available in machine readable form. This would comply with whole of government aspirations to conform to common standards across departments and leverage greater value from government data and national resources.

Part 8. The Economy of Fishing

PRINCIPLE 5

8.1 The economic assumptions around fishing need to be tested. Fisheries 2030 establishes MPI as an industry partner to increase exports of fish. Fisheries 2030 makes the untested assumption that this will provide the greatest economic benefit to New Zealand from the fisheries resources under NZ management. Testing such a broad assumption is overdue.

8.2 The economic failure of the QMS is self evident. Growth is by merger and acquisition, monopoly rents replacing value adding, and low profitability. The inability of an industry, operating in a time of unprecedented demand for natural seafood and protected by a monopoly, to generate high value returns and contribute to the NZ economy beyond token returns is evidence of systemic barriers to value creation by industrial fishing. [8]

8.3 The low export values derived from New Zealand 's commercial catch is embarrassing. Those values are sourced from the Government's export statistics. Large volumes of inshore fish are being exported for rock bottom prices. [9].

8.4 There is a lack of innovation and analysis of our fisheries performance. There is also an absence of any competing views on generating value for New Zealand from anything other than commodity trading of bulk harvested fisheries.

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[8] Marine Policy 63 (2016) 180–183

[9] NZ Export Statistics - Trevally $2.50; Kahawai $1.50; Tarakihi $2.00; Albacore $2.80; Jack Mackerel $1.50; Sea Perch $2.40; Snapper $9.00; Skipjack Tuna $1.36 http://www.seafoodnewzealand.org.nz/our-industry/export-information/export-reports/

8.5 In the inshore fisheries there are no more fish available – the future will hold lower catches as ocean stressors increase with climate change and cumulative effects of declining water quality alter productivity.

8.6 We need to challenge lost productivity. The economic sense of continuing to protect an industry for another 30 years when the last 30 has produced so little, must be challenged by alternate use and value propositions.

8.7 The repeated examples of forced labour, dumping, and offshore processing confirm that value to NZ from the industrial use of our inshore fisheries is inconsequential.

8.8 There is another raft of institutional dysfunction and embarrassment on the way when the Catch Reconstruction research results are revealed in early 2016. New Zealand will once again attract international criticism for weak governance.

8.9 Considerations around generating high economic yield from inshore fisheries desperately need revisiting and analysing. The two case studies of inshore utilisation the submitters are pursuing are:

i. The industrial catching and selling for export; and

ii. The sport, recreational and tourism use.

The first covers low stocks with minimal non-commercial catch, the second relies on increased abundance to produce fishing experiences to attract offshore enthusiasts.

8.10 The economics of inshore commercial fishing rely on taking from the ocean the maximum quantity of a species that can be justified under the Fisheries Act. Prosecute the stock to the lowest allowable biomass. At this level it is thought a maximum weight of fish may be taken each year for export, thereby maximising the economic opportunity from the resource. The harvest is well in excess of what the domestic market can consume and our inshore species are exported to world markets where they compete with deepwater species and cheap product from Asian aquaculture.

8.11 The economics of sport and recreational fishing is that stocks are maintained at much higher levels and sports fishermen support a huge recreational fishing industry. This sport and recreational fishery generates at least 10 times the economic value for each kilo of fish killed – with very large foreign exchange components.

Case study

8.12 The sport fishery for marlin went from an award winning tourism generator in 1960 to barely viable in the mid-1980s. The removal of foreign licenced tuna longliners and the New Zealandisation of the fishery with non-commercial status for marlin has seen catch rates in the East Northland charter boat fishery maintained at a reasonable level. NZSFC records show an increase from a few hundred striped marlin per year to an average of 1530 over the last 20 years (Holdsworth and Saul 2013).

8.13 The real economic worth of the resources cannot be realised when stocks are managed at currently low levels. The costs of low stock sizes are often described in ecological terms, but the huge economic cost is mostly ignored.

8.14 The contrasting economic models are simple enough. The economics of commercial fishing rely on keeping fish populations very low, and the opportunity cost of this strategy

is passed to NZ Inc. The economy of sport/recreational fishing relies on maintaining high abundance (high catchability) and thereby generating many times the commercial value for each fish caught non-commercially.

8.15 A preliminary analysis of the economy of recreational fishing project notes that the GST paid on recreational fishing activities alone is greater than the total export receipts if those recreationally caught fish, crayfish and shellfish were caught commercially and sold at last year's export rates, per species. In other words, if the recreational catch was taken commercially and exported the consolidated fund would suffer a large loss.

- One essential outcome of this review is to understand and adopt stock management strategies that offer the highest economic value to be generated. We must not continue to suffer the high opportunity costs imposed on NZ Inc by low abundance harvest strategies.
- The only change needed is to adopt a high biomass strategy. The Minister has unfettered power under s 13 to set the stock size anywhere between the lowest point (B_{MSY}) and the highest point, the unfished biomass.

Part 9. Fisheries research

PRINCIPLE 1

9.1 The purpose of the Fisheries Act is to provide for utilisation while ensuring sustainability. Not just short-term sustainability, but for the reasonably foreseeable needs of future generations.

9.2 Sustainability can be defined in a number of ways. In the Act the main reference is maintaining the stock biomass at or above a level that can produce the maximum sustainable yield (B_{MSY}). The Harvest Strategy Standard makes an allowance for uncertainty and risk when recommending biomass targets. This Standard aligns more closely to the public's aspiration for sustainable abundance of their coastal fisheries.

9.3 For sustainability to be ensured and the QMS to function effectively an investment is required to collect long time series of high quality catch, abundance and biological data. Stock assessment methods and modelling will continue to improve, but reliable inputs of real data are essential and these cannot be reconstructed at a later date.

9.4 The tension in the current cost recovery model must be resolved. The tension exists between the short-term business horizons of commercial fishers and long-term fisheries management objectives. The fishing industry sees research spending as a cost that needs to be managed and they must have a say in what research is undertaken and how often.

9.5 Attributing research levies to the specific stock being studied means even **basic monitoring is not affordable for many inshore fisheries.**

9.6 The fishing industry has succeeded in capping research spending. While the number of stocks has increased 3.5 times the current MPI fisheries research budget is about 45% of what it was in real terms in the early 1990s (Wage –corrected to 1992 purchasing power). The situation is particularly dire for data collection and stock assessments of

inshore stocks because a substantial portion of the research budget is now allocated to deepwater fisheries, recreational harvest estimates, the effects of fishing on the environment, biodiversity research and international fisheries research.

9.7 The move from Resource Rentals to cost recovery has been a national disaster in respect of the quantity and quality of marine fisheries research. New Zealand is following the well trodden path of industry determining where, when, and what research will occur each year and directing research dollars to where industrial fishing might benefit. The return to Resource Rentals and Crown funded research is unavoidable if NZ is going to capture anything resembling a decent return on the exploitation of our fisheries. Industrial captains already decry such a change as imposing another tax, and this is entirely predictable, however, the case for securing a financial return to NZ Inc from commercial use of fisheries is unarguable.

9.8 CPUE is not a reliable abundance index. It has sometimes been argued in the scientific literature that well-calibrated fishery catch per unit effort (CPUE) data is an adequate measure of relative stock abundance, and that useful stock assessments can be based solely on simple models tuned to such data. While this may be true for some fisheries, there are many case studies demonstrating the assumption that commercial CPUE is directly proportional to resource abundance is incorrect and that this has led to large biases in results. Also, that such bias is often detected too late, and only when additional sources of data are obtained and included in the assessment.

9.9 MPI fisheries science has stated that they will not proceed with stock assessment projects if a reliable index of abundance for a particular stock is NOT available. Stock assessments are needed to determine stock reference points; without them managers cannot relate the amount currently being taken by fishing to any other state.

9.10 The use of reference points is considered by the Food and Agriculture Organization of the United Nations (FAO) Code of Conduct for Responsible Fishing to be fundamental to effective fisheries management. They feature explicitly in Article 6, which sets out the general principles of the Code*:*

> "States and subregional or regional fisheries management organizations or arrangements should, inter alia, determine: (a) *stock-specific target reference points, and at the same time, the action to be taken if they are exceeded; (b) stock-specific limit reference points, and at the same time, the action to be taken if they are exceeded; when a limit reference point is approached, measures should be taken to ensure that it will not be exceeded."*

9.11 Fundamental duty of science. The need to develop precautionary approaches, target and limit reference points, harvest control rules, management procedures simulation models, and related methods has added considerably to the duties of stock assessment scientists and, in many cases, has strained the limits of available data.

9.12 In order to implement a precautionary approach, fishery scientists must deliver to fishery managers a description of the existing uncertainty and an assessment of the risks created by overfishing and other impacts on the stock. It is not adequate to simply report the best estimate and describe its uncertainty.

9.13 Any stock assessment analysis must be broadened to include evaluation of the possible consequences of alternative harvest strategies given the amount of uncertainty about current and projected stock status.

9.14 Only a handful of New Zealand inshore finfish stocks have a quantitative stock assessment with estimates of B_{MSY}. For most northern stocks commercial trawl catch per unit of effort (CPUE) is the only indicator of abundance available. For the SNA 1 stock assessment longline CPUE is available and the trawl CPUE is not considered reliable and is not used.

9.15 There are trawl surveys conducted by NIWA in the South Island (East Coast and West Coast), which have proved useful when assessing stock status and management options for a range of species. This type of fisheries independent data collection should continue and MPI are currently considering adding additional shallow water trawl survey strata to better monitor snapper abundance in SNA7.

9.16 Fishery independent data is also collected from large scale tagging surveys. MPI is considering spending $7 to $9 million on a SNA1 tagging survey. For 15 years commercial fishers have opposed this research based on the cost. This has left a large gap in the time series and the current proposal is to undertake a multi-year release and recapture period to try and fill the knowledge gap.

9.17 The current cost recovery model makes it very hard to get large inshore research projects funded, and the significant Crown contribution to the SNA1 tagging project means other important monitoring and research work will be put on hold.

9.18 An ongoing fisheries independent survey in FMA1 and East Coast-Hawke Bay is needed. Our preference would be for a full time longline survey in FMA1 and a standardised trawl survey in the East Coast-Hawke Bay.

- At the minimum, at least one reliable abundance index should be available for each stock.
- Regular fishery-independent surveys offer the best choice for achieving a reliable index if designed well with respect to location, timing, sampling gear, and other statistical survey design considerations.
- The revised cost recovery model must allow for important ongoing monitoring projects to continue even when occasional large scale projects are undertaken.
- There needs to be a defined pooled fund for inshore fisheries research that can be applied to low information stocks.
- Tbe legislation needs to be changed to allow for the creation or acquisition of research quota (as part of the TAC) that allows for the capture and sale of fish by a commercial enterprise that is fishing as part of an approved fisheries survey.

Without a new approach to long-term sustainable research funding the QMS will stagnate and inshore fisheries research projects will be picked on their potential to provide commercial fishers with an increased TACC or benefit rather than following the purpose of the Act and restoring sustainable abundance.

Part 10. Setting the Total Allowable Catch (TAC)

PRINCIPLE 1

10.1 Setting the TAC is the primary sustainability tool available in the Fisheries Act 1996. A very high standard is set when setting TACs as every species sustainability must be *ensured*.

"Fisheries are to be utilised, but sustainability is to be ensured10." [Supreme Court, 2009]

10.2 Sections 13, 13(2A), 14, 14A, 14B, and 14C contain the provisions for setting a TAC. Clearly this is no trivial matter and several options are provided, acknowledging the complexity and necessity of setting the primary sustainability tool.

10.3 One difficulty arises from an implicit goal of reducing the stock size to a level that will produce the Maximum Sustainable Yield. The TAC is set to deplete a stock to this level, when assessed above the B_{MSY} level, or permit a stock to increase when it is below B_{MSY}.

10.4 The NZSFC has an active policy for Fisheries Management Area 1 (FMA1) that reaches for more ecosystem based considerations and cautions of the inevitable surprises from single species stock assessments. This policy is found here.

10.5 While theoretically attractive to economists, such concepts rely heavily on the amount of reliable information available to fisheries scientists. **Even for so called, "information rich" inshore stocks such as snapper uncertainty remains high.**

10.6 In Snapper 1 (SNA1) commercial interests claim the assessment is flawed, in SNA2 the assessment was rejected because fishers changed their behaviour when the deemed value was raised so CPUE is now considered unreliable. In SNA7 there has been a huge spike in trawl catch rates probably from just one year class, which the assessment model just cannot fit, and in SNA8 there has been no stock assessment for 15 years.

10.7 Stock assessments require large amounts of high quality information to enable the biomass size to be reliably estimated across time. In some areas commercial fishers have effectively lobbied for reduced research data collection, simply as a cost cutting measure. In small or low value fisheries the current cost recovery model means most research options are just not affordable.

10.8 Generating the volume of information required to effectively manage stocks and run the QMS as envisioned is not simply challenging, it **is impossible.** This places the concept of moving from input to output controls (in the QMS) in the theoretical basket – it fits nicely with economist's views on market economics but quickly sinks once launched at sea.

10.9 The quality and amount of **fisheries data is highly variable** across the 635 stocks in the QMS. To overcome what would be a fatal gap in most assessments, setting a TAC under s. 13 by determining B_{MSY}, a range of alternative assessment processes are offered.

10.10 The sections guiding TAC setting needs to be more direct, clarifying that decision makers need to achieve the Purpose of the Act.

[10] New Zealand Recreational Fishing Council Inc And Anor V Sanford Limited And Ors Sc 40/2008

10.11 After all, all decisions taken under the Act must conform with the Purpose [11] and the Purpose addresses matters beyond a single stock TAC.

10.12 The Amendment creating s. 13(2A) drew a detailed submission on weakening the TAC setting process and is HERE. Improvements would come from binding the TAC setting, Principles, and Purpose in a more forthright manner and we make recommendations.

10.13 The risks and ability of the Minister to **set catch limits in the national interest** are severely curtailed by weak principles. Section 10 was intended to allow a Minister to be conservative when information was limited or unreliable; now we find it is used to compel maximum utilisation even though information is poor.

10.14 Applying s.13(2A) to set TACs using simulations drew criticism from non-commercial interests, including the NZSFC, when the amendment was before the Select Committee in 2008. The weakening of the sustainability standard was obvious.

10.15 The obvious depletion in CRA2 now serves as a perfect example of what goes wrong with weak standards and using patently unreliable information masquerading as best science when setting catch levels.

10.16 CRA2 is also a good case study of what results from **devolving science functions to industry controlled bodies**. Wildly optimistic stock assessments, disbelieved by long-term observers and fisheries users, are used to depress the stock to levels well below the threshold for complete closure. There is a demonstrable need to amend section 13 to ensure that conforming with the Purpose, including giving proper weighting to the needs of future generations, takes precedence over the immediate needs and wants of today's users.

Part 11. Allocation

PRINCIPLES 1 - 3

11.1 **Allocation decisions** are often considered to be about setting allowances and the Total Allowable Commercial Catch (TACC). We submit that most of the decisions made affect or alter allocations between and within sectors. Setting the TAC will affect allocations, area closures, method restrictions, bag limits and size limits. All of these factors affect what can be taken, where and how.

11.2 While MPI and some Ministers have expressed a desire to have a **more automated or formulaic approach to allocation** the submitters do not agree. There is always a need to balance the expectations of fishers and the public, uncertainty in the available information, the effect on associated and dependent species, trends in utilisation, and value.

11.3 **We submit that allocation decisions must remain with the Minister** as part of his/her responsibility for this public resource.

[11] SC 40/2008 [2009] NZSC 54 para.59

11.4 **MPI has been identified as the single most significant outdoor recreation natural resource manager in New Zealand**, including DoC, if participation rates are the basis for analysis. (Greenaway 2013[12]):

> *As the single most significant recreation resource manager in New Zealand, the Ministry needs to have a more clear understanding of the benefits that will accrue to society via the allocation of access to marine fishing. These benefits will be greater than the current contingent valuation methods indicate, which are largely confined to concepts of individual benefit.*
>
> *A paradigm shift may be required whereby the Ministry better recognises its role as administrator of the nation's single most important outdoor recreation resource (all other outdoor recreation resources with higher levels of participation are managed by diverse agencies).*
>
> *This will require a more considered resource allocation regime, which is likely to include a review of the proportional allocation model….The regime will need to maximise benefit at the national level, and must therefore take into account the full spectrum of values obtained from recreational marine fishing.*

11.5 **Changing the culture of fishing is a primary challenge** to restoring abundance and diversity in our marine environment. This requires MPI to completely re-evaluate their role in fisheries management and redirect resources:

a. Decisions would be improved by taking a broader ecosystem-wide approach to stock assessments and TACs. There is no real account taken of the need to allow species to provide the essential ecosystem services, and the impacts a TAC has on associated species. There is usually some bland statement in advice papers about lack of information and an assumption that the obligation is dealt with.
b. In support of providing maximum opportunity to commercial interests MPI tend to ignore or become very creative in considering statutory duty. This is done in the full knowledge that reviewing decisions through the Courts is expensive and a huge barrier for disaffected parties.

11.6 The current government endorses **Fisheries 2030,** where allocation and use is to maximise benefits for the State. Below the goal are multiple, often conflicting, objectives stripping the 2030 document of rigour. It will be found on examination in NZ, as it has been in every other similar jurisdiction where economic value has been compared, that sport or recreational fishing generates a far larger economy and value from inshore resources. What is obvious for billfish - that each fish killed generates a huge multiple in value compared to a commercially caught fish - applies to other near shore species as well.

11.7 Eventually it has to be recognised that **MPI advice, which guides allocation decision making, is reducing the State's return not improving it.** The depletion of inshore stocks and the ongoing protection of the allocations made for commercial fishing is in effect a huge public subsidy to private interests. The far greater value available from public fishing is denied.

[12] Report on the "Review of sustainability and other management controls for snapper 1 (SNA 1)". R. Greenaway. August 2013.

11.8 Also, the perception that all sectors' interests have to be met is adopting a poor indicator for good stewardship; **it is the States interests that need to be provided for**, and this includes future generations' needs. Current users are just current users, we wont be users for long; our grandchildren will soon take that role. We don't need to promote current users interests over our obligations for stewardship of the ecosystem and enabling future generations to make their decisions.

11.9 **Making allocation decisions in regional fisheries poses additional problems**. In the case of Skipjack tuna, in 2014, the NZSFC opposed the proposed excessive TACCs for commercial fishers as it legitimises catch far in excess of any catch history ever achieved:

> *There is no effective fisheries management for yellowfin or bigeye tuna under the New Zealand QMS with allocations far in excess of any catch. An excessive allocation for skipjack would just be repeating the mistakes of the past and would not be defensible if challenged by other Western and Central Pacific Fisheries Commission members. [http://nzsportfishing.org.nz/userfiles/file/Skipjack-NZSFC-submission-Jun14.pdf]*

Part 12. Compensation for ITQ shareholders

PRINCIPLE 3

12.1 **1986. The Fisheries Act 1983 is amended** to provide for the Quota Management System (QMS). The QMS has an explicit provision for compensation. The Crown takes all the risk when varying Individual Transferable Quota (ITQ) by buying and selling ITQ on the open market. By this method the Crown would manage catch limits to sustainable levels, and be able to allocate or allow catches to whomever it chose. The method for reducing catch was to simply enter the market and purchase the desired tonnage of ITQ. To release catch rights it would offer a tender process to the market, with the highest bidder receiving the ITQ.

12.2 Concurrently, a system of **Resource Rentals** was attached to ITQ to achieved two outcomes:

- Fund the management of fisheries; and
- Deliver a return to New Zealand from the exploitation of a valuable natural resource by capturing super profits.

12.3 Resource Rentals were a fixed charge levied per tonne of ITQ owned, payable annually. **Initially the Resource Rental was set at a token level** to ensure acceptance and to let the new system bed in, but the clearly stated intention was to quickly ratchet these to a level that fully achieved the objectives. The commercial industry continually opposed these rentals and sought ways to rid themselves of this impost.

12.4 **1989**. The Government was faced with the first large reductions in Total Allowable Commercial Catches (TACCs). Treasury baulked at paying large sums to purchase the ITQ for non-existent fish and a compromise solution was sought.

12.5 **1990**. **An amendment by Supplementary Order Paper** to the Fisheries Act 1986 was enacted to resolve the impasse. This compromise solution was formulated largely in secret between three commercial organisations and officials, without public consultation,

and left few records. Quota entitlements would now change automatically with changes in TACC, and became known as a proportional system. The effect was to transfer the risk of varying TACCs from the Crown (who previously had to enter the market and purchase quota) to the ITQ holders themselves, whose entitlement would rise and fall with changes to the TACC, ***without giving rise to any compensation liability to the Crown.***

> *"Under the proposal we have moved to proportionate quotas: the total allowable catch is set and the individual holders of those transferable quotas have their quota varied according to the proportion they hold.* ***No compensation is involved****, and, equally, people do not have to purchase any increase." [Emphasis added] (Hansard, vol 506, p 1149)*

12.6 In return, **the Crown agreed to abolish Resource Rentals** and drastically modify the tender process as it applied to TACC changes. The TACC would belong to the ITQ owners, largely unencumbered, although remaining subject to variation.

12.7 **1992**. The Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

12.8 **1996**. **A new Fisheries Act** formalises the new regime by issuing shares in every TACC. These new ITQ class shares produce an Annual Catch Entitlement (ACE) each year; the amount of fish each shareholder can catch now results from a combination of the number of shares owned and the magnitude of the TACC.

12.9 **The costs associated with changes to the TACC are internalised to the shareholders.** There is enacted a provision (s.308) in the new Fisheries Act that explicitly indemnifies the Crown for any liability should a TACC be reduced for sustainability purposes, and lists 46 sections of the Act that can be altered without giving rise to claims against the Crown. Sections 20 and 21 (TACC setting) are not included in the list.

12.10 It is clear the ITQ shareholders have never given up on the possibility of restoring Crown liability for variations in TACCs, and have used every opportunity to advance the claim. So far the Crown has avoided paying any compensation for TACC reductions, and ITQ shareholders have not sought any.

12.11 **2000. Soundings**. There have been several attempts by Fisheries Ministries to avoid the potential liability of allowing for greater recreational catches. Various versions of the same theme have shown up in Soundings, Shared Fisheries, Fisheries 2030 Vision etc. They depend on the principle of allocating a total allowable recreational catch, a quota or fixed proportion of the TAC, and only enabling increases by buying commercial quota on a willing buyer/willing seller basis.

12.12 **2005 – 09**. Kahawai Legal Challenge – High Court, Court of Appeal and Supreme Court. New Zealand Recreational Fishing Council Inc And Anor V Sanford Limited And Ors Sc 40/2008 [28 May 2009].

12.13 **2008-10. Shared Fisheries** sought to re-establish Crown liability for compensation to ITQ shareholders for TACC reductions.

12.14 **2011**. Once a TACC is set, this generates an annual catch entitlement (ACE). The amount of ACE generated for each shareholder is in proportion to the number of shares

held. The ACE catching right may be bought or sold, but ACE (by and large) expires at the end of the fishing year.

12.15 Any increase in the **Allowance for recreational interests** (not proportional to any change for the commercial sector) does not amount to any "taking" of rights. This is because the nature of commercial fishing rights under the QMS are expressly subject to variation, including variation as may favour the recreational or other fishing sector. If there is a reduction in a TACC, and that reduction is otherwise lawfully made, this does not affect any "property right" as the commercial fishers claim. In other words it is the nature of the commercial fishers property rights that catch rights are subject to variation.

12.16 **The threat of compensation claims** by the commercial fishing industry has been highly effective in maintaining the Ministry's "catch-history" policy over the years. The Ministry's advice to the Minister for the *kahawai* decisions made numerous references to the risks of varying the TACC on a non-catch-history basis, and how this may be subject to compensation claims by commercial fishers against the Crown. This advice drew the comment from the Chief Justice that the matter of compensation was being successfully employed 'interorum[13]', with the Solicitor General replying, "I won't say yes and I wont say no".

12.17 By leaving the door ajar to potential compensation claims, the current drafting of **section 308 Fisheries Act 1996 is highly unsatisfactory**. So long as the Crown is not expressly protected by adding ss 20, 21 to s308(2)(c), and the Courts have not ruled on the issue, commercial fishers can continue to threaten claims of compensation against the Crown.

12.18 It is clear from the record that once the income stream from commercial quotas (Resource Rentals) have been forgone, so has the ability to pay compensation. Either the Crown receives rentals and pays compensation, as in the original institutional arrangements, or this is exchanged for a rent-free proportional right that varies at Ministerial discretion without compensation or cost.

12.19 **The underlying commercial right is a number of ITQ class shares owned**. The proposition that increases in ACE should be free, but reductions compensated, is completely unprincipled and unsupported in the Fisheries Act. TACC reductions (for any purpose) do not reduce the property of shareholders.

12.20 The majority decision in *kahawai* case confirmed that the when setting a TAC the Minister must have a view to how any TAC decisions would affect allocation at ss20, 21 of the Fisheries Act 1996. However, now that a Review is occurring similar weight should also be given to the minority opinion of the Supreme Court by the Chief Justice.

Part 13. Self reporting of recreational harvest

PRINCIPLE 1

13.1 There have been a number of individuals and organisations promoting the value of **electronic self reporting of recreational catch** in New Zealand. Presumably the main

[13] Is a legal threat, usually one given in hope of compelling someone to act.

reason for this is to get harvest information given the use of the phrase "you can't manage what you don't measure".

13.2 NZSFC representatives were involved with all the working group review meetings of the 2000 and 2001 Telephone Dairy Survey harvest estimates and subsequent meetings which led to the development of the **Large Scale Multi Species (LSMS) surveys** of 2011-12. The LSMS included:

- A well designed year-long phone survey of people recruited onto a National Panel using door to door surveys of 30,000 households;
- A NIWA aerial overflight survey in FMA 1 on random days for a year with interviewers counting and measuring fish accurately at the ramps; and
- A survey for 2 years of almost all boat access points in the western BOP to measure rock lobster, scallop, kahawai and gurnard recreational harvest.

13.3 The results were worked up as **independent harvest estimates**, before being compared.

13.4 The **important element of all these surveys** is they had a defined sample frame and within that a person or day could be selected at random. With a random sample from a known population there are straightforward methods to determine the sample size needed to give a good estimate, and once the sample is collected scaling up to a total harvest with confidence intervals. The harvest estimates for the main fish species were remarkably similar and the coefficient of variation was low (c.v.s of 6% to 9%).[14]

13.5 **These surveys are expensive but provide very plausible harvest estimates** for the main species. NZSFC is concerned that electronic self reporting will deliver poorer harvest estimates and divert resources and funding from high quality research.

13.6 One of the **problems using self reporting** is you do not know how many fishers there are (sample frame) and you get a bias in those who report (non-random). Usually it is the keen fishers who report and they fish more often and are probably more successful. Even if all fishers were registered (=licenced) there would be no way to scale up biased data from those who reported, and from those who did not report.

13.7 With the best will in the world the submitters cannot imagine more than **50% of trips would be reported.** There could be some analysis on fishing effort and catch rate or location with what could be a huge messy database, but the harvest estimates would be worse than the 2000 and 2001 telephone diary estimates, which were largely unusable. In 2000 the snapper harvest estimate in SNA1 was 6,200 tonnes and in 2001 it was 6,700 tonnes, over double the previous and subsequent estimates.[15]

13.8 In part, the problems with those surveys was **avid or experienced fishers were over represented in the survey,** they used recall of past fishing events which was not accurate, and some thought that reporting the catch by other people on the same fishing trip was helpful.

13.9 The National Panel Survey in 2011-12 has largely resolved these issues.

[14] Edwards and Hartill 2013. Calibration between offsite and onsite amateur harvest estimates.
[15] Ministry for Primary Industries (2015). Fisheries Assessment Plenary Report, May 2015

13.10 **Examples of good quality self reporting in fisheries in New Zealand are hard to find.** To date, reporting by customary fishers against customary permits is generally poor despite years of trying. Commercial fishers reporting logbook data under the terms of the Adaptive Management Programmes was very poor, in most cases. Probably the best example is the reporting of marlin by recreational fishers. Individual capture weight, date caught, vessel name and angler name are recorded by NZSFC clubs. These records have been published in club year books, in some cases since 1925.

13.11 Before any resources are committed to a self reporting system for recreational fishers the submitters would like to see more detail around any proposal, because at present there are **few explanations of how such a system may work**. As part of this work the submitters would expect to see case studies of where self reporting systems have been successfully deployed in overseas jurisdictions.

13.12 **The 2011-12 NPS delivered the best estimates of recreational harvest in New Zealand**. The submitters do not support scarce resources being used on the development and promotion of a large scale self reporting programme in the hope that it will provide something better than we have at present.

Part 14. Spatial collision

PRINCIPLES 3, 5

14.1 The inshore waters are experiencing repeated collisions between the laissez faire Total Allowable Commercial Catches (TACCs) set for entire Fisheries Management Areas, and the public interest in abundant fisheries. It is often characterised as spatial conflict between commercial and recreational fishers, but this is unhelpful. The conflict arises from **the incoherent management strategies embodied in the Quota Management System** and the non-commercial fishing interests of recreational users.

14.2 It is a collision of doctrine, theory and of democracy. **New Zealand's fisheries resources are the property of the State** and administered by the government of the day, in the interests of the country, conditioned by UNCLOS and other international treaties that NZ has ratified.

14.3 The reluctance of the Ministry for Primary Industries (MPI) and the Minister to **reduce commercial catch** unless commercial interests volunteer reductions or there is evidence from a quantitative assessment is a fatal weakness and driver of depletion for inshore stocks. There are only a handful of quantitative stock assessments for inshore finfish stocks and a national assessment for bluenose.

14.4 This collision is imposing a high cost on the amenity value of inshore recreational fishing.

14.5 **The continued decline in inshore abundance**, despite all that science says, is fueling an ever increasing air of dissatisfaction in the state of the fish stocks by environmental groups, the public, recreational fishers, Councils, DOC, MfE and others. The knives are out.

14.6 While the specific expression of dissatisfaction may vary, the cause is surprisingly common: **the decline in inshore marine ecosystem health.**

14.7 MPI is leading all user groups to ruin by defending so staunchly the excessive commercial TACCs. Even those TACCs that are never caught, cannot be caught, are permitted to exist and prop up commercial effort that should rightly be retired from the inshore fishery. The 15 trawlers hammering gurnard in Hawke Bay in the first week of December is a ready example.

14.8 The benefits of **the QMS** may be realised in the deepwater fisheries, we're not sure yet about that, but it is demonstrably **a failure in the inshore mixed fishery**, multi-user environment.

14.9 **The need to maintain very productive inshore environments** that use the upwelling nutrients to drive productivity is well known and accepted, except perhaps by those responsible for policy settings in NZ inshore fisheries.

14.10 The demands upon the inshore ecosystems are so large and disruptive that **the time has come for a period of catch reductions and constraints,** to enable system-wide rehabilitation to occur.

14.11 Despite years of advocacy from a range of groups and a growing need, MPI seem to be in a quandary as to how to apply precautionary fisheries related constraints. This lack of active management has left many people bewildered and in despair. It is no wonder so many people aspire to have Marine Protected Areas, spatial plans and marine reserves; this growing public support is driven by the absence of a viable alternative.

14.12 Currently **MPI is seen as a bureaucracy paid from the public purse but serving industrial fishing interests, particularly quota (ITQ) shareholders.**

14.13 If there is any way to impose rebuilding strategies in the inshore fisheries within existing structures, we have yet to see it. Our submissions on Part 2 of the Act are applicable here. The sections in the Act being used to drive maximum extraction policy settings need to be amended to direct the Minister to be far **more conservative when setting the TAC and TACC for a fish stock.** Conforming with the Purpose of the Act requires a risk averse approach and certainly not maximum harvest strategies imposed on single inshore stocks.

14.14 If legislative amendments are not applied, the application of the Quota Management System to near shore fisheries must be suspended and **a new governance system, better attuned to ecosystem based management and the public's expectations and wellbeings, must be imposed.**

14.15 **The idea of a near shore zone with limited commercial fishing is not new.** It is established in Iceland and parts of USA. The removal of all netting to protect Maui's dolphin in areas along the North Island west coast has seen fish abundance increase dramatically in a few years.

14.16 Recreational parks push commercial effort into someone else's front yard. This domino effect of serial depletion is ignored by those promoting measures for political gain or to achieve an outcome for an isolated area.

- A comprehensive near shore coastal zone where method and gear restrictions give relief from the remorseless exploitation of the QMS seems unavoidable.
- Imposing method and gear restrictions in the near shore zone would help in providing the level of protection needed for juvenile fish on the east coast of the North Island, particularly in vulnerable areas of Northland, the Bay of Plenty and Hawke Bay.
- Method and gear restrictions would also help to reduce the exploitation rate on fish stocks important to the public.

Part 15. 28N Rights

PRINCIPLES 3, 5

15.1 These **28N rights** are non-transferable rights which originate under sections 28N and 28OE of the Fisheries Act 1983. They were created at the introduction of the Quota Management System in 1986. They are currently administered under s23 of the Fisheries Act 1996[16].

15.2 The processes that gave rise to Individual Transferable Quota (ITQ) can be summarised a follows:

a. The Minister declares a species to be a quota species[17]
b. The Minister declares a TAC for the quota stock[18]
c. The Ministers declares the years that catch history will generate PMITQ[19]
d. The Minister declares a minimum threshold for receiving PMITQ[20]
e. The Minister declares the GMITQ for a fish stock[21]

15.3 The **preferential allocation rights** that have become known as 28N[22] rights resulted from efforts to reduce the sum of the Provisional Maximum Individual Transferable Quotas (PMITQs) to no more than the Total Allowable Catch (TAC). When the PMITQ had to be reduced proportionately to achieve the TAC the administrative reductions were treated as preferential rights to any future allocations.

15.4 Commercial fishers who chose not to sell, and to have their rights reduced without compensation, became entitled to have those reduced PMITQ rights restored in future as perpetual, transferrable quota 28N rights; if the Total Allowable Catch (TAC) in that stock was increased.

15.5 Changes to the TAC/Total Allowable Commercial Catch (TACC) increase under the 1983 Fisheries Act were achieved by the Crown buying and selling ITQ. The Crown took all the income from generating new ITQ and paid all the costs of reductions. The embedded market in this arrangement had only **a single buyer and a single seller**.

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[16] www.option4.co.nz/Fisheries_Mgmt/28nrights.htm
[17] Fisheries Act 1983 s28B(1)
[18] Fisheries Act 1983 s28C(1)
[19] Fisheries Act 1983 s28C(3) – Provisional Maximum Individual Transferable Quota
[20] Fisheries Act 1983 s28E
[21] Fisheries Act 1983 s28F – Guaranteed Minimum Individual Transferable Quota
[22] Fisheries Act 1983 s28N

15.6 28N rights were specified in kilograms, as was the ITQ finally allocated in 1986. When a TAC, or currently a TACC, is increased any outstanding 28N rights are honoured first until all those rights are discharged, before other quota holders receive any increase.

15.7 However, changes to these rights resulting from the new Fisheries Act 1996 brought fundamental changes to how ITQs were described and the markets facilitating trade. **Now quota is expressed as shares** in a fishstock, with 100,000,000 issued for every quota stock.

15.8 Honouring 28N rights is effected by redistributing quota shares amongst incumbent shareholders[23]. **Liability has been moved from the Crown to current shareholders**, most of which are unaware how s23 operates.

15.9 Originally around 5,000t of 28N rights were created across all stocks. As of February 2010, 2,686 tonnes remained unredeemed, and 54 owners held 484 tonnes of 28N rights in SNA1[24].

15.10 The history of the SNA1 TAC/TACC can be summarised:

a. The intention was that a TACC set at 4710t in 1986 would rebuild the depleted snapper fishery and within a few years any administrative cuts would be redeemed via the s28N mechanism. These were all fixed tonnages of SNA1 ITQ.

b. Unpredicted by anyone, the Quota Appeal Authority (QAA) immediately began a generous round of granting ITQ to appellants, and continued until the TAC had blown out to 6010t by 1991, an increase of 27%.

c. The catch savings made by those that took the catch reductions (both compensated and 28N rights) were immediately lost and no stock rebuilding occurred, in fact the stock continued to be under severe stress. The catch reduction failed in its purpose of rebuilding the stock, and it was only by fulfilling this purpose that preferential allocation treatment could be offered in the form of 28N rights.

d. In 1992 the TACC was reduced by 1,106t (18%), by way of uncompensated proportional ITQ reductions, to remove the excess granted by the QAA. Even at this level stocks failed to rebuild, and a further 438t (9%) reduction to the TACC was made in 1997, and finally stocks began to recover.

e. Following the initial reduction of PMITQ by 44%, that included either compensation or promises of future ITQ, reductions equivalent to one third of the original 4710t TACC were made without any compensation mechanism.

f. Reducing the PMITQ in 1986 did not lead to any stock rebuilding that would enable a TAC increase. It is simply outside the scope of natural justice that those who suffered the costs of the additional reduced ITQ that finally rebuilt the stock should be excluded from sharing in the benefits.

[23] Fisheries Act 1996 s 23

[24] In October 2004 60 owners held 533.735 t of 28N rights in SNA1. In January 2010 54 owners held 484.535 t of 28N rights in SNA1. MFish 27 January 2010.

15.11 **It is arguable if 28N rights holders are owed anything** for the PMITQ reduction. There was no actual property lost to the Crown during the setting of the TACC in 1986; the Crown honoured the GMITQ sent to complying fishermen. The Crown did not actually take anything as the sum of the PMITQs was never able to be converted into ITQ if in doing so the sum exceeded the TAC.

15.12 Even if accepted that the Crown has a liability to those 28N rights holders on the basis of a legislated promise made as the Quota Management System was being created, are these rights holders owed private ITQ class shares in a fish stock that did not exist at the time 28N rights were granted?

15.13 These 30 year-old **28N rights to initial TACC increases seem fraudulent** in 2015 in a number of ways:

a. When the voluntary buy back scheme failed to achieve the necessary reductions in PMITQ some means of administering further reductions was urgently needed. The offer of 28N rights to those who then had their PMITQ administratively reduced was a sweetener offered to get the new QMS up and running. There was not time for further negotiations or refinement.

b. The TAC reductions that gave rise to 28N rights have not delivered a rebuild of Snapper 1 or 8. Now the 28N rights sit in legislation as a right to fish that have never existed. The expectation was the TAC reductions, achieved by both compensated and administrative means, would lead to a rapid rebuild enabling subsequent increases. This never eventuated.

c. With hindsight we can see there was no 'potential yield' that would provide the TACC increase needed to convert the 28N rights to ITQ. The creation of 28N rights was a mistake made with erroneous assumptions about the snapper stock. Such mistakes are easily made when setting catch limits with little other than catch history serving as a guide.

d. The QMS was never going to be perfect when established in 1986. It represented a novel and untried management doctrine attempting to meld the economist's views of economic efficiency with the biological constraints of a largely unknown ecosystem. Mistakes made at the inception, and there have been several, have needed to be rectified over the following years, and the failure of 28N rights regime needs to be corrected now and removed from the system.

e. Most of the existing quota shares in SNA1 have been bought by current owners at full market price. If there was to be a TACC increase, it seems grossly unfair that these owners would lose shares (market share) on the basis of a past administrative mistake by the Crown. This seems to impose an unjustifiable cost onto most current shareholders.

15.14 From the Court of Appeal decision written by Tipping J in CA83/97 –

Section 28N Rights

565.6 tonnes of quota remain subject to these rights. All the current holders represent people or companies who were originally holders of quota in 1986. We were informed that holders of these rights are entitled on any future increase in the total amount of quota to their share of that increase at no cost. Apparently, in order to qualify the increase does not have to be an increase above the base amount which applied immediately after the holders had suffered their reduction; it can be any subsequent increase. If this is indeed the effect of the legislation, the position may justify some examination. Those bearing the present sacrifice on a decrease in quota will not necessarily recoup all that sacrifice on any subsequent increase.

We were not taken into the full details of this issue and we simply make this comment from what we were advised at the bar.

15.15 The liability for the 28N rights must be returned to the Crown, and until the matter is resolved no TACC increase should occur.

Remove 28N rights from the QMS

- The existing 28N rights should be paid out at the compensation rate used in the original buy back scheme, discounted for current value, and cancelled. It is the only way to clear the future from past mistakes and place all current shareholders on an equal footing.
- Furthermore this prevents further erosion of the Deed of Settlement value as occurred in Bluenose.

Part 16. Co-management

16.1 **Co-management can take many forms** and generally means some iteration of community or stakeholder groups managing a resource in a co-operative way. User participation and/or stakeholder involvement are usually considered as desirahle qualities of management institutions, even if there is a need for balancing stakeholder interests and the public interest (Mikalsen and Jentoft 2001).

16.2 In New Zealand there has been a single example where users and government bureaucracy engage jointly to manage marine resources, and that is in the Rock Lobster fishery. **The National Rock Lobster Management Group acts as an advisory body** to the Minister and comprises commercial, recreational, and customary interests. This example is widely promoted in NZ as an indigenous co-management model that could be adopted by several other fisheries.

16.3 **There are examples in Canada where co-management has gained traction** and delivered outcomes accepted by the users. The indigenous people in British Columbia have attempted to close herring fisheries, as they believe the stocks will not support the Federal TACs being set. Some call it asserting 'conservation rights' (Pinkerton) and some call it 'stewardship rights', but the effect is the same - to sacrifice the immediate benefits of fishing to them, for the long-term sustainable benefits for all.

16.4 **An essential element of co-management is the capacity and willingness to sacrifice immediate benefits** for themselves for long-term benefits for all. Note, this is not simply serving self interest as described by E Otsrom; true conservation or stewardship follows from setting self interest aside and seeking improved ecological states and improved catches for all.

16.5 **New Zealand is not able to embrace contemporary co-management practices** as we have selected institutional arrangements that rely on people prosecuting their self interest. This has led to fractious encounters where self interests collide with anger and accusations and demands for higher intervention.

16.6 **The fatal feature of New Zealand fisheries** that prevent co-management is the existence of the Quota Management System that creates what TACC shareholders see as strong private rights.

16.7 **Private and public rights seldom, if ever, coalesce into co-management.** The incentives, short-term and long-term costs and benefits, are incompatible and private rights holders assume that foregoing immediate catch will not be worth the cost in the long run. If the existing mix of rights is the main ingredient preventing the development of co-management, what changes are possible?

16.8 The doctrine of the Total Allowable Commercial Catch (TACC) shareholders is to make private and public rights the same, by creating shares in the Total Allowable Catch (TAC). In this regard there would be equitable costs and benefits according to the interest in the TAC. This view is supported by market economists, some within MPI, and the commercial fishing industry. This is simple nonsense and anyone wanting to promote this view must turn their attention to all the stocks within the inshore ecosystem and understand what consequences would flow from such a policy setting.

16.9 We would need to see case studies on a dozen stocks in Quota Management Area 1 for a start, and once we examine John Dory, Gurnard, Trevally, Flatfish, Grey Mullet, Jack Mackerel, Kahawai and more it soon becomes obvious that **dividing up shares in a proportional manner when a TAC changes will deliver ridiculous results** (10 gram increments to the bag limit).

16.10 **Co-management will evolve in New Zealand** when the inshore coastal zone suspends the QMS from the near shore and is replaced by a more sensitive management regime. This regime would, by necessity, cause mana whenua, and other public and private groups to meet and determine the environmental limits. Before this can happen two changes are required:

a. Firstly, to have mana whenua exercise kaitiakitanga [stewardship], and not western capitalist, highest rate of return models that inevitably collide with traditional obligations as kaitiaki (guardians).

b. Second is to firmly establish, by statute, the indemnification of the Crown for any changes in TAC, TACC, or Allowances, irrespective of purpose or need. In other words, give full effect, finally, to the intention of the change from fixed tonnage ITQs to TACC shares - that no resource royalty was being collected in exchange for no payments (when a TACC increased) or compensation (when a TACC decreased) without qualification. It is obvious that without an income stream a payment stream is simply out of the question and completely illogical.

16.11 **To create coastal zones the Fisheries Act needs amending** to simplify changes to Quota Management Areas. There is nothing implicit or explicit that areas available to different types of fishing methods or seasons cannot be altered from time to time. It is obvious that changes will become necessary, from time to time, as a very accurate tool to solve some inshore problems.

16.12 **This is not simply a matter for discrete Marine Protected Areas;** there are times when a Quota Management Area needs to be redefined. The presupposition that Individual Transferable Quota (ITQ) shareholders have a defined spatial right that cannot be changed without compensation is spurious. If government consider there is a liability then extinguish it now with an amendment.

16.13 **Co-management may mature in New Zealand** but its pursuit now is defeated by the perceived spatial rights of ITQ shareholders and the blatant commercial manner which Maori fisheries management lobbyists adopt without question.

Submission

By the: **Northland Regional Council**

On

Fisheries Management System Review

To: Ministry for Primary Industries

fisheries.review@mpi.govt.nz.

The Northland Regional Council (Council) thanks the Ministry for the opportunity to provide input into the Fisheries Management System Review. The Council makes the following comments from its perspective as a regional council with functions under the Resource Management Act 1991, Biosecurity Act 1993 and Local Government Act 2002. These comments are also made in the interests of sustainable management of our coastal marine area and the natural and physical resources it contains.

Scope of the Review

We appreciate that this is a first step in a comprehensive programme and that this stage is designed to provide an opportunity to raise broad, high level issues relating to fisheries management, rather than detailed submissions. However, council considers there should be opportunity to consider fisheries management in more detail, including the Quota Management System and fisheries management areas. We consider there is an opportunity for a more holistic approach to fisheries management that recognises the complex social and environmental context in finer 'resolution'. For example, some fisheries are very large scale - the FLA QMA covers all the North Island from the Firth of Thames north, meaning that fishing effort can be concentrated into a confined area placing significant pressure on a small area at detriment to that area.

Council therefore considers there should be more opportunity for community say in fisheries management generally and an ability for input into mechanisms such as TAC and management areas to reflect local concerns and interests. We would like to see these matters opened to debate in later stages of the review.

Alignment of RMA and Fisheries Act functions

The council is responsible, under the Resource Management Act 1991 (RMA), for ensuring sustainable management of natural and physical resources in Northland's coastal marine area (CMA), but this does not extend to management of the fisheries, which is the domain of the Ministry of Primary Industries (MPI) under the Fisheries Act 1996 (FA).

There is a degree of overlap in terms of high level outcomes under both the RMA and FA. For example, in managing the fisheries resource, MPI also has environmental responsibilities under Sections 8 and 9 of the FA, including:

- maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations; and
- avoiding, remedying, or mitigating any adverse effects of fishing on the aquatic environment;
- biological diversity of the aquatic environment should be maintained;
- habitat of particular significance for fisheries management should be protected.

In general, council's view is that the fisheries management system works well to manage fisheries at broad species scale. However we consider there is potential to better align outcomes sought for marine ecosystem protection in both pieces of law.

For example, regional councils can identify and protect areas of the coastal marine area with significant biodiversity and habitat values in accordance with Section 6(c) RMA or Policy 11 of the New Zealand Coastal Policy Statement 2010 (examples could include seagrass meadows, fish spawning sites and areas of rare and unusual biodiversity, not all of which would warrant full protection under marine reserves). While such protection under RMA can apply controls on activity such as dredging, reclamation, aquaculture through regional coastal plans, there is no ability to provide complementary controls on fisheries management to protect ecosystems – either in terms of allowable harvest or fishing methods (Section 12(1) RMA exclude controls on destruction, damage or disturbance of the foreshore or seabed for the purpose of the lawful harvest of plants or animals). This can be a significant gap in achieving marine ecosystem protection.

Council considers that where such important marine biodiversity sites are able to be identified in RMA plans through robust consultation processes, there is a case to also consider complementary controls on fishing activity through the FA – potentially through a parallel public consultation and submission process. In our view this would allow for more comprehensive and robust consideration of marine biodiversity management options (and consideration of the costs and benefits) at a regional scale with participation by all relevant parties in a single holistic process (including tangata whenua, local communities, fishing interests and the public generally). We would be grateful for the opportunity to consider the potential for such parallel processes in more detail with the Ministry.

Increased Monitoring

There is a need for greater monitoring of fisheries and particularly the impact and / or risks of marine pests on our fisheries and marine environment. Northland fisheries are particularly vulnerable to marine

pests given our climate, location and volume of maritime traffic – as the Ministry will be aware Northland is often the first port of entry to overseas vessels – and marine pests are a growing concern.

We also consider there is a need for more monitoring of recreational shellfish gathering beds, in terms of biomass of beds and catch per effort. Shellfish are an important food source for many in the Northland Region. Recent high profile declines in shellfish populations (eg Mair Bank and Ngunguru estuary) have highlighted the need for greater knowledge of shellfish beds to help ensure any problems may be identified early. A recent MPI report[1] indicates an overall decrease in large individuals at many recreational sites within the Northland/Auckland Region. This report highlights the need for more information, stating "*The lack of fishing information also makes it difficult to assess the effectiveness of management measures, such as permanent and seasonal closures".*

Council acknowledges that shellfish populations can be dynamic and influenced by natural population fluctuations, environmental factors and habitat dynamics. However, this is more reason to increase monitoring of recreational shellfish gathering beds so as to gain a better understanding of the reasons for significant declines in shellfish populations and to enable more effective management of those beds. Conversely to the point made above, it may be that an RMA or other local government management response is needed to compliment controls on fishing activity in such instances (for example, an increased focus on sediment or water quality).

Again, a mechanism to provide for parallel processes and solutions under both the RMA and FA to develop the most effective response to such issues seems beneficial. However, this also relies upon good knowledge of cause and effect and we support increased collaboration with MPI staff in the investigation of potential environmental causes, particularly given the expertise that MPI staff "bring to the table" on these matters – council greatly appreciates the efforts of MPI in Northland investigations to date.

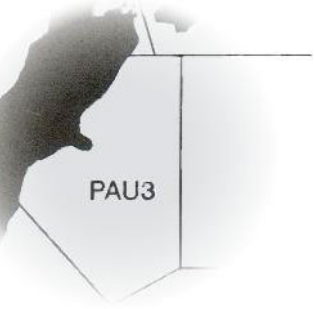
Council once again thanks the Ministry for the opportunity to comment on the review and look forward to the opportunity to participate further in the later stages in further detail. Please do not hesitate to contact us should you wish to discuss the above.

Signed Dated: 11 December 2015

Malcolm Nicolson (CEO)

[1] K. Berkenbusch et.al, 2015. 'Intertidal shellfish monitoring in the northern North Island region, 2014–15' New Zealand Fisheries Assessment Report 2015/59

Paua 3 Industry Association Incorporated



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Submission to the Ministry for Primary Industries on the Review of the Fisheries Management System

11 December 2015

Introduction

1. The Paua 3 Industry Association Incorporated (PauaMAC 3) welcomes the opportunity to participate in the Ministry's review of New Zealand's fisheries management system.

2. PauaMAC 3 represents the commercial paua industry in QMA Pau3 Clarence River to Waitaki River. Our members include owners of paua quota and Annual Catch Entitlement in Pau3 as well as associated members i.e., processing and distribution personnel.

Support for core industry submissions

3. PauaMAC 3 supports and fully endorses:

   - The joint submission of the Paua Industry Council and the NZ Rock Lobster Industry Council; and
   - The core industry submission entitled *Initial Seafood Industry Contribution to Fisheries Management Review 2015/16:* ***Creating Value 'Beyond Sustainability'***.

4. In particular, we wish to emphasise that the fundamental framework of New Zealand's fisheries management regime – as embodied in the Quota Management System (QMS) – is sound and has generated significant benefits for all New Zealanders. What is now required in order to further enhance the management of paua fisheries, is a capacity for quota owners to adopt more sophisticated fine-scale management measures for commercial fishing.

Authorised management

5. We consider that the improved fisheries governance arrangements proposed in the core industry submission (in particular, the enhanced ability for quota owners to manage commercial harvesting activity under an 'Authorised Management' approach) will enable the paua industry to build on our

current voluntary management initiatives, strengthen our relationships with other fisheries stakeholders, and enhance the value that New Zealanders obtain from paua fisheries.

6. PauaMAC 3 has implemented voluntary measures to manage the fishery, as follows:

   - **Catch spreading**: We have implemented a catch spreading initiative labelled Sub Division. This measure involves catching a percentage of ACE holding in each of four Sub Areas. This benefits the fishery by reducing likelihood of serial depletion in a single area;
   - **Increased Minimum Harvest Size (MHS)**: Voluntarily increasing the MHS above the minimum legal size (MLS) has been used to good effect in Pau3. The concept is supported by science and has two benefits: fewer individuals are removed to harvest ACE and the spawning biomass is increased; and
   - **Data collection**: We collect fine scale data with use of data loggers. By improving methods of data collection we can obtain a better idea of state of the fishery. PIC has been instrumental in developing data loggers for the Paua industry. Currently Pau3 obtains about 80% of ACE holders using the data loggers. The data would be improved with 100% compliance, however even with majority vote we cannot currently achieve this because compliance of divers is voluntary.

7. Authorised Management (or, as we have previously referred to the concept, Tools for Collective Management) would be a useful tool to our industry because it would enable us to ensure that our agreed management measures are complied with by all quota owners and commercial divers.

Rebalancing

8. The compilation of displaced catch along all of our coastline from areas closed to commercial fishing as a result of customary fishing areas (e.g., mataitai reserves) and Marine Protected Areas (MPAs) is putting our fishery at risk. The loss of spatial access to commercial fishing needs to be dealt with. "Rebalancing", as proposed in the PIC and NZ RLIC submission, is an initiative that needs to be enforced in order to protect paua fisheries from the effects of serial depletion. By assessing the amount of displaced catch, adjusting catch levels, and using market-based compensation to ensure quota owners are no worse off, rebalancing will ensure that customary fishing areas and MPAs can be provided for in a way that does not upset the effective operation of the QMS.

Other matters

9. The main 'rub points' that we have identified in the current fisheries management regime, together with some proposed solutions, are discussed below.

Management of recreational fishing

10. New Zealand's management of recreational fishing is not at the forefront of international best practice. Currently, information of recreational catch and effort is incomplete, unreliable, and costly to obtain. Uncertainty about recreational catch creates problems not only for recreational fishers, but for all other users of paua fisheries. Because we don't have good information on recreational catch, we can't be confident that TACs and allowances are set appropriately. We also can't be sure that

management measures such as daily bag limits are constraining recreational catch within the allowances, meaning that the TAC lacks integrity.

11. Due to the nature of our fishery, in Kaikoura area of Pau3 a reliable recreational paua survey has not been performed. This is due to the state highway access to large area of coastline making survey work logistically challenging and no doubt expensive. It is my understanding MPI has tendered for design of such a survey however it is not known when actual work will commence.

12. PauaMAC 3 therefore recommends:

    - The introduction of mandatory recreational catch reporting, including through the use of innovative technology;
    - The use of meaningful bag limits and other measures so as to constrain recreational harvest within the recreational allowance and maintain the integrity of the TAC.

Integration of Fisheries Act and Resource Management Act

13. The sustainability of paua fisheries depends upon clean and unpolluted water and healthy aquatic ecosystems. Paua fisheries are particularly vulnerable to point source pollution (e.g., sewage discharges) and non-point source pollution (e.g. run off and sedimentation from agricultural land). Activity on the land – and in particular urban development, farming and forestry activity – is rapidly becoming one of the major constraints on the productivity of paua fisheries. However, fisheries management considerations do not appear to be taken into account in decisions about land-based activities such as forestry harvesting.

14. PauaMAC 3 therefore recommends that processes need to be established to ensure that RMA decision-makers are more aware of the impacts of land-based activities on fisheries resources, and that RMA decision-making takes into account the true costs of these activities.

Recreational fishing from commercial vessels

15. Current mechanisms for taking recreational catch off commercial vessels are unnecessarily cumbersome and bureaucratic. Reporting of recreational catch to comply with Section 111 General Approval requires you to carry another book for non-Paua species. Also currently to obtain a Section 111 Particular Approval you must give local compliance office 3-4 working days' notice.

16. PauaMAC 3 therefore recommends streamlining the mechanisms for taking recreational catch on commercial vessels.

11 December 2015

FISHERIES INSHORE NEW ZEALAND'S RESPONSE TO THE OPERATIONAL REVIEW OF THE NEW ZEALAND FISHERIES MANAGEMENT FRAMEWORK

INTRODUCTION

1. At the September 2015 Seafood Conference, the Minister for Primary Industries announced the Ministry for Primary Industries (MPI) would undertake an operational review of the New Zealand fisheries management framework. The scope and nature of the review has evolved in the recent past from the narrow operational review announced by the Minister to a wider review where only the following are deemed out of scope:
    - sustainable utilisation of fisheries resources as set out in section 8 of the Fisheries Act
    - the Quota Management System (QMS) tools (quota and annual catch entitlements)
    - the rights of commercial quota ownership
    - the Crown's obligations under Treaty settlements
    - the rights and interests of tangata whenua, and customary management
    - the right to fish for recreation

2. Fisheries Inshore New Zealand Ltd (*Fisheries Inshore*) is the Sector Representative Entity for inshore finfish, pelagic and tuna fisheries in New Zealand. Its role is to deal with national issues on behalf of the sector and to work directly with, and behalf of, its quota owners, fishers and affiliated sector representative organisations. Its key outputs are:
    - developing appropriate policy frameworks, processes and tools to assist the sector to manage inshore, pelagic and tuna fishstocks more effectively
    - minimising fishing interactions with protected species and the associated ecosystems
    - working positively with other fishers and users of marine space where we carry out our harvesting activities

3. Collectively, Fisheries Inshore shareholders own more than 51% of the quota in 187 (of 239) inshore, pelagic and tuna stocks and have shareholdings in the remaining inshore stocks. This equates to approximately 80% of the inshore finfish sector by value and volume.

4. Fisheries Inshore welcomes the review and values the opportunity to contribute to the future-proofing of the New Zealand fisheries management framework.

SUMMARY STATEMENT

5. Fundamental to our submission is the strong belief that the New Zealand fisheries management framework as it relates to inshore finfish – the legislative structure and regulatory base – is not broken, nor in need of fundamental reform. However, it can be updated and amended to improve the performance and effectiveness of the overall management system.

6. With that in mind we support and endorse the submission of Seafood NZ that seeks to provide a more enabling Fisheries Act that recognises the variety of fisheries and that flexibility should be provided to optimise the sustainable use of those resources. We also recommend as compulsory reading the summary of the QMS and its evolution which is contained in the front sections of the Seafood NZ submission.

7. Further, we stress the view put forward in the Seafood NZ submission that any changes to the Act should be carefully considered within the context of the fisheries framework management as a whole. The Fisheries Act and QMS represent a complex suite of measures that provide valuable incentives to ensure wise resource use. Any interventions that increase uncertainty, erode current rights, or change desirable incentives should be avoided. Such changes would represent considerable risk to sustainability which is the cornerstone of the Fisheries Act.

8. We consider that the performance of inshore fisheries can be vastly improved for all sectors with very minor, if any, change to the current law. However, what is in need of substantial reform and improvement are the operational processes that give effect to the Fisheries Act.

9. While much of this submission might appear critical of MPI, that is not our objective or intention. We acknowledge that managing inshore fisheries is considerably more difficult than other sectors, and MPI has spent many of the past few years in a state of flux. This has resulted in high staff turnover, structural changes and a loss of institutional knowledge and capacity that has compounded an already difficult task. Our intention is to highlight deficiencies, provide the basis for discussion and action and work with MPI to improve inshore fisheries, not just for the commercial sector but for all those that value our fisheries resources.

BACKGROUND

10. New Zealand has earned a world-wide reputation for the quality of its fisheries management. It was an early adopter of Individual Transferable Quotas (ITQ) and the use of Maximum Sustainable Yield (MSY) as the bases for management of fisheries. Its position at the head of the pack has been maintained through the provisions of the Fisheries Act, the adoption of harvest strategy standards and the inclusion of ecosystem considerations in decision-making.

11. The provisions in Part Two of the Act containing the Purpose, the Environmental Principles and Information Principles are fundamental to the integrity and stability of the fisheries management framework. The Purpose statement in section 8 has been deemed out of scope; a decision we commend and consider wholly appropriate. However, we see no reason why, having served New Zealand so well to date, there should be any need to amend the other basic foundations that are reflected in the Principles in sections 9 and 10 of the Act.

12. The Information Principles embody the concept of a precautionary approach by ensuring decision-makers take into account the uncertainty in information and the need for caution when information is uncertain, unreliable or inadequate. The Environmental Principles require decision makers to take into account the need to ensure the long-term viability of associated or dependent species, maintain biological diversity of the aquatic environment and protect habitats of particular significance to fisheries management. Any attempt to finesse the current wording of Part Two or import additional and/or vague considerations should be avoided. Doing so would only serve to increase uncertainty, de-stabilise fisheries management and thereby undermine the Purpose of the Act.

13. Part Three sets out the sustainability measures that underpin the utilisation objectives of the Act. Section 11 provides the Minister with the powers and the process to be followed to introduce sustainability measures. Section 13 requires the Minister to set a Total Allowable Catch that maintains a stock at or above a level that will produce the maximum sustainable yield having regard to the interdependence of stocks. Section 14 allows for in-season adjustments to be made for stocks with highly variable abundance. Section 15 allows for the Minister to implement such measures considered necessary to avoid, remedy or mitigate the effect of fishing-related mortality on protected species. Section 16 allows for emergency measures to be implemented by the Minister.

14. These various sections are now well understood and work synergistically to deliver the Purpose of the Act. This applies not only to stock management but also to wider ecosystem considerations, for example through limiting the impact of fishing on the seabed and protected species. A significant element of the Industry's focus is on implementing measures to improve environmental performance through gear modification, and operation changes to deliver on environmental policies such as the National Plans of Action for Seabirds and Sharks.

15. There is no doubt that New Zealand's fisheries management framework is delivering sustainable fisheries management. By the end of 2014, for the stocks with known status:[1]

- 96.4% of the landings were from stocks above the soft limit
- 99.5% were from stocks above the hard limit
- 95.9% were from stocks below the overfishing threshold, and
- 90.3% were from stocks above their management targets

[1] MPI. *The Status of New Zealand's Fisheries*, February 2015.

16. If there is a downside to that analysis, it is that only 72% of the landings come from stocks with a known status. That does not mean the other 28% of landings are from stocks that are being fished unsustainably, just that we have yet to specify appropriate management and monitoring measures to provide that information.

17. The number of stocks with known status has progressively increased, yet more pragmatic monitoring approaches are necessary to provide confidence in sustainable use. Many of the fisheries in question are inshore stocks under the purview of Fisheries Inshore.

18. Furthermore, in respect of the inshore finfish stocks:

- 86% of QMS stocks have never had a formal TAC/TACC review since their introduction to the QMS[2]
- Less than two-thirds of inshore stocks have a recreational allowance set
- There is no approved over-arching Fisheries Plan in place for inshore fin fish
- There are no documented, stock-specific plans in place for any inshore fin fish stock (although progress has been made on SNA1)
- The medium-term research programme in place is not informed by specified management objectives for inshore stocks

19. This has not been helped by the recent organisational changes within MPI. We are concerned that the current management and resourcing structure does not result in strong accountability or ownership of specific stocks by MPI staff. Prior to 2010, MPI had a management structure with regional analysts responsible for the management of stocks within that region. Those analysts were able to establish relationships with commercial and recreational sectors and obtain a detailed knowledge and oversight of the stock and all elements of the fishery. The replacement management structure provides for fisheries management staff to be pooled primarily in Wellington and Auckland and be assigned stocks as required to address emergent issues.

20. As a consequence, too many inshore fisheries are "under-managed" or not managed at all.

21. The discussion above illustrates that:

a) when the current fisheries management framework is applied, and appropriate management and monitoring is in place, stocks are demonstrably sustainable; and

b) there is considerable scope for improvements within the current framework to increase the effectiveness and efficiency of management activities that are applied to inshore fisheries; this must of course be done in a cost-effective manner.

22. Those two points form the central thesis of our submission. Our focus is not on how New Zealand maximises the value it extracts from our fisheries resources as that ultimately depends on the value generated by the stakeholders and more widely from the international perception of New Zealand as a sustainable economy. Those matters are *Beyond Sustainability* and are discussed in Seafood NZ's submission. Rather our focus is on the underlying foundation for that value – sound fisheries management for our inshore finfish stocks.

23. We devote much of the remainder of this paper to discussing possible improvements. Where we are able to do so, we have discussed these under the following five themes identified my MPI:

- Ensuring sustainability
- Benefits for all New Zealanders
- Decision-making processes
- Monitoring and enforcement
- Responding effectively to future challenges

24. Furthermore, we have attached as Annex One an integrated Six-Point Plan that we consider can go a long way to addressing many of the fundamental concerns that are often raised with respect to inshore fin fisheries. While the points set out in that Plan are raised under the various Themes in this submission, we consider it is critical to set these out in a stand-alone document as the Plan addresses several inter-related matters and, to make effective change, the Plan needs to be implemented as a whole rather than be viewed as potential interventions from which to choose.

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[2] Fisheries Inshore acknowledges that many of these stocks have nominal TACs and that have yet to be proved up. If these developmental opportunities are removed (i.e. 10 t or less for the purpose of this rough analysis), the number of stocks that have never had TAC changes reduces to 62%. This is still too high.

RESPONSE TO THE THEMES

Theme One: Ensuring Sustainability

Sustainable Fishing

25. While it is unnecessary to repeat the statutory definition of ensuring sustainability, it is useful that MPI has paraphrased this in its definition of sustainable fishing to mean:

    - making sure that enough of the fish population remains to breed in the future, and
    - not destroying the marine habitats essential for spawning, migration and feeding

26. As stated, Fisheries Inshore considers that the provisions in Parts Two and Three of the Act have provided, currently provide and will continue to provide an effective framework for the sustainable utilisation of New Zealand's fishstocks and protection of the aquatic environment. No substantive change is required to those provisions to future-proof the framework to ensure sustainable fishing. The use of the maximum sustainable yield and related proxies remains a leading edge management tool for fisheries management and the established Harvest Strategy Standard has contributed to the sustainability framework by providing measures against which the performance of fisheries can be assessed (although we consider more pragmatic measures should be specified for lower information stocks).

27. In concert with stock management, the Act addresses impacts on protected species and places fisheries management in the context of the wider aquatic environment. New Zealand's fisheries management framework has evolved to take the wider ecosystem into account.

28. However, implementation of the existing management framework has not kept pace with the demands for fisheries management, for example:

    - 28% of landings come from stocks that have no assessed status
    - No inshore stocks have documented, stock-specific management criteria that direct fisheries research[3]
    - TACCs of most stocks have never been reviewed
    - On average, the TACCs of only six of c. 200 inshore fishstocks are reviewed each year[4]
    - A draft Inshore Finfish Fisheries Plan was released in July 2011 but had no stakeholder involvement, was not consulted on, nor was it approved by the Minister under section 11A
    - Annual Reviews of Inshore FinFish Fisheries were produced only for 2010/11 and 2011/12 and a draft Operational Plan was provided for 2012/13. None of these arose from participative processes and no updates have been undertaken

29. As a consequence of not putting in place well-specified, bespoke yet appropriately-pragmatic management plans, and having an appropriate accountable management structure, the management system is slow to respond (or not responsive at all), may forego value, may risk the sustainability of stocks and does not result in optimal service provision. While it is not necessary to provide detailed examples in addition to the bullet points above, we mention two recent instances by way of illustration and with a view to providing tangible suggestions to alleviate the issues raised.

30. In 2006, the management framework for FLA3 was moved from a TACC with headroom managed by fishers, to an in-season review of the TACC. We consider that change was not necessary given the system to that point had worked well and given rise to few, if any, sustainability concerns given the nature of the fishery. The new process involves an assessment of fishery for the first three months of the fishing year followed by full statutory consultation. As a result, rather than having the ability to respond to the natural biological variation between years, decisions on the TACC under the new framework are now often made too late in the fishing season and industry is unable to adjust its fishing operations to take advantage of the increased TACC – this means foregone economic opportunity where there are no sustainability issue. Recent decisions have been made on 9 July 2009, 17 June 2010 and 16 May 2013. Similar problems exist for RCO3, which is also subject to this framework, where decisions have been announced on 16 May 2013 and 24 July 2014.

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[3] Although we acknowledge the progress made on the SNA1 Plan.

[4] While we acknowledge that capacity issues will limit the number of changes that can be advanced in any year, pragmatic changes to the decision-making processes and more specific management will assist.

31. Part of the problem lies in a legislative requirement that only allows abundance in the current fishing year to be taken into account, and part of the problem lies in the decision-making processes to amend the TACC. We consider that consideration should be given to restoring the headroom for these fisheries. Failing that favoured solution for these fisheries, or in addition, this problem could be overcome with a two small amendments to the Act. First, section 14(6) of the Act could be changed to allow information from the previous fishing year(s) to be taken into account, thus allowing for the process of an in-season increase to commence earlier. Second, the decision to allow an in-season increase could be delegated to the Director-General of MPI with a truncated consultation process. We consider that this delegation to the Director-General (once the Minister has approved its general use) could have much wider application with significant cumulative economic benefits without endangering other sectors' access to their allowances and minimal risk to sustainability.

32. The second example relates to service provision – in this case fisheries research. For the past few years MPI has consulted on research on MOK1 and MOK3 stocks. These fisheries are small and have gross fisher *revenues* of $676,060 and $160,050 respectively, and ACE *revenues* of $310,000 and $40,000 respectively. Despite the small returns derived from these fisheries, MPI proposed undertaking research in 2015/16 totalling $220,000 with $133,037 allocated to MOK1 (44% of the ACE revenue) and $31,446 to MOK3 (79% of the ACE revenue). Using a realistic estimation of profit in these fisheries, that proposal would have removed all profit for the next four years. After discussions with MPI, both parties agreed this was untenable and the proposal was withdrawn by MPI.

33. This illustrates the need for better-defined management objectives, and pragmatic harvest strategies that result in more appropriate and cost-effective fisheries monitoring. Fisheries Inshore has developed the concept of Management and Monitoring Plans (see Annex Two) to allow for better-specified management and is also detailing a range of monitoring approaches that could be applied to a variety of QMS stocks.[5] We consider this would allow for more appropriate fisheries services to be delivered and more definitive and responsive management action upon receipt of that information.

34. One such example is the work conducted over the last three years by Fisheries Inshore on behalf of quota owners of BNS stocks. The industry has funded representative age and length sampling across all BNS stocks in conjunction with updated CPUE analysis and development of an evaluated management procedure. MPI's support for this work has been appreciated and allowed both industry and MPI to work toward a more comprehensive management approach for BNS. We would welcome the opportunity to expand that approach to other fisheries, ideally in conjunction with further policy work on third-party delivery through an Approved Service Delivery Organisation or other such structure; this is detailed in the Seafood NZ submission.

Aquatic Environment

35. While the preceding section discusses one aspect of sustainable fishing, it is important to consider the other dimension to *Ensuring Sustainability*, that being avoiding, remedying or mitigating any adverse effects of fishing on the aquatic environment. This is also touched upon in the following section but it is important to emphasise that those sections of the Act that more directly deal with the effects of fishing (e.g. section 15) cannot be divorced from the Purpose statement in section 8.[6]

36. For example, the Court of Appeal emphasised that section 15(2) only authorises measures that are "necessary" to avoid, remedy or mitigate the effect of fishing-related mortality. What is necessary is a matter for the Minister's judgement; this assessment should be guided by the Purpose and Principles of the Act. The Court itself commented that the Minister was required to balance utilisation objectives and conservation values.[7]

37. It should be apparent that, given section 8 is expressly excluded from the review of the Act, great care is needed if any change is contemplated to other sections that rely more directly on that section, and associated jurisprudence, for their interpretation.

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5 FLA 3 is provided as an example of a Management and Monitoring Plan, this should not be taken as an endorsement of the current management approach; see paragraphs 30 and 31.

6 For example, see Supreme Court of New Zealand, SC 40/2008 [2009] NZSC 54 at [38]. We understand that judicial opinion offers no constraint on legislative change given the sovereignty of Parliament; however, we include such references sparingly throughout to offer support for our views and to demonstrate the interconnected nature of the Fisheries Act.

7 *Squid Fishery Management Company v Minister of Fisheries* (7 April 2004) CA 39/04 at [75, 79 and 103].

Beyond Sustainability

38. Of interest is the following statement that MPI has included on its website as part of the description of *Ensuring Sustainability*.

> *Local communities and international markets are taking a growing interest in the environmental impacts of fishing. Expectations of what a fisheries management regime can and should deliver, including resource sustainability and product traceability, are increasing. New Zealand's fisheries management system must be able to respond.*

39. Fisheries Inshore considers that the answer to this statement is largely contained in the Purpose of the Act which is, as noted, out of scope.

40. The interest that local communities and international markets have in the environmental effects of fishing is addressed in the requirement to avoid, remedy or mitigate any adverse effects of fishing on the aquatic environment as set out in the Purpose of the Act.

41. Any market demands that extend beyond the Purpose of the Act, whether they relate to environmental effects of fishing or expectations of what a fisheries management regime can deliver, be that traceability or resource sustainability in excess of statutory requirements, are therefore out of the scope of this review.

42. Such additional demands are market-driven and *Beyond Sustainability*. Any response to these market pressures constitute a business decision to be taken by those rights holders that are in the business of catching and selling seafood. The reality of those market demands is evident in quota owners' decisions to invest in fisheries certification to the standards promoted by the Marine Stewardship Council for a variety of New Zealand fisheries. These standards are recognised as global best practice and require investment and practice in excess of New Zealand's statutory requirements.

43. To ensure New Zealand can respond to these market demands, the appropriate action is to amend the Fisheries Act only to allow for greater flexibility in fisheries management through better implementing the enabling framework referred to in the definition of *Utilisation*, *viz*:

> *… conserving, using, enhancing, and developing fisheries resources <u>to enable</u> people to provide for their social, economic and cultural wellbeing.*

44. It is this point that is central to the submission of Seafood NZ. That submission promotes the inclusion of enabling provisions in the Act that will allow for more nuanced and efficient management, and thereby raise the performance, profitability and environmental sustainability on New Zealand's fisheries.

Theme Two: Benefits for all New Zealanders

45. New Zealand's fish stocks are a common resource. The use of that resource is shared among all sectors, operating in a shared space, and, to a great extent, with shared aspirations.

46. While the details of those aspirations will vary, an abundant fisheries resource, within a healthy aquatic environment, should be a common aspiration to all those that use the resource or value it for its intrinsic qualities.

47. We submit that it is unhelpful to reduce discussions about the benefits that can be derived from fisheries to allocation of the TAC among sectors and "balancing competing interests". While that is an issue that is worthy careful consideration, it should not be the starting point.

48. If indeed there is a shared aspiration to have abundant fisheries and a healthy aquatic environment, it is imperative that our management system incentivises and delivers that before we consider resource allocation.

49. Much of the comment above in response to the *Ensuring Sustainability* theme is focused on providing a fisheries management system that delivers that aspiration. As the Seafood NZ submission highlights, interventions that increase certainty, strengthen rights and reinforce desirable incentives should be adopted to maximise the total benefits available before thinking about how those benefits are distributed.

Distribution of Benefits

50. The distribution of benefits, or "allocation", can occur in several ways. In simple terms, one could adopt a market-based solution, or make a judgement about who should receive what benefit. Both approaches are evident in the Fisheries Act.

51. A market-based distribution is evident where ITQ and ACE are traded to enable the best use of that resource by the commercial sector. However, there is no mechanism to ensure that fisheries are being used in a way that maximises their value among sectors, including non-extractive sectors, other than by a subjective decision made by the Minister. "Best" is a dynamic concept that continuously changes based on more information and changing preferences. If we were serious about ensuring that "best use" was made of the resource (including non-use), we would out-source those difficult allocation decisions to the market. Importantly this would include recognising that, where access to resources is constrained for other purposes, a market-based adjustment should be provided in those instances.

52. Successive governments have declined to implement a market-based regime for all sectors. As such, we have allocation decisions among sectors based on the Minister's judgement.

53. Given that Ministerial judgement is likely to remain the method for distributing benefits, we consider it is important that such decisions remain largely unfettered,[8] with primary guidance provided to the Minister by the Purpose of the Act.

54. The Fisheries Act is non-prescriptive in how allocation decisions must be made and what must be taken into account. The Minister has a significant level of discretion in decision-making in respect of the setting of TACCs and allowances. We would be unwilling to see that level of discretion circumscribed or diminished by provisions giving preferential treatment to any sector (including commercial). For example, by changing the Act to provide recreational fishing with priority access to fisheries resources – either through preferential allocation of the TAC to fulfil recreational demand, or through exclusive spatial access for the recreational sector.[9] We discuss each of these in turn.

TAC Allocation

55. All users of our fisheries should accept that the resource is limited at any point in time. As such, the biomass of fish that each sector is able to take must also be limited. As a consequence, all sectors must manage their extraction (or have it managed for them) within the limits provided by the Minister through the relevant allowances; be that through ACE, deemed values, seasonal closures, daily bag limits or minimum legal sizes etc.

56. It is only through the disciplines inherent in limited access to the resource, that the positive incentives associated with the QMS can operate most effectively. For example, if the law was to provide full satisfaction of recreational demand, there would be fewer incentives for commercial fishers to grow the resource as that investment would be wasted through an increasing share of the fishery being re-allocated to the recreational sector.

57. Such a policy would foster an oppositional and short-term approach to fisheries management. This is contrary to the incentives created through the QMS that provides a proportional and perpetual right to a share of the fisheries resource. It would also work against the recent work conducted in SNA1 where the recreational, commercial and customary sectors are investing time and effort to grow the fishery for the benefit of all users and also similar cross-sector initiatives in Hawke Bay that are aimed at increasing abundance for all sectors.

58. As MPI's review website states, demands on the resource are likely to increase. While allocation decisions may provide a short-term and convenient way to manage those demands, it is no way to manage the resource (and does not in fact contribute to management of the resource in any material way). In fact it may undermine the resource as uncertainty over future access provides stronger incentives to maximise short-term catch.

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[8] Exceptions may be by agreement between or among sectors.

[9] Exclusive spatial access for Maori through Mataitai or other customary tools is a different matter and provided for a different purpose.

Spatial Exclusivity

59. Exclusive spatial access for specific sectors also has initial appeal as a way to defuse so-called competing interests. However, any such approach must be very carefully considered to avoid unintended consequences. The announcement in August 2014 of two recreational fishing parks in Hauraki Gulf and the Marlborough Sounds is a case in point.

60. We suggest that this announcement was ill-considered and devoid of any serious thinking about the consequences of exclusive use of fisheries resources in those areas. For example:

- How would exclusive access for the recreational sector benefit the resource as a whole?
- What would happen to Settlement Quota allocated to Maori in full and final settlement of an historic Treaty grievance?
- How would removal of commercial effort impact on scientific data collected from commercial vessels used for stock assessment purposes?
- Who would be compensated for lost access to the resource and how would that be calculated?
- Snapper in the inner Hauraki Gulf is by far the most important recreational species, but why prohibit commercial catch in the same area of other species of little or no interest to recreational fishers (e.g. flatfish and mullet), but which supply both the domestic and export market, particularly given there is little suitable habitat nearby to fish for these species?
- The vast majority of recreational effort (about 75%) occurs in the months between November and March, why contemplate a permanent commercial closure?

61. The commercial sector is not alone in questioning value of these spatial closures. One recreational group had the following to say on the matter:[10]

> *…small recreational-only fishing parks are largely irrelevant and a distraction. LegaSea is committed to staying focused on the more urgent and important task, to rebuild abundance and ecosystem strength in our depleted near-shore waters.*

62. The experience, where separate areas are used, is to create an ongoing "sore" at the boundaries. Separation of harvesters does not in itself create a better fishing experience. This is because abundance is an outcome derived from the cumulative activity across all areas. More commercial activity in a lesser area reduces abundance in that area and may draw fish from the "recreational area". This in turn means recreational fishers complain that their experience is not improving and the area must increase – thereby creating ongoing "rub-points".

63. As should be evident from our preceding comments, we consider Legasea's view is the correct one. While the recreational and commercial sectors may have differing views about how we achieve better fisheries management outcomes, that should be the primary focus of the fisheries management regime. Undermining that work though politically-motivated, populist and expedient spatial "management" does us all a disservice.

Treaty Settlement

64. Of particular importance is explicit consideration of the Fisheries Deed of Settlement. This applies equally to resource allocation, spatial exclusion and marine protection initiatives (discussed below).

65. It well known that Maori accepted full and final settlement of Treaty claims in return for ITQ and funds to acquire a share in Sealord. ITQ was accepted as currency for that Settlement given its perpetual duration and strong property attributes creating strong sustainability incentives. Any decisions to reduce the value of that ITQ, for any reason other than protection of the resource, have serious implications for the integrity of the Deed of Settlement. This position was well summarised by McGechan J in the 1997 SNA1 case:[11]

> *It is clear Maori negotiators in 1992 were aware that ITQ held by the Commission, and further ITQ to be received by the Commission and Maori, would be subject to reduction along with the TACC on biological grounds. Likewise, it might be increased. That risk and potential benefit were known and accepted. I accept Maori did not envisage, or accept, that TACC and quota might be reduced simply to enable a greater recreational allocation of the resource. It is highly unlikely Maori would have agreed to surrender Treaty rights for the better gratification of Auckland boatmen.*

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10 LegaSea Update 33, July 2015 edition.

11 *New Zealand Federation of Commercial Fisherman (Inc) v Minister of Fisheries* CP 237/95, 24/4/97.

Desired Improvements – Legislative

66. Any changes to the Fisheries Act itself should be focussed on reducing uncertainty, strengthening rights and reinforcing positive incentives. We consider such an approach will improve the performance of our fisheries for the betterment of all those that use or value the resource.

67. As we noted above, we also consider that the Minister should retain the current discretion in the Act to allocate the TAC among sectors with contextual guidance provided by the Act's Purpose and supporting jurisprudence.[12] The Supreme Court has stated that the Minister makes a policy decision about the appropriate allocation for a fishery and that the Act does not confer priority for any interest over the other.[13] It leaves that judgment to the Minister.

68. Such decisions should be based on accurate data about recreational demand and informed by ongoing work such as the Large-Scale Multi-Species Survey (LSMS). Opportunities to improve the precision of recreational catch estimates, such as recreational charter catch in particular, should also be implemented as a matter of priority. Where recreational catch is a significant part of a fishery, and that fishery requires data at more frequent intervals to make management decisions, we expect the Crown to adjust its purchasing of the LSMS to adequately provide the data for those decisions – these will obviously also reflect recreation fishing preferences.

69. Any change to the Fisheries Act to provide exclusive access to either the recreational or commercial sector is not supported without considerably more discussion on the purpose, costs and benefits of such an approach. To date the government has announced its intention to implement such areas in the Hauraki Gulf and Marlborough Sounds without that important detail or analysis. Furthermore, in recent months we have seen the announcement of a very large marine reserve in the Kermadec FMA without the level of detail, policy analysis and factual propriety one would expect from such a major initiative.

70. Given the precedent reflected in these two examples we can offer no support at this time for any amendment to the Act that would provide for exclusive spatial access to any sector without significant policy work to clarify the proposition.

Desired Improvements – Operational

71. Fisheries Inshore supports the provision for quality recreational fishing and, where necessary, collaborative processes to allow for sharing views and discussing fisheries management to improve the resource.

72. However, such processes should be carefully applied. We note that recreational fishing is very selective in the species targeted. This is illustrated in the LSMS where, for example, snapper made up 52.3% of the recreational finfish harvest by number and 51.4% of those finfish species for which the volume of the catch could be estimated. In contrast, blue cod made up 7.8% and 3.6% respectively and tarakihi 4.2% and 2.6%.[14] Further data from MPI illustrating the selectivity of recreational fishers is provided in Annex Three.

73. There are a great many species that are of value to the commercial sector but of little or no interest to recreational fishers. As mentioned above, blunt spatial interventions in such circumstances destroy value without any countervailing benefit to recreational fishers; these interventions ultimately operate to the detriment of the resource and the flow of benefits to New Zealanders arising from access by all fishers.

74. Where important recreational fisheries do exist, and additional management is considered necessary, any differences in view can be resolved inside the current Act. We note that local disputes have been and can be resolved without legislative impositions. Such an approach has been in train for the SNA1 fishery for some time and is producing productive results in Hawke Bay.

75. Generally we consider that more specificity about how fisheries will be managed is an essential step in managing inshore fisheries, regardless of whether there is a significant recreational interest or not. The establishment of Fisheries Plans that provide the basis for the Management and Monitoring Plans we have proposed would provide an opportunity for all interested parties to understand the fishery, how it will be managed and what services will be required to do so.

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12 For example, see Supreme Court of New Zealand, SC 40/2008 [2009] NZSC 54 at [54].

13 Ibid at [65].

14 J Wynne-Jones, A Gray, L Hill and A Heinemann. 2014. *National Panel Survey of Marine Recreational Fishers 2011–12: Harvest Estimates*. New Zealand Fisheries Assessment Report 2014/67.

Comment on Marine Protected Areas

76. We have provided views above in opposition to spatial exclusivity as a way of managing access to fisheries resources by commercial and recreational fishers. Our concerns also extend to the imposition of marine protected areas (MPAs) without proper consideration of their purpose, efficacy, costs and benefits.

77. To be clear, we do not oppose marine protection. On the contrary, we consider it is essential to ensure the integrity of the aquatic environment that supports our fisheries resources. However, it should also be explicitly stated that marine protection does not necessitate the use of spatial tools at all and the use of such tools can detract from sound marine management.

78. Australia's experience in managing and protecting the Great Barrier Reef is a case in point. Earlier this year, UNESCO's World Heritage Committee considered whether to down-grade the Reef's status by adding it to the List of World Heritage in Danger. While the downgrade was avoided, the reason the Reef's status was in question was that management had prioritised perceived threats (that were easy to manage) over real ones (that were not). The most serious risks to the Reef come from pollution and the poor quality of water running onto the Reef, outbreaks of crown-of-thorns starfish, coastal development and dumping of dredge spoil.[15]

79. These risks have been understood for many years yet they are hard to manage. Central to the existing management of the Reef was a zoning approach whereby certain areas were zoned for specified activities. A key component of this zoning was the much-lauded decision in 2004 to increase the area where fishing is prohibited from 4.6% to 33%. However, in the marine environment, an approach to management by zoning areas for specific activities does not necessarily provide any protection from some of the most pervasive threats. Establishing fishing prohibitions did not (and could not) mitigate these threats.

80. As this example illustrates, the application of MPAs must be for a clear purpose, with a demonstrably effective management tool that will achieve the purpose, and with due regard for the costs and benefits of such an approach. Furthermore, if a choice is made to re-allocate the use of an area from current and/or future users for another purpose, those affected parties should be appropriately compensated. Above all, any imposition of spatial management must be evidence-based.

81. It is against this background that we raise our concern about the view that MPAs are fisheries management tools – most recently illustrated in the recent Cabinet paper suggesting that a proposed marine reserve in FMA10 is a sustainability measure.

82. There is very little empirical evidence that marine reserves provide additional benefits to the management of fisheries in areas where good fisheries management is in place. The literature (including one meta-analysis of 310 peer reviewed papers) states that proof that marine reserves benefit fisheries management is thin,[16] (and largely limited to tropical reef systems where there is little sophisticated management), and furthermore, indicates that when stocks are not overfished, MPAs may have no effect, or even a detrimental effect on well-regulated fisheries like those in New Zealand.[17]

83. While we accept there may be other views, we consider that there is a significant body of literature that questions the intuitive, but likely incorrect, assumption that MPAs are good fisheries management tools in well-managed marine environments. We would expect a robust analysis of the efficacy of such interventions before any further work was undertaken to incorporate wider spatial management into New Zealand's fisheries regime.

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15 B Kearney and G Farebrother. 2014. *Advances in Marine Biology* **69**: 253-288 at page 261.

16 A Caveen, N Polunin, T Gray, SM Stead. 2015. *The Controversy over Marine Protected Areas*. Briefs in Environmental Science. Springer International Publishing, Cham e.g. at pp 80 and 115.

17 BS Halpern and RR Warner. 2003. Review Paper. Matching marine reserve design to reserve objectives. *Proceedings of the Royal Society B: Biological Sciences* **270**: 1871–1878.

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M Haddon, C Buxton, C Gardner and N Barrett. 2002. Modelling the effect of introducing MPAs in commercial fishery: A Rock Lobster example. *In*: JP Beumer, Grant and DC Smith. *Aquatic Protected Areas – What works best and how do we know?* Proceedings of the World Congress on Aquatic Protected Areas pp 428-436.

Theme Three: Decision-Making Processes

84. The current fisheries management framework provides that almost all fisheries management decisions are the domain of the Minister. We consider it is unusual for a Minister of the Crown to be involved in such minute operational detail. In some circumstances this extends to Cabinet approval for relatively inconsequential regulatory amendments such as changes to bag limits or minimum legal sizes.

85. While this may have been appropriate when bringing in a new regime in 1986, it is entirely inappropriate at this time and limits the benefits from improved fisheries management. Current decision-making processes and procedures are slow, inefficient and limit the ability of the system to respond to opportunities and risks. This benefits no one.

86. We consider the appropriate role for the Minister is in setting the overall strategic direction for fisheries and approval of any plans to achieve those objectives. In other words, provide the constraints within which fisheries are to operate and allow officials and/or users of the resource the flexibility to manage fisheries within them. That approach will ensure sustainability and provide for value *Beyond Sustainability*.

87. We submit that much of the current operational detail considered by the Minister is rarely the domain of Ministers in other portfolios and is best delegated to officials and/or users of the resource as dictated by the circumstances. This matter is central to the Seafood NZ submission and we support the proposals therein to provide far greater flexibility in decision making. In addition to increasing the responsiveness and efficiency of decision making, it acknowledges that there is a vast variety among our fisheries. There is no rational reason why such a diverse range of fisheries should be subject to the same regime and decision-making processes.

Decision Content

88. We consider that not only is the decision-making process cumbersome, but the mandatory requirements in many circumstances are redundant and serve little purpose other than to bog down decision-making and reduce effective fisheries management.

89. For example, section 11 alone requires the Minister to consider all of the following before setting a TAC under section 13:

- any effects of fishing on any stock and the aquatic environment
- any existing controls under the Act that may relate to the stock or the area concerned
- the natural variability of the stock
- any regional policy statement, regional plan, or proposed regional plan under the Resource Management Act 1991
- regulations made under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012
- any planning document lodged with the Minister of Fisheries by a customary marine title group under section 91 of the Marine and Coastal Area (Takutai Moana) Act 2011
- any management strategy or management plan under the Conservation Act 1987
- sections 7 and 8 of the Hauraki Gulf Marine Park Act 2000 that apply to the coastal area the Minister considers to be relevant
- any conservation services or fisheries services
- any relevant approved fisheries plan
- any decisions not to require conservation or fisheries services

90. Many of these considerations are unnecessarily onerous if considered in full measure (e.g. all fisheries and conservation services, any existing controls that apply to the area, proposed regional plans etc.). Other considerations are largely irrelevant (e.g. the natural variability of a stock is considered in the science processes that assess potential yields).

91. Some submitters may consider that such considerations, and perhaps more, are desirable and form the basis of ecosystem-based fisheries management (although the concept itself is poorly specified and even less clarity is available about how this approach could practicably be applied).

92. Furthermore, our fisheries management regime has evolved considerably to the point where the effects of fishing are actively managed quite independently of the TAC decisions that are central to Part Three of the Act. The work being undertaken as part of implementing the National Plans of Action for Seabirds and Sharks are examples of this.

93. The Industry is pro-actively implementing a myriad of operational initiatives to reduce impacts on the marine environment, many of which are voluntary, and include:

- gear modification to improve fishing selectivity
- implementing bird scarring devices to reduce risk
- closing large areas to bottom-impacting fishing gear
- avoiding areas where juvenile fish congregate and implementing move-on rules
- refining and implementing sea lion exclusion devices
- investigating the use of sub-marine line setting
- experiments with trawl doors to reduce seabed contact
- investigating the use of hook pods
- implementing line weighting
- using pingers to deter dolphins
- camera monitoring

94. As this list demonstrates, the Industry undertakes a vast amount of work to ensure its activities are environmentally responsible; and will continue to do so. When this is coupled with a stock management regime that can respond to fluctuations in stocks biomass for more species, more quickly, that forms the core of an ecosystem-based approach to fisheries management.

95. We submit that consideration should be given to reducing the current burden on decision makers (and officials) to increase efficiency and efficacy. The statutory scheme has been built upon incrementally over time to the point where many considerations are irrelevant, redundant and can be advanced far more effectively outside Part Three of the Act.

Theme Four: Monitoring and Enforcement

96. Industry shares with MPI the objective of having a compliant industry and seeks changes to improve the effectiveness and efficiency of monitoring and enforcement activities.

97. The compliance model in the Fisheries Act was based on recognition that there would be a low level of monitoring and thus a limited prospect of detecting an offence. As such, to ensure adequate performance, high penalties were available to be imposed that were sufficient to deter offending. Since those early days, the capacity to observe and monitor fishing activity has increased significantly (and is likely to continue).

98. Monitoring was initially based on a low coverage by observers and audits of catch reporting and reconciliations. The following developments have occurred since those earlier times:

- systems that report real-time location and can detect fishing activity have been introduced for the deepwater fleet and are moving to the inshore
- the number of fisheries officers and observers has increased
- more sophisticated profiling of catches has been introduced to identify potential offences
- naval and aerial surveillance systems have been enhanced as has naval capacity to intercept vessels
- more recently camera monitoring has been introduced

99. All of these developments have led to an increase in the prospects of offending being detected. While we welcome many of these developments, as they can result in better fisheries management, we consider the penalty regime has not kept pace with these changes and requires reform.

100. In a climate of much better information, a more appropriate penalty regime should be addressed through the review. The current highest level penalties for significant offences should remain but the regime should also include an additional, measured and scaled set of responses to those who break the law, both upon conviction by the Court and, where appropriate, through a “misdemeanour” process. Lower level offences would attract infringement notices which would remove the requirement for convictions. This approach is likely to provide for a more effective deterrent to low level offending and thus improve compliance levels. Like other infringement notice regimes, should industry participants build this into the “cost of business” and become serial offenders, they should be elevated to the next level in the regime.

101. As noted, Fisheries Inshore is not seeking to remove offences or lower the thresholds for major breaches. Rather we propose adding penalties and ensuring these penalties are applied to appropriate offences – make

the punishment fit the crime. Nor are we suggesting that the first step in any concern be the imposition of penalties. The enhanced regime would also apply under the VADE framework that we comment on in paragraph 104 below.

Compliance Costs and Operational Matters

102. Fisheries Compliance costs have increased over the last decade and now amount to over $35 m per annum – the single highest activity expenditure on fisheries management, exceeding the science spend by some 52%. Of the $35 m total, $10.5 m is recovered annually from industry. Setting aside for now the issue of whether compliance costs should properly be the subject of cost recovery or a Crown cost as for other branches of law and order, we are concerned about the lack of transparency for the activities undertaken and the value they provide to fisheries management. MPI now has no systems to identify the costs that are attributable to fishing activity. Further, there are no annual operational plans or annual reports that guide compliance activity. On an intuitive assessment, a resource allocation framework that favours compliance priorities over the need for science and informed management is not conducive to extracting value from resources.

103. In the past few years, there has been an improving relationship and more openness between the industry and MPI Compliance. We consider there would be significant value in formalising a broader Industry/Compliance engagement such as has been operating on an ad hoc basis in deepwater fisheries. In the deepwater sector, the initiative led to improved communications material being made available and the identification of strategic compliance targets.

104. A forum of this kind would provide both the industry and MPI with a more explicit and better-understood opportunity to implement MPI's VADE model that provides a graduated response: voluntary, assisted, directed and enforced compliance. While the industry is very supportive of MPI's VADE approach, its use seems to vary among regions and without closer engagement there is a lost opportunity to work together at the voluntary and assisted end of the VADE spectrum.

Enhanced Monitoring

105. Most recently, MPI has indicated a desire to introduce an Integrated Management and Reporting System which would see all vessels carrying locator beacons, being monitored by camera and reporting catch in real time.

106. The industry has had vessel monitoring systems onboard for many years, although only more recently in parts of the inshore fleet. Similarly, we have invested significant sums of money in integrated vessel position and camera systems to fulfil specified fisheries management needs. More recently, we have also integrated electronic data collection into that system.

107. While this work clearly demonstrates that we are receptive to this new technology, we do not consider a case has been made for compulsory use of vessel monitoring, and particularly cameras, across the entire commercial fleet. Before we could offer any support for widespread implementation of this initiative we would need to discuss with MPI a number of associated details. For example:

- What is the purpose of making this technology fleet-wide? Bearing in mind risks and benefits, what are the critical factors that require this for all fleets in all inshore fisheries?
- What is the purpose for which the data are collected? Is there a more efficient way to meet that objective?
- What is the cost of fleet-wide implementation? Is this a cost-effective approach to meet the stated objective?
- Who bears the costs: both capital and operational?
- Who owns the data?
- Who has access to the data and under what circumstances?
- How long will the data be held, and by whom?
- What protections are to be put in place to preserve fishers right to privacy in the workplace?
- What protections are to be put in place to protect any intellectual property associated with fishing locations or techniques?
- What exemptions would be made, if any (e.g. small vessels without a sufficient power supply)?
- Is ubiquitous use of cameras in the workplace, and availability of that footage on request, a reasonable and justified use of the State's power? What implications might this have for other industries and the community?

Desired Improvements

108. Fisheries Inshore seeks to improve the performance of the monitoring and compliance activities through a number of initiatives including the following:

- The formation of a strategic compliance working group to identify compliance risks and seek joint solutions to compliance matters
- The development of risk-based strategic and operational plans for compliance activities, akin to those produced for deepwater fisheries management activities
- The introduction of infringement fees to deter low level offending
- A review of the regulatory base to remove unnecessary and inappropriate restrictions or offences
- A reduction in the level of expenditure for the sector
- More explicit and consistent implementation of the VADE model to all compliance
- The development of a strategic and operational plan and a cost benefit analysis of the IMRS project before any additional work commences

109. We consider that compliance is a joint responsibility but the current model largely excludes industry from compliance activities. Further, the imposition of draconian penalties will be less effective than working with the industry to improve communications to raise voluntary compliance. We would prefer to see fisheries compliance being considered as a service provider and thus working more closely with fisheries management.

Theme Five: Responding to Future Challenges

110. The existing fisheries management framework has shown its resilience and its ability to adapt to changing needs and challenges. As we highlighted in paragraph 15, MPI's own data show that when properly applied, the current management regime provides world-class results. MPI's Dr Pamela Mace has recently stated that:[18]

> *New Zealand's fisheries are performing extremely well overall, at least as good as, or beyond, the standards of the best in the world. I don't think there's any question about that.*

111. In short, the Fisheries Act works, and will continue to do so. Current performance can be improved and increased flexibility through the changes suggested by Seafood NZ will assist. Many of the challenges identified on the MPI website can be appropriately managed within the current Act. For example, common interest in some fish stocks by recreational, commercial and customary fishers should be managed by way of sound resource management, not spatial exclusivity.

112. Other identified challenges exist *Beyond Sustainability* and should be met by the commercial sector, for example product traceability and various market demands (whatever they may be). This was discussed above at paragraphs 38-44.

113. Having said that, we wish to raise two specific issues for further comment.

Fragmentation of Jurisdiction

114. A key principle in the Fisheries Act is to manage the effects of all fishing so that fisheries resources are used sustainably. The Act should be the only mechanism used to manage fishing and the effects of fishing on both the fishery itself and its supporting environment.

115. Fisheries Inshore wishes to reinforce the schema behind the Fisheries Act – it must be the only legislation that deals with all aspects of fisheries. As we have illustrated, the Fisheries Act and QMS represent a complex suite of measures that provide valuable incentives to ensure wise resource use.

116. It has become increasingly common for central and local government to consider managing various aspects of fishing through different legislative instruments. For example, consider the following hypothetical: a new Marine Protected Areas Act is implemented that provides for recreational fishing parks, seabed protection areas and species-specific sanctuaries, all managed under different legislation and administered by different government departments. Under such a scenario, fishing activities could be impacted by all of these

[18] Bill Moore. *New Zealand's fish stocks up with the world's best, says top scientist*. Nelson Mail, 24 August 2015.

interventions, but as they occur within different legislative regimes, the current checks and balances in the Fisheries Act would not operate to preserve the integrity of the QMS and the positive incentives it creates.

117. Fisheries Inshore and Seafood NZ have highlighted the dangers of increased uncertainty and erosion of current rights. The interventions described above are likely to act to the detriment of both our fisheries resources and the marine environment that supports them. The irony is stark given a Marine Protected Areas Act would, we assume, be implemented to achieve precisely the opposite objective.

118. This argument applies equally to any interventions by local government under the Resource Management Act 1991 that seek to control a harvesting activity because of its impact on the environment. The RMA was not intended as a statute to control fishing activities; it may be that the demarcation intended in the RMA needs further clarity.

119. On the other hand we consider there is a valuable contribution that local government can make to improving fisheries and protecting the aquatic environment. That would be to take steps, both regulatory and non-regulatory, to ensure that land-based and other marine activities do not adversely impact on the estuarine and marine environment.

120. NIWA has conducted research that shows sedimentation is likely the key land-based stressor on coastal fisheries with impacts including both suspended sediment and deposition effects, and associated decreases in water clarity.[19] As the responsible agencies, we expect Regional Councils and MPI to work together to manage such threats. Where fishing activity is contributing materially to any environmental effects we would anticipate the industry working together with Councils and MPI, with any management of fishing impacts occurring under the Fisheries Act.

Intensive and Bespoke Management

121. MPI has noted the emergence "one off" fora, processes and groups that have begun to engage in fisheries management (or directly impact on it). While such processes *may* have their place, we consider that the formation of these groups should be considered very carefully.

122. Some of these groups have operated for inordinate lengths of time (e.g. *c*. 10 years in the case of the West Coast South Island MPA Forum and Kaikoura). This is not only inefficient and resource-intensive but diverts effort from properly undertaking MPI's core role: management of all fisheries.

123. Further, we would emphasise that outsourcing management responsibility to self-elected community groups is quite different to consultation, collaboration and MPI's statutory duty to provide for input and participation of tangata whenua; the former is not supported, the latter is.

124. With respect, community groups are often unsuited to make complex decisions about marine management and rarely have the necessary understanding of the technical, policy, economic and legal issues at play. While such groups can and do provide valuable perspectives, their role should be confined to consultative input rather than providing recommendations to government. The onus is on government to properly formulate robust and well-considered policy to guide the appropriate input from such groups.

125. The use of community groups for the provision of recommendations also provides a challenge that is allied to the point above on the fragmentation of jurisdiction. Such groups quite understandably consider that their recommendations should be implemented, yet without careful guidance from officials, these recommendations may not be consistent with the current law. In such circumstances there is pressure to use special legislation as we have seen in Fiordland, Kaikoura, and the Sub Antarctic Islands.

126. The use of special legislation again circumvents the checks and balances within the Fisheries Act and may undermine the Act's purpose:

To provide for the utilisation of fisheries resources while ensuring sustainability

[19] MA Morrison, ML Lowe, DM Parsons, NR Usmar and IM McLeod. 2009. A review of land-based effects on coastal fisheries and supporting biodiversity in New Zealand. New *Zealand Aquatic Environment and Biodiversity Report No. 37* at page 3.

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ANNEX ONE – A SIX POINT PLAN FOR INSHORE FISHERIES

Introduction

While New Zealand's fisheries management system generally works well, our inshore finfish and pelagic fisheries have been least well served. This is due to a range of factors including, but not limited to, their relative complexity, high number of stocks, small biomass of each stock, lack of targeted research or monitoring (due to affordability) and uncertainty about total fishing mortality. These problems are not new and these fisheries have been "under-managed" since the introduction of the QMS nearly 30 years ago.

These issues reduce our ability to optimise the value of these stocks to all sectors. However, they are not fatal; on the contrary, a limited number of targeted interventions could greatly assist with improving the biological, environmental and economic performance of these fisheries. This would be of benefit to all sectors.

What follows are six key work items that would begin the process to reform inshore finfish fisheries and bring their management into the 21st Century. These measures are put forward as a package to be implemented together rather than a suite of options from which to choose the most palatable. Many of the issues that face the inshore finfish sector are inter-related and as such will only be solved by changing several management settings, simultaneously, in a complementary manner.[20]

Ultimately we are seeking a fisheries management system with the several key attributes. It must:

- be based on good (real) information
- be responsive to good information in a timely fashion
- provide incentives to comply with the law
- provide incentives to minimise the catch of unmarketable fish and to minimise waste
- build community trust, including with the recreational sector
- provide certainty of access

Most of the following matters are well understood by those experienced in fisheries management. What follows is not intended as a full-blown analysis of the issues and rationale behind implementing these measures. Rather it's intended as a summary and catalyst for action. There are solutions to the problems facing the inshore sector; all that's needed is the desire to solve them.

1. Management and Monitoring Plans

It has become increasingly clear that there is no explicit agreement about clear management objectives in each of our fisheries. If we are to improve the performance of our fisheries, a key initiative will be developing a comprehensive management and monitoring strategy. Such a strategy would clearly define the management approach and the services needed to implement that management. These management objectives should specify how we want to manage our stocks and consequently, what information we need to do so. The focus must be on management directing science, not science dictating management.

Fisheries Inshore has commenced a process of documenting what we are seeking to achieve for key fisheries. This should drive science and provide certainty for the industry about what information is to be collected, when, and most importantly, how this will be used to adjust TACCs, deemed values or other management measures (e.g. MLS, Schedule 6 etc.). The key purpose of collecting this information is to make timely management changes so that our fisheries are responsive to prevailing conditions.

In time, this would coalesce into a more comprehensive research/monitoring programme that would take a longer term view of research planning and help provide clarity on priorities. Longer term research planning also has the benefit of bundling several research projects into single contracts which may result in reduced transactions costs, a stronger negotiating position for the purchaser and increased certainty of longer term costs.

Next Steps

Fisheries Inshore is working with MPI to develop this idea and ensure it compliments other government management requirements and the needs of other resource users.

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[20] The proposed measures are seen as work that should be conducted over and above much of the work currently underway. For example, the current focus on reducing impacts on protected species and continued engagement in spatial management or allocation processes are also vital. Fisheries Inshore considers that successfully implementing such measures, and those proposed herein, would provide significantly increased public confidence in inshore fisheries to the benefit of the Crown, the industry, the public, the marine environment and the resource itself.

2. Better Catch Information

Much work has been conducted over the past five or more years to obtain better information on total fisheries mortality and to ensure that information is used in monitoring and management. Much of this work has been conducted in collaboration with MPI.

The absence of more comprehensive catch reporting is both a symptom and a cause of much undesirable activity. For example, discarding fish can be a symptom of incorrect TACCs and DVs and may be unnecessary waste and a loss of economic value when fish is marketable. As a result of discarding, estimates of fishing mortality are inaccurate which results in incorrect CPUE and uncertain stock status information. If TACCs and DVs are not adjusted to reflect increasing abundance, TACCs remain incorrect and the cycle continues unabated.

There are numerous reasons why catch information may not be reflected accurately in MPI figures and subsequently considered in scientific processes. For example, catch that is less than the minimum legal size is required by law to be returned to the sea, yet in most cases there is no requirement to report this catch. Recent work in the SNA1 fishery has been undertaken to record that catch and ensure it is used in science processes.

Other reasons for discarding fish are not as well understood and may stem from a variety of drivers. Fisheries Inshore has commenced work to understand better the causes of discarding its nature and extent. Once this information is collected and analysed, more accurate catch information can be used in scientific assessments to ensure catch limits are set appropriately. Importantly, this information would be used when implementing the aforementioned Management and Monitoring Plans that should result in timely adjustment to TACCs and DVs and provide an early demonstration of the integration between the two workstreams.

Fisheries Inshore considers that this work is of vital importance to the future management of inshore fisheries and is fundamental to ensuring our fisheries perform better. However, as noted above, while it is necessary it is not sufficient in itself – it must happen in concert with the other proposals in this package.

Next Steps

Fisheries Inshore has commenced work to obtain more accurate information of catch. As more information becomes available, Fisheries Inshore will look to expand the data collection process if necessary and discuss the use of this information in future management and monitoring.

3. Electronic Monitoring

Electronic monitoring is used as a collective term for vessel monitoring systems (VMS), cameras and electronic reporting. However, it's important to distinguish between them as they serve different purposes and have different risks and opportunities associated with them.

a. VMS: Vessel monitoring has been used almost exclusively in the deepwater fleet for many years and provides the ability to determine vessel position on a regular basis. However, MPI's current system cannot accommodate further expansion and cost-effective alternatives are actively being investigated.

   Depending on the cost and objectives, Fisheries Inshore considers that VMS can offer some tangible benefit to the inshore sector as insurance against accusations of wrong-doing and as part of a package of measures to give the public confidence that inshore fisheries are operating responsibly.

b. Cameras: Cameras on vessels could be used for a variety of purposes. While Fisheries Inshore has no fundamental objection to placing cameras on vessels, the rationale must be clear and well specified. Fisheries Inshore considers EM can be a tangible way to collect additional information and demonstrate the sustainability of inshore fishing practices and, if implemented efficiently and pragmatically, should be able to overcome the real practical and cost barriers that arise from placing human observers on small inshore vessels (assuming a clear and justifiable rationale for their deployment).

c. Electronic reporting using fisher-friendly systems offers the opportunity to record far greater amounts of data (more easily, more accurately, and more cost effectively). At present the reporting forms limit the amount of information recorded by fishers. This leads, particularly for inshore trawl fishing, to inaccurate and incomplete assessments of both presence and levels of associated incidental by-catch. The current forms limit the fisher to recording between five and eight fishstocks whereas there may be more than 20 different species taken. Smart and robust fisher-friendly systems offer the opportunity to gaining vastly greater amounts of information at little extra time and cost to fishers. Any such adoption would need to be taken into account when developing other parts of the system.

While electronic monitoring has the potential to be useful in managing inshore fisheries, there are numerous policy and legal matters that also require close consideration. For example:

- Opportunities for quota owners and vessel operators to have input in the purpose/objectives of EM and decisions on whether to use EM and/or human observers
- Ownership, storage, use and external distribution of any video record
- Confidentiality and respect for the privacy of fishers
- Ensure EM is not used to unnecessarily increase observation and thereby increase costs to fishers
- On-going public-private investment in software and infrastructure
- Ensuring cost savings from using EM are directly passed on to the quota owner and/or vessel operator

Next Steps

Fisheries Inshore is working with other industry bodies to trial and assess the use of electronic monitoring; the primary fishery being SNA1. As part of that work, Fisheries Inshore is focussing on the policy and legal matters outlined above. In conjunction with this work, Fisheries Inshore is also working with Seafood NZ to consider a review of the penalties in the Fisheries Act (see below).

4. Penalty Regime

The existing penalty structure was introduced in the Fisheries Act 1983. It is based on the premise that with low levels of detection (limited observer coverage and technology), the prospect of a successful prosecution is also low. To provide an effective deterrent, the low level of detection was balanced by imposing very high penalties (in some cases the loss of business); even for offences that do not significantly impact on sustainability outcomes. These penalties include the automatic forfeiture of vessels and property (including quota) upon conviction of a fisheries offence.

As observer coverage increases and the industry moves towards electronic monitoring, and in particular cameras, the likelihood of detecting an offence increases greatly (the extent would be governed by the resolution of the policy and legal matters outlined above). As such, the original rationale for high penalties would cease to apply.

In a climate of much better information, a more appropriate penalty regime would implement an additional measured and scaled set of responses to those who break the law, both upon conviction in the court and, where appropriate, through a “misdemeanour” process. Lower level offences could attract infringement notices which would remove the requirement for convictions. This approach is likely to provide for a more effective deterrent and thus improve compliance levels.

Industry is not seeking to remove offences or lower the thresholds for major breaches. Rather it is proposed to add penalties and ensure these penalties are applied to appropriate offences – “make the punishment fit the crime”. It is also suggested that as with other infringement regimes, serial offending would result in ramped penalties.

Next Steps

Fisheries Inshore is working with Seafood NZ and the Deepwater Group to progress initial work on reviewing penalties.

5. Gear Trials and Benthic Research – Focus on Solutions

The fundamentals of fishing gear used by the New Zealand inshore and pelagic fleet have changed little in the past few decades. However, individual fishers have made many small modifications to gear for a wide variety of reasons. Such modifications may have been made to reduce fuel costs, reduce impacts on the benthic environment, improve fish quality or reduce unwanted by-catch.

Fisheries Inshore considers there is significant benefit from more formally investigating what modifications have been made to gear types in recent years and assessing the efficacy of those modifications against agreed objectives and ‘standard’ gear. Changes in fishing gear may have a range of benefits, such as:

- improving economic efficiency
- reducing unwanted by-catch of both fish and protected species
- reducing impacts on the benthic environment
- increasing yield-per-recruit
- increasing the value of catch

Where these outcomes occur, wider adoption may improve the performance of the fishery. In addition, where changes to gear increase or decrease CPUE, this information should be considered in scientific analyses to ensure TACCs are adjusted accordingly to ensure they remain appropriate.

To date some trials have been conducted but without any formal oversight or detailed project design. More recent work in Area 2 has moved to remedy this and more investigation is underway.

MPI has recently supported such work and Fisheries Inshore is promoting a focus on practical work on the water that will focus more explicitly on solving issues rather than continuing to investment in information solely to better understand them.

Next Steps

Fisheries Inshore continues to work with members in Area 2 and MPI to advance this work.

6. Re-balancing

Implementing the above work would result in acquisition of better information, more specificity about management and monitoring, more responsive TACCs and an improvement to the economic and environmental performance of inshore fisheries. To a large extent this would, over time, resulting in re-resetting the QMS.

Where information is not available, or sufficiently robust, more pragmatic decisions could be employed to ensure the QMS is performing closer to its optimum. Consider the following:

- There are c. 629 stocks in the QMS
- MPI generally changes about a dozen of 629 TACs each year
- Most stocks (86%) have never had their TACs changed since entering the QMS.[21]

Clearly there are vastly more stocks in the QMS than can be managed effectively using the current approach. As stocks fluctuate, static TACs result in two equally-undesirable scenarios:

a. For stocks that decline in biomass, static TACs result in sustainability risks as TACs are not reduced accordingly; and

b. When stock biomass increases, static TACs result in lost value to New Zealand, lost recreational opportunity, incentivise discarding, and require payment of unnecessary deemed values.

A more pragmatic and responsive approach is required for some stocks.

While some of the aforementioned changes would assist with this issue, Fisheries Inshore would like to explore the possibility of evolving our fisheries management by managing QMS stocks as specified complexes based on a two (or more) tier process: higher priority stocks and lower priority stocks.

Many stocks in the QMS are not a high priority for the commercial sector – these stocks may be by-catch that is taken incidentally with target fisheries as part of a fisheries complex.[22] In most, perhaps all, cases there is no fishery-independent information to assess the status of these by-catch stocks. They are either not managed at all, or minor changes are made to their TACs based on no more information than (sometimes uncertain) catch records.

While such adjustments are a pragmatic management response, there is little by way of certainty, policy or rationale attached to these adjustments. However, if there was robust fisher-collected information that demonstrated linkages between these stocks, then this could be used through management procedures to make sensible adjustments to multiple stocks reflecting the same profiles. In essence, a pre-determined complex of stocks could be adjusted simultaneously based on the indicators derived from robust commercial data. Equally where these data are available and adjustments are made, these could then drive specific monitoring to check the accuracy of the analysis or provide evidence for further changes to TACs.

Next Steps

Fisheries Inshore is continuing to explore this idea with science advisors and members as part of a more comprehensive management approach that would deliver better management outcomes for low information stocks.

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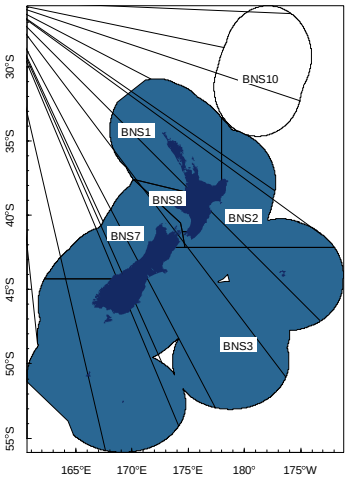
[21] Fisheries Inshore acknowledges that many of these stocks have nominal TACs and that have yet to be proved up. If these developmental opportunities are removed (i.e. 10 t or less for the purpose of this rough analysis), the number of stocks that have never had TAC changes reduces to 62%. This is still too high.

[22] Where such stocks are important to other sectors, management would be adjusted accordingly to reflect that value.

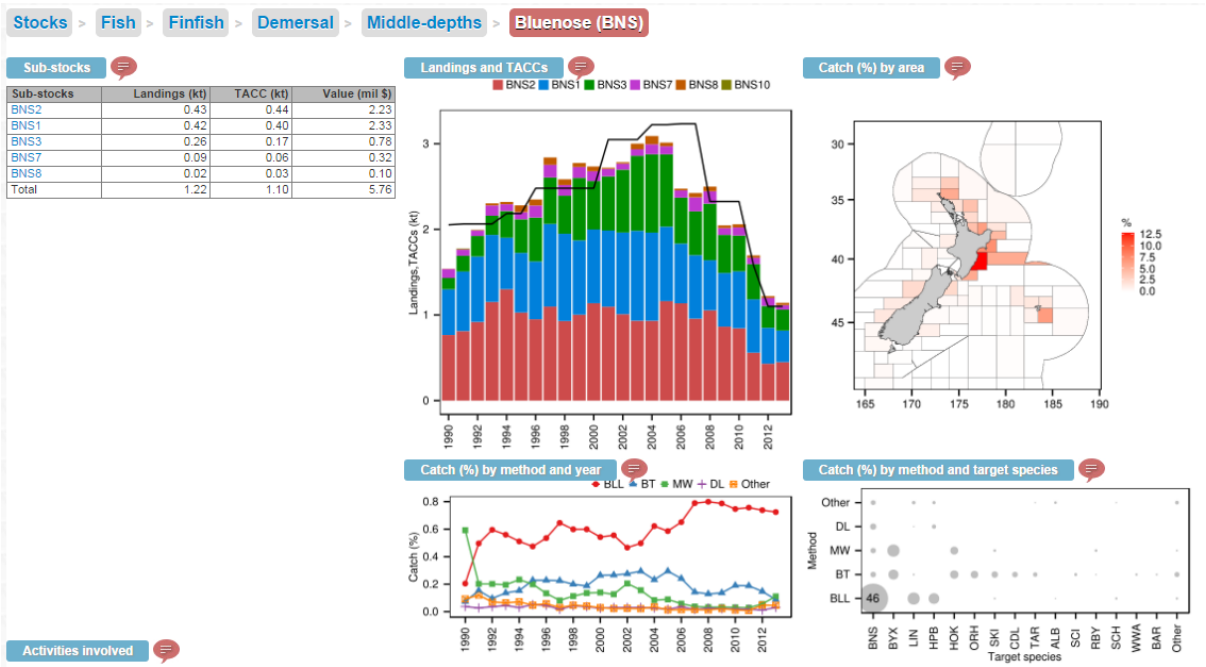
ANNEX TWO: BLUENOSE – BNS 1, 2, 3, 7, 8

Management and Monitoring Plan

FISHERY OVERVIEW



- BNS is managed as six QMS stocks, which are assessed as a single biological stock. For management purposes this biological stock is considered to include BNS 1, 2, 3, 7 and 8.
- BNS are taken primarily in target bottom longline fisheries. They are also commonly taken in LIN and HPB line fisheries, and in the BYX (BNS 2, 3) and HOK (BNS 7) trawl fisheries.

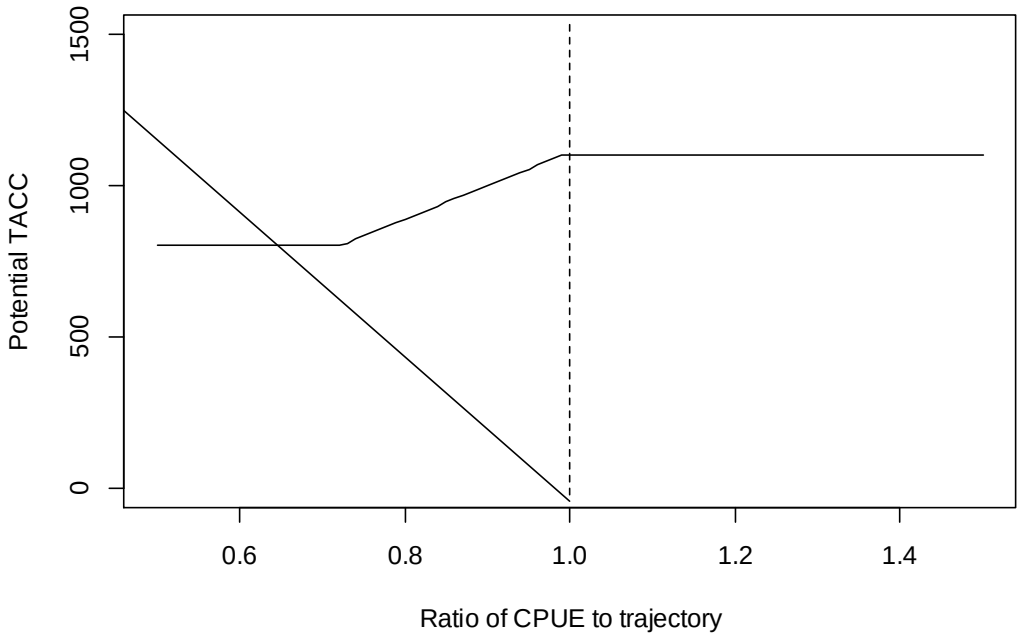


Sub-stocks	Landings (kt)	TACC (kt)	Value (mil $)
BNS2	0.43	0.44	2.23
BNS1	0.42	0.40	2.33
BNS3	0.26	0.17	0.78
BNS7	0.09	0.06	0.32
BNS8	0.02	0.03	0.10
Total	1.22	1.10	5.76

Activity	Catch (%)
Activities > Lining > Bottom > Bluenose > North-east	23.4
Activities > Lining > Bottom > Bluenose > Central-east	15.9
Activities > Trawling and Danish seining > Offshore > Alfonsino and bluenose > Central-east	10.1
Activities > Lining > Bottom > Bluenose > Other	5.9
Activities > Trawling and Danish seining > Offshore > Alfonsino and bluenose > Chatham	5.1
Activities > Lining > Bottom > Hapuku-Bass > North	3.8
Activities > Trawling and Danish seining > Offshore > Orange roughy	3.1
Activities > Lining > Bottom > Ling > Inshore > Other	2.7
Activities > Trawling and Danish seining > Offshore > Gemfish > Central-east	2.5
Other	27.6

MANAGEMENT PROCEDURE

- The overall TACC for BNS 1, 2, 3, 7, and 8 is set using a Trajectory Status Adjustment Restricted (TSAR) management procedure (see Appendix) which defines a rebuild trajectory for CPUE, as a proxy for abundance. The rebuild trajectory was defined to be consistent with rebuild to 35% B_0 within 30 years, or better.
- The value of an annual, smoothed, CPUE index is assessed annually in relation to the rebuild trajectory, and the overall TACC varied (if required) in order to maintain the required rebuild.
- The overall potential TACC is set as illustrated below:



- The actual overall TACC is not varied if the potential TACC is within 5% of the current TACC, and changes are limited to a maximum of 50% of the current TACC.
- The TACCs for BNS 1, 2, 3, 7 and 8 are set by maintaining proportionality within the overall TACC.

ANNUAL MANAGEMENT CYCLE

- 15 Oct – Catch-effort data submitted to FishServe for fishing year ending 30 Sept.
- 30 Mar – Updated MP index (rapid CPUE update) and diagnostics calculated, and proposed TACC for next fishing year calculated.
- 15 Apr – 30 Jun – consultation on any proposed TACC change.
- 1 Sep – Minister's decision announced.
- 1 Oct – updated TACC gazetted.

LATEST ANALYSES AND INFORMATION

- In 2012/13 the CPUE index, $\grave{\imath}_t$, was 0.713.
- The TACC for 2014/15 is 1,110 t.

FOR FURTHER INFORMATION

- 2014: Assessment and management procedure evaluation (**Bentley and Middleton, 2014**)
- 2014: Management procedure implementation report (**link**)
- 2014: MPI stock assessment plenary (**link**)

FUTURE MONITORING AND RESEARCH

- Annually: fishery overview updated in January
- Annually until 2018/19: management procedure implementation
- Annually 2014/15 to 2017/18: catch sampling of BLL fisheries.
- Feb - May 2016: examine patterns in catch @ length in 2014/15, 2015/16. Consider value of ageing for upcoming management procedure evaluation.
- Feb - May 2019: updated management procedure evaluation, for implementation from 2019/20.

OTHER MANAGEMENT INFORMATION NEEDS

- When updating the management procedure for 2015/16 onwards, the deemed value rates should be reviewed.
- Updated recreational harvest estimates, including charter vessels.

APPENDIX DETAILED MANAGEMENT PROCEDURE SPECIFICATION

- The required rebuild trajectory ($\bar{\imath}_t$) is defined by three control parameters, *Initial* (*I*), *Slope* (*S*) and *Target* (*T*), with $\bar{\imath}_t = min(\, I + St, T)$. For BNS, *I* = 0.6, *S* = 0.02, *T* = 1, and *t* is years since 2013/14.
- The TSAR management procedure is based on a smoothed CPUE index $\grave{\imath}_t$, calculated as $\grave{\imath}_t = i_t R + \grave{\imath}_{t-1}(1 - R)$, with responsiveness parameter *R* = 0.675.
- Current status relative to the trajectory is the ratio of the smoothed CPUE to the trajectory: $s_t = \grave{\imath}_t / \bar{\imath}_t$
- The potential TACC for the following year is calculated as$1110 \times s_t$, subject to a minimum TACC of 800 t, and a maximum of 1,100 t. If the potential TACC differs from the current TACC by less than 5% of the current TACC, no change is made. Changes are limited to a maximum of 50% of the current TACC.

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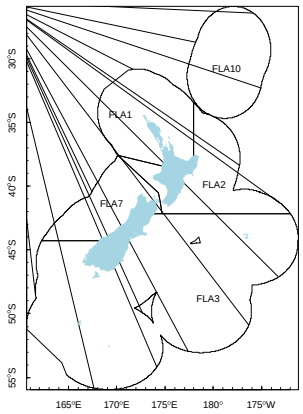
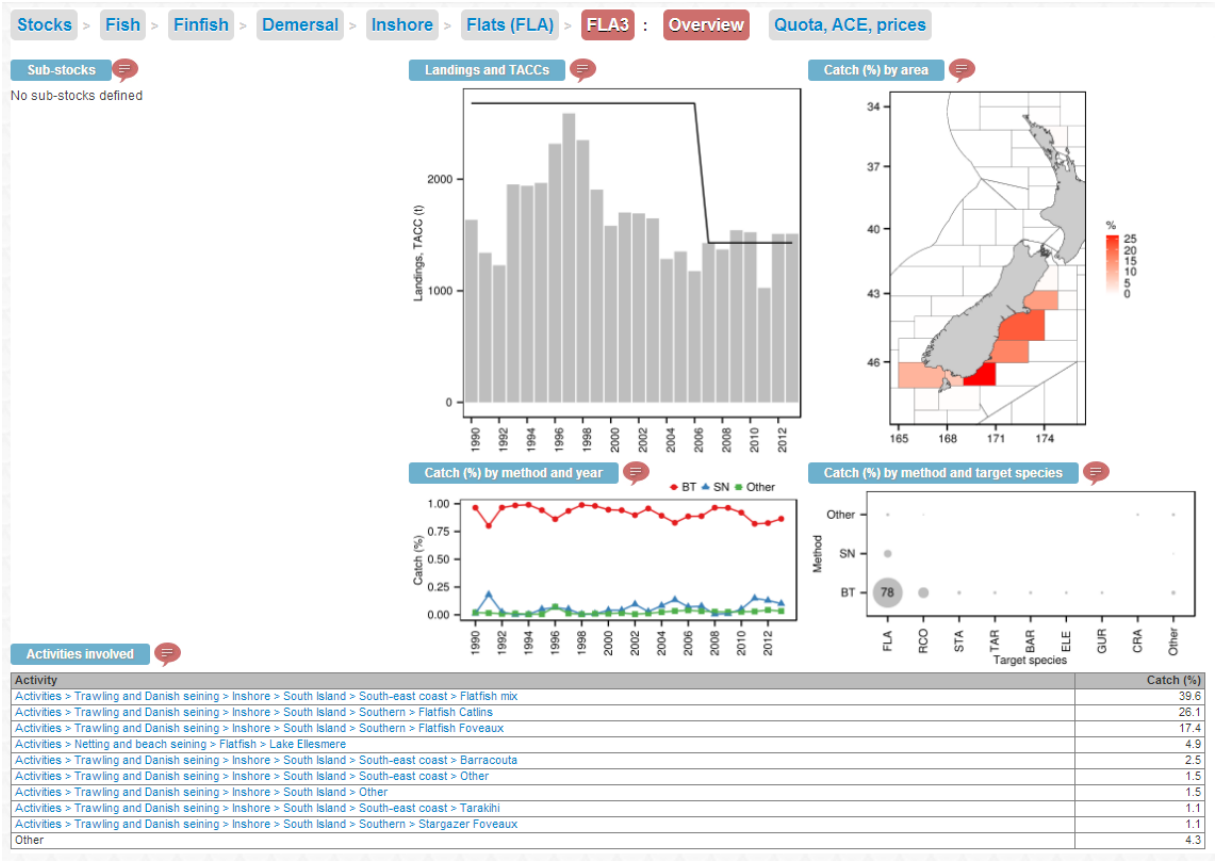
FLATFISH – FLA 3

Management and Monitoring Plan

FISHERY OVERVIEW



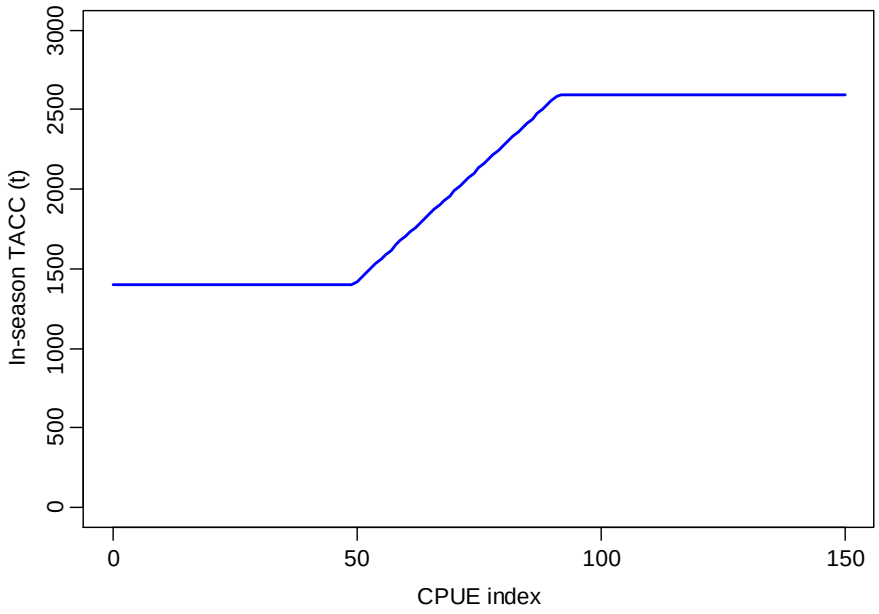
- The FLA 3 QMA covers FMAs 3 to 6.
- FLA 3 is a multi-species fish stock. The key species in the FLA 3 fisheries are lemon sole (LSO), New Zealand sole (ESO), and sand flounder (SFL).
- Flatfish in FLA 3 are taken primarily in localised target trawl fisheries.



Activity	Catch (%)
Activities > Trawling and Danish seining > Inshore > South Island > South-east coast > Flatfish mix	39.6
Activities > Trawling and Danish seining > Inshore > South Island > Southern > Flatfish Catlins	26.1
Activities > Trawling and Danish seining > Inshore > South Island > Southern > Flatfish Foveaux	17.4
Activities > Netting and beach seining > Flatfish > Lake Ellesmere	4.9
Activities > Trawling and Danish seining > Inshore > South Island > South-east coast > Barracouta	2.5
Activities > Trawling and Danish seining > Inshore > South Island > South-east coast > Other	1.5
Activities > Trawling and Danish seining > Inshore > South Island > Other	1.5
Activities > Trawling and Danish seining > Inshore > South Island > South-east coast > Tarakihi	1.1
Activities > Trawling and Danish seining > Inshore > South Island > Southern > Stargazer Foveaux	1.1
Other	4.3

MANAGEMENT PROCEDURE

- FLA 3 has a base TACC of 1,430 tonnes.
- Schedule 2 in-season increases in TACC are considered annually according to a management procedure based on CPUE in the first three months (Oct - Dec) of the fishing year (Bentley, 2011).
- The management procedure index, *I*, is a CPUE index derived by applying existing standardisation coefficients to the Oct - Dec catch and effort data.
- The TACC is set from this index as illustrated below.



ANNUAL MANAGEMENT CYCLE

- 15 Jan – catch-effort data submitted to FishServe for December.
- 7 Feb – catch-effort data transferred to MPI.
- 28 Feb – Updated CPUE and diagnostics calculated, and proposed TACC for current fishing year calculated.
- 1 Mar – 14 Mar – short and targeted consultation given the well-understood management regime.
- 31 Mar – In-season TACC increase (if any) gazetted.

LATEST ANALYSES AND INFORMATION

- In 2013/14 the Oct-Dec CPUE index, *I*, was 54.91.
- The TACC for 2013/14 is 1,400 t (baseline, no in season increase).

FOR FURTHER INFORMATION

- 2010: Assessment and management procedure evaluation (**Bentley, 2011**).
- 2014: Management procedure implementation report (**link**).
- 2014: MPI stock assessment plenary (**link**).

FUTURE MONITORING AND RESEARCH

- Annually: fishery overview updated in January.
- Annually until 2015: management procedure implementation.
- Feb - May 2015: updated individual species CPUE and management procedure evaluation for implementation from 2015/16.

OTHER MANAGEMENT INFORMATION NEEDS

- When updating the management procedure for 2015/16 onwards, the deemed value rates should be reviewed.
- If the 2015 assessment indicates that a significant proportion of estimated catches are still being reported using the generic FLA code rather than individual species codes then a review of reporting will be initiated.

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ANNEX THREE – COMPOSITION OF RECREATIONAL CATCH

Selectivity of Recreational Fishers species and percentage of harvest (by number)							
FMA1	**FMA2**	**FMA3**	**FMA 5**	**FMA 7**	**FMA 8**	**FMA 9**	**TOTAL**
Snapper 70%	Kahawai 24%	Blue Cod 46%	Blue Cod 72%	Blue Cod 29%	Snapper 31%	Snapper 49%	Snapper 52%
Kahawai 12%	Tarakihi 19%	Sea Perch 21%	Flatfish 16%	Snapper 18%	Kahawai 17%	Kahawai 15%	Kahawai 13%
Tarakihi 3%	Gurnard 11%	Flatfish 6%	Sea Perch 4%	Kahawai 15%	Gurnard 16%	Gurnard 13%	Blue Cod 8%
Trevally 3%	Blue cod 10%	Butterfish 3%	Trumpeter 1%	Tarakihi 8%	Blue Cod 16%	Flatfish 4%	Gurnard 5%
Gurnard 3%	Snapper 9%	Bream/Brim[1] 2%	Kelpie[2] 1%	Sea Perch 5%	Tarakihi 5%	Mullet 2%	Tarakihi 4%
Mackerel 2%	Mackerel 3%	Kahawai 2%	Red Cod 1%	Gurnard 4%	Mullet 2%	Trevally 2%	Trevally 2%
Mullet 1%	Butterfish 2%	Pilchard 2%	Rig 1%	Rig 3%	Flatfish 1%	Mackerel 2%	Sea Perch 2%
Kingfish 1%	Red Cod 2%	Mullet 2%	Barracouta 1%	Mullet 3%	Red Cod 1%	Mullet 1%	Flatfish 2%

Notes: [1] While the survey respondents reported catches of Bream/brim, they are most likely snapper.

[2] While the survey respondents reported catches of kelpies, they are most likely wrasse.

Source: J Wynne-Jones, A Gray, L Hill and A Heinemann. 2014. *National Panel Survey of Marine Recreational Fishers 2011–12: Harvest Estimates*. New Zealand Fisheries Assessment Report 2014/67.

Our Fishing FUTURE

- *a healthy marine environment enjoyed by all*
- *taking pride in an abundant and healthy marine environment where our community extends manaakitanga over our fisheries and oceans*
- *unity and inclusion within the recreational fishing community*
- *equity of access through stakeholder engagement*
- *understanding and valuing our marine environment and its resources so we can all be responsible for a better future*

11 December 2015

Fisheries Management Review 2015

This feedback is provided by *Our Fishing Future Inc*. We are an incorporated society whose purpose is to promote and protect responsible recreational fishing in New Zealand. *Our Fishing Future* was formed following a workshop in 2013 in Nelson where interests from commercial, recreational, customary, environmental, science and government (MPI, DOC and MNZ) came together to consider how recreational fishing interests could be better integrated into the fisheries management framework and decision-making processes.

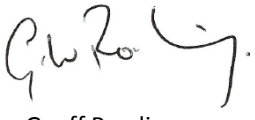
The workshop agreed on a number of areas of 'common ground' and *Our Fishing Future* has carried these forward into our vision:

- a healthy marine environment enjoyed by all
- taking pride in an abundant and healthy marine environment where our community extends manaakitanga over our fisheries and oceans
- unity and inclusion within the recreational fishing community
- equity of access through stakeholder engagement
- understanding and valuing our marine environment and its resources so we can all be responsible for a better future.

As an organisation *Our Fishing Future* is strongly committed to working with other sector interests to achieve our vision, and we endorse collaborative approaches to achieve enduring solutions for fishing in New Zealand.

Unfortunately we were not able to use the MPI online and PDF feedback forms for the Fisheries Management Review because they can only be viewed on one computer. This feedback follows the format of your questionnaire, and responds to questions on sustainability, benefits for all New Zealanders, decision-making processes, and future challenges.

Thank you for this opportunity to provide input at this early stage in the review.



Geoff Rowling
President

Fisheries Management Review 2015

How can the fisheries management system best ensure sustainability?

What aspects of New Zealand's current fisheries management system work well to ensure sustainability?

- Science driven research and advice
- Setting TACs
- Local management rules to protect special ecological areas such as spawning and nursery grounds
- Collection of commercial catch information and monitoring of data quality

What aspects of New Zealand's current fisheries management system do not work well to ensure sustainability?

- Absence of incentives for the commercial sector to increase selectivity (i.e. reduce bycatch, incidental take and benthic damage)
- Excessive headroom in TACCs and deemed values

How can the fisheries management system best deliver benefits for all New Zealanders?

What benefits do you think the fisheries management system should deliver?

- A healthy marine environment
- Equitable access to harvestable species
- Opportunity for different sector/interest groups to generate value in different ways

What aspects of New Zealand's current fisheries management system work well to deliver benefits to all New Zealanders?

- Setting TACs and other sustainability measures

What aspects of New Zealand's current fisheries management system do not work well to deliver benefits to all New Zealanders?

- Absence of a fair, long-term policy for allocation/allowances in key inshore fisheries. There is no way the present allowances within TACs in most inshore species could be described or accepted as reasonable. This is a prerequisite to shifting toward a management system with greater accountability for public fishing interests.
- Inability for public fishing interests to participate on a level playing field in decision-making processes.

What changes (if any) are needed to better ensure the system delivers benefits for all New Zealanders?

- A policy discussion focused on the desired outcome, and then work out the management process.
- Ensure public fishing interests have an effective and accountable voice in decision-making processes.
- Manage inshore stocks at higher abundance levels: we acknowledge that this will require better accountability/control of public fishing or the gains will be lost.

How do you think those changes would affect the cost of fisheries management? Who should cover any additional costs, or benefit if costs are reduced?

- Please see response to this question for next section (decision-making)

How can we ensure decision-making processes are effective, efficient and timely?

What aspects of New Zealand's current fisheries management decision-making processes work well?

- Setting TACs and other sustainability measures

What aspects of New Zealand's current fisheries management decision-making processes do not work well?

- Making equitable allowances for public fishing interests in key shared fisheries:
    - Public fishing interests participate in the various decision-making processes (policy, research, and management) on a volunteer basis and do not have access to trusted advice and analysis of the information provided by MPI.
    - Absence of a fair long term policy for allocation/allowances in key inshore fisheries means there in no guidance on appropriate considerations in particular fisheries.

What changes (if any) are needed to better ensure fisheries decisions are effective, efficient and timely?

- Existence of a representative and accountable professional organisation to give voice to public fishing interests. Such an organisation would not displace the local voice: instead it would integrate the views and align the public fishing voice with the overriding management framework delivered through the various legislative and regulatory processes.
- Empower stakeholder decision-making. Commit to a collaborative approach to fisheries management decision-making. This will foster consensus decision-making, allow for value-adding and creative trade-offs to be made between interest groups, and can establish flexible responses to particular outcomes ("decision rules").

How do you think those changes would affect the cost of fisheries management? Who should cover any additional costs, or benefit if costs are reduced?

- In the early stages (say 10 years) the cost of supporting a professional organisation that represents the public fishing interest should be borne by the taxpayer. Over this period such an organisation should become self-funding through membership, provision of services, sponsorship and grants.
- There is a risk that such an organisation could be seen as lobbying government, but this must be counterbalanced by the benefits of having an organisation that will work to raise awareness in the public fishing sector and support responsible management measures to achieve agreed outcomes.

What challenges will New Zealand's fisheries management system need to respond to in future years?

What challenges do you think New Zealand's fisheries management system will face over the next 20 years?

- Increasing pressure on inshore resources as population grows
- Environmental fragility due to the impacts of climate change, habitat loss and land-based contamination

What changes (if any) are needed to better enable the fisheries management system to respond to new challenges?

- Building trust with government and between stakeholder and interest groups
- Investment in education and awareness raising to promote responsible management practices within the public fishing sector
- Building fisheries resilience through managing for higher levels of abundance
- Create incentives for greater innovation and improved technology

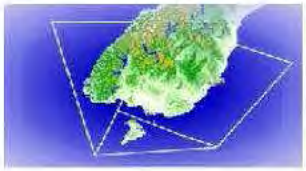
If the fisheries management system works well over the coming years, what will the fishery look like in the year 2050? How will your experience of it have changed?

- For shared fisheries we will have achieved the vision of *Our Fishing Future*:
    - a healthy marine environment enjoyed by all
    - taking pride in an abundant and healthy marine environment where our community extends manaakitanga over our fisheries and oceans
    - unity and inclusion within the recreational fishing community
    - equity of access through stakeholder engagement
    - understanding and valuing our marine environment and its resources so we can all be responsible for a better future.

If there are any other issues or opportunities you would like to raise, please add below

Our Fishing Future believes that an accountable and representative organisation needs to be established to support participation of public fishing interests in fisheries management decision-making processes (both statutory processes and collaborative processes). So far, the public voice has been heard primarily through the efforts of volunteers. This means that knowledge is ephemeral and it is difficult to establish trusting relationships with government and other stakeholder groups. A professional organisation could provide analysis of information to ensure an informed voice for public fishing interests, provide capacity support to local management initiatives, engage along with other stakeholders in the government consultation processes, provide support to national or regional collaborative processes, engage in education and awareness raising to ensure that necessary management measures are put in place to implement decisions agreed to (e.g. changes in seasons or bag limits).

It has proved very difficult to secure funding for the establishment phase of such an organisation. We propose that government commit to a long-term (e.g. 10 years) initiative to build an independent, accountable, professional organisation to give voice to public fishing interests. Such an initiative could take the form of establishing a trust fund that can allocate $2-3 million per year over 10 years. Other sources of funding could also contribute to the trust fund in this period. At the end of the establishment period, we believe such an organisation should be self-funding through membership, service provision, sponsorship and grants



PauaMac5 Incorporated

Secretaries Office:
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INVERCARGILL 9840

Submission to the Ministry for Primary Industries on the Review of the Fisheries Management System

11 December 2015

Introduction

1. PauaMAC 5 welcomes the opportunity to participate in the Ministry's review of New Zealand's fisheries management system.

2. PauaMAC 5 represents the commercial paua industry in the southern half of the South Island. The southern fishery is comprised of three QMAs, PAU 5A (Fiordland), PAU 5B (Stewart Island) and PAU 5D (Otago/Southland). Our members include owners of paua quota and Annual Catch Entitlement in all three QMAs.

Support for core industry submissions and Authorised Management

3. PauaMAC 5 supports and fully endorses:

    - The joint submission of the Paua Industry Council and the NZ Rock Lobster Industry Council (PIC/NZ RLIC); and
    - The core industry submission entitled *Initial Seafood Industry Contribution to Fisheries Management Review 2015/16:* ***Creating Value 'Beyond Sustainability'***.

4. In particular, we wish to emphasise that the fundamental framework of New Zealand's fisheries management regime – as embodied in the Quota Management System (QMS) – is sound and has generated significant benefits for all New Zealanders. What is now required in order to further enhance the management of paua fisheries, is a capacity for quota owners to adopt more sophisticated fine-scale management measures for commercial fishing.

5. We consider that the improved fisheries governance arrangements proposed in the core industry submission (in particular, the enhanced ability for quota owners to manage commercial harvesting activity under an 'Authorised Management' approach) will enable the paua industry to build on our current voluntary management initiatives, strengthen our relationships with other fisheries stakeholders, and enhance the value that New Zealanders obtain from paua fisheries.

6. As both the core industry submission *Creating Value Beyond Sustainability* and the PIC/NZ RLIC submission both cover the Authorised Management concept in some depth, we will not repeat that

detail here. Instead, we briefly outline some benefits we see flowing from the use of a binding majority decision-making tool under an Authorised Management approach.

7. PauaMAC 5 considers that if we had access to Authorised Management tools we could not only better achieve the purpose of the Act, *providing for utilisation while ensuring sustainability*, but also improve the management of paua fisheries in ways that would lead to better value being obtained for not just the industry, but the country as a whole.

8. The following examples are not a complete list, but rather to give an indication of what potential we see across a range of measures.

Harmonisation of commercial harvester behaviour with other sectors' expectations

9. There will always be a degree of inter-sector conflict in inshore fisheries. We share the fisheries, and for the more prized species such as paua there can be some competition, perceived or actual, for catch between us and recreational or customary fishers. It would be a valuable tool for us if we were able to manage the harvesting behaviour of our dive crews in a way that did not impact unduly on their fishing operations, but at the same time reduced perceived conflict. A simple example might be to be able to collectively agree not to commercially harvest areas of high recreational use in the run up to Christmas, over the summer or in areas adjoining holiday home clusters. This can be done with varying success on a voluntary basis, but obviously a single dive crew "breaking ranks" can spoil it for the majority, commercial and non-commercial.

Better management of fishstocks

10. We see a great deal of value in being able to manage how we fish paua populations. A paua fishery, at the QMA level, is actually made up of large numbers of individual populations. Paua populations may exist at bay, headland or reef scale. They tend to have localised recruitment and differing growth, reproductive success and growth characteristics. Current management, for example using a single Minimum Legal Size (MLS) across a fishery, is often not appropriate, and can lead to localised and serial depletion. This is well documented overseas. The industry currently runs harvesting regimes including variable harvest size (always above the MLS), area catch capping and temporary catch reductions through shelving of ACE.

11. We find that such measures make a positive difference to the fishery. For example, Stewart Island has recovered spectacularly well since the early 2000s following a period of decline then TACC reduction, in part because industry chooses to harvest at 137mm, well above the MLS of 125mm.

12. But these measures are voluntary. This means that we have to deal with a level of 'free riding' from those who refuse to abide by agreements, for whatever reason, which makes it difficult to plan and implement better fisheries management as those who do cooperate with each other see their good work undone by the short sighted minority.

Managing at higher stock levels as a value proposition

13. While not a lot of economic analysis has been applied yet, we see real gains in value to be had if in some fisheries the decision was made to rebuild the fishstock to a high level of abundance. Currently we aim to rebuild or maintain paua fisheries at around 40% B_0. If we were able to collectively take management actions, such as temporary catch reductions, to build stock levels significantly higher than this then catch per unit effort would increase and it would become more economic to catch a given quantity of paua. It also opens the possibility of being able to fish more to match market demand, giving better returns to exporters as inventories are not accumulated over the slow winter months.

14. To do this of course would require the short term pain of catch reductions and other measures. But once again, without a way to act ensure that a collective decision is binding this sort of gain is often not possible due to the minority who choose not to participate in collective measures.

Other matters

15. The main 'rub points' that we have identified in the current fisheries management regime, together with some proposed solutions, are discussed below.

Management of recreational fishing

16. New Zealand's management of recreational fishing is not at the forefront of international best practice. Currently, information of recreational catch and effort is incomplete, unreliable, and costly to obtain. Uncertainty about recreational catch creates problems not only for recreational fishers, but for all other users of paua fisheries. Because we don't have good information on recreational catch, we can't be confident that TACs and allowances are set appropriately. We also can't be sure that management measures such as daily bag limits are constraining recreational catch within the allowances, meaning that the TAC lacks integrity.

17. While two of the QMAs we fish are not particularly heavily fished by recreational fishers due to geographic isolation or difficulty of access, PAU 5D is. Annual recreational fishing take of paua in PAU 5D is estimated at 20 t by MPI for stock assessment purposes, but this estimate is really a "best guess". Furthermore, a portion of the recreational catch is caught in areas currently closed to commercial harvesting (refer to PIC/NZ RLIC submission for detail). No analysis of the split of recreational catch between areas closed and open to commercial fishing has been done, even though this information is very relevant for stock assessments, which are based only on sampling from commercially-harvested areas. Stock assessments rely on the best available information, and without better information future stock assessments will continue to be less reliable than they should be.

18. We see the situation as becoming worse in the future as recreational fishing participation rates appear to be increasing, though even that may be uncertain, and the demographics of recreational fishing do not appear to have been researched. This is important as a guide to likely future participation rates. If average age of participants is increasing (which is the case in the Tasmanian recreational fishing population, for example) the future might look different to one where average age is decreasing.

19. PauaMAC 5 therefore recommends the introduction of mandatory recreational catch reporting. This should not be seen as difficult as new digital technology becomes available which could obviate the need for a paper trail.

Integration of Fisheries Act and Resource Management Act

20. The sustainability of paua fisheries depends upon clean and unpolluted water and healthy aquatic ecosystems. Paua fisheries are particularly vulnerable to point source pollution (e.g., sewage discharges) and non-point source pollution (e.g. run off and sedimentation from agricultural land). Activity on the land – and in particular urban development, farming and forestry activity – is rapidly becoming one of the major constraints on the productivity of paua fisheries. However, fisheries management considerations do not appear to be taken into account in decisions about land-based activities such as forestry harvesting.

21. PAU 5A and PAU 5B are fortunate in that they are not affected by any significant point source and non-point source pollution as they adjoin the largely unmodified landscapes of Fiordland and Stewart Island. In these areas the natural forest cover is mainly intact and there is no agriculture or urban activity. However for PAU 5D runoff from cleared and intensively farmed land, with huge catchments extending as far as Central Otago, means that sediment from a number of major river systems, the Clutha and Mataura rivers for example, is a serious threat. The negative effects of sedimentation on all phases of the paua life cycle and its preferred food kelp species such as *Macrosystis pyrifera* is well documented. We are aware that evidence exists that *Macrosystis* beds, formerly extensive along the Otago coastline, are retreating. As they reduce in size, so too does the capacity of the ecosystem there to support grazing molluscs such as paua.

22. PauaMAC 5 therefore recommends that processes need to be established to ensure that RMA decision-makers are more aware of the impacts of land-based activities on fisheries resources, and that RMA decision-making takes into account the true costs of these activities.

Recreational fishing from commercial vessels

23. Current mechanisms for taking recreational catch off commercial vessels are unnecessarily cumbersome and bureaucratic. Two regulatory tools are available under s.111 of the Fisheries Act which allow recreational take on a registered commercial fishing vessel. The first, General Purposes permit allows recreational take over the course of a year in the course of normal commercial fishing operations. The second, Special Purposes, is used to permit individual recreational take from a commercial vessel when recreational catch is the only purpose of the trip. An example might be a days diving for scallops, with no commercial take of paua.

24. In both cases the current reporting regime, by use of a separate CELR (not the PCELR normally used for paua), is clumsy and difficult to correctly fill out. The second issue is that the process for obtaining a Special Purposes Permit is time consuming and unnecessarily complex. It requires advance notice to be provided to a regional compliance manager, inside office hours, and an exchange of paperwork which cost FO time and means that the fisher needs to plan a trip some time ahead. Many of these trips are likely to be spur of the moment, a function of a good weather opportunity, rather than planned ahead.

25. PauaMAC 5 therefore recommends streamlining the regulatory mechanisms for taking recreational catch on commercial vessels. We consider that catch reporting would be improved by using the existing PCELR forms, which are being redesigned anyway, or by electronic means. For the issue of a Special Purposes permit, a regulatory amendment to allow online applications to MPI Compliance would make the system work better, and be more cost effective for MPI without increasing compliance risk.

Addressing sustainability issues created by Crown utilisation decisions

26. There are times when the Crown makes a decision to exclude commercial fishing from parts of a QMA. These exclusions are inevitably re-allocative in both intent and effect – for example to make provision for recreational only fishing areas, to address Treaty Settlement issues (e.g., by establishing a mataitai reserve), or to close an area to provide for biodiversity protection or scientific study.

27. Whatever the reason, for paua and other sedentary or sessile species, the exclusion of commercial fishing has a negative impact on the remaining fishery. The catch and effort which is invariably displaced after the closure results in an increase in catch in the smaller remaining area of the fishery. This creates a sustainability risk, and in several of the paua QMAs we have clear examples of this having happened in the past. A case study of PAU 5D is provided in the PIC/NZ RLIC submission.

28. To mitigate these risks and the associated threat to the fishery we support the "rebalancing" policy approach described in the PIC/NZRLIC submission. Briefly, a two-step process would be undertaken. First, the TACC is reduced in the same quantity as the displaced catch of paua in the year following the closure to remove the sustainability risk and threat to the wider fishery. Second, the Crown addresses the impact on the quota share ownership rights held by the participants in that fishery. This should be done using a market mechanism – for example, the Crown would recompense quota share owners proportionate to their loss.

29. The closure of areas to commercial fishing (in order to reallocate resources to other users or uses), in combination with displaced catch causing a sustainability threat and triggering a TACC reduction, also potentially devalues iwi settlement quota assets and may potentially lead to contemporary Treaty claims. We consider that "rebalancing" is an appropriate and equitable tool to deal with this issue.

PAUA INDUSTRY COUNCIL

NZ ROCK LOBSTER INDUSTRY COUNCIL

Submission to the Ministry for Primary Industries on the REVIEW OF THE FISHERIES MANAGEMENT SYSTEM

11 December 2015

Introduction

1. The NZ Rock Lobster Industry Council (NZ RLIC) and the Paua Industry Council (PIC) welcome the opportunity to participate in the Ministry's review of New Zealand's fisheries management system.

Who we represent

2. The NZ RLIC is an umbrella organisation for nine regional organisations known as CRAMACs, which operate in each of the rock lobster (CRA) management areas of New Zealand. CRAMAC membership comprises CRA quota owners, processors, exporters, and fishermen (quota share owner-operators and Annual Catch Entitlement (ACE) owners) in each region.

3. PIC is the national representative organisation of the paua industry in New Zealand. The organisation receives its mandate from five regional organisations known as PauaMACs, which represent the interests of quota owners and ACE holders in each of the paua (PAU) Quota Management Areas.

Structure of our submission

4. Our submission is in five parts, as follows:

    1) Endorsement of the core seafood industry submission;

    2) Case studies from the rock lobster and paua industries that illustrate the concepts presented in the core seafood industry submission;

    3) Score card for the fisheries management system;

4) Reform proposals, including:
   - Sharing marine space among users in a way that does not erode value; and
   - Enhancing the *status quo* toolbox;
5) Concluding comments.

1) Endorsement of core industry submission

5. NZ RLIC and PIC are signatories to the core seafood industry submission entitled *Initial Seafood Industry Contribution to Fisheries Management Review 2015/16:* ***Creating Value 'Beyond Sustainability'***.

6. NZ RLIC and PIC fully support and endorse the content of the core industry submission. We wish to emphasise the key messages from that submission as they apply to rock lobster and paua fisheries, as follows:

   - The fundamental framework of New Zealand's fisheries management regime – as embodied in the Quota Management System (QMS) – is sound and has generated significant benefits for all New Zealanders from our fisheries;
   - The QMS has successfully ensured the sustainability of rock lobster and paua stocks. It has enabled stock abundance to increase and be maintained at levels well above statutory limits;
   - The QMS has enabled significant value to be created in rock lobster and paua fisheries, as evidenced by:
     - improved opportunity for New Zealanders to gather a feed of rock lobster or paua;
     - ongoing regional employment opportunities built on abundant paua and rock lobster stocks;
     - significant annual export earnings (rock lobster was New Zealand's number one seafood export in 2014, worth NZ$268 million, whereas paua was the eighth most valuable species earning NZ$36 million);[1] and
     - substantial increases in quota value over time (CRA quota is now trading at up to NZ$1 million per tonne and PAU quota at up to NZ$400,000 per tonne);
   - The next challenge for the evolution of the QMS is how to operate 'beyond sustainability' – in other words, how to move beyond minimum sustainability standards and into the realm of value-addition. For rock lobster and paua fisheries, this will entail more sophisticated,

[1] Figures from Seafood New Zealand export data (top 10 export species 2014). Paua export value was relatively low in 2014 as a result of Chinese market conditions, and is typically around $60 million per annum

fine-scale management that is market-oriented and responsive to consumer-driven preferences (e.g., in relation to the environmental effects of harvesting) as well as being responsive to the expectations of local communities in which we operate. This step forward will necessarily involve real-time, direct control of harvesting activity which is feasible only with a high degree of engagement throughout the industry (quota owners, ACE holders and fishers);

- With sustainability now a 'given', the adoption of these more sophisticated value-adding management measures for commercial fishing is a matter for quota owners to pursue and take responsibility for delivering within government-set bottom line sustainability standards;
- The improved fisheries governance arrangements proposed in the core industry submission (Approved Management and, in particular, Authorised Management) will enable the rock lobster and paua industries to build on our current achievements, strengthen our relationships with other fisheries stakeholders, and enhance the value that New Zealanders obtain from our fisheries resources.

2) Case studies

7. In order to move to the next level of fisheries management, paua and rock lobster quota owners need to be enabled to make and implement collective decisions about the management of commercial harvesting activities. Industry collective decision making is not a new concept for our quota owners – the paua and rock lobster sectors both have an extensive and successful tradition of industry management, including the implementation of industry data collection, ACE shelving, closed areas, and fine-scale (sub QMA) management initiatives such as catch spreading and differential harvest sizes.

8. However, all these activities currently occur in the absence of any statutory support and therefore rely on the voluntary participation of quota owners and commercial fishers. It has always been challenging to obtain and maintain 100 percent agreement to industry management measures, particularly when we have no effective sanctions for non-compliance. Quota owners or fishers who decide not to comply with agreed industry measures are able to reap the benefits of the management measures that others implement, without bearing any of the costs themselves. The existence of these 'free-riders' acts as a disincentive for other quota owners and fishers to participate, and means that government and other fisheries stakeholders cannot always be confident that industry management measures will be comprehensively observed or enduring.

9. The four case studies in this section of the submission illustrate some of the ways in which rock lobster and paua industry participants have successfully managed commercial harvesting activity. They also demonstrate the challenges that quota owners face in seeking to effectively manage the exercise of their harvest rights in the absence of any authoritative statutory capacity to do so. Case studies 1, 2 and 3 illustrate the need for quota owners to be

able to make and implement binding management decisions by majority decision-making – i.e., Authorised Management, as proposed in the core industry submission. The fourth case study explores the consequences of incremental erosion of the spatial extent of quota rights, which the core industry submission identifies as one of the key ways in which value for all fisheries users is currently being destroyed.

1) CRA 2 Catch Spreading

10. For three seasons from April 2012, catch per unit effort (CPUE) in the CRA 2 (Bay of Plenty) rock lobster fishery commenced a slow decline and a new stock assessment was commissioned. The assessment confirmed low stock abundance and the need for a TACC reduction. Industry participants were nervous about taking a reduction because CRA 2 is a 'shared fishery' with the commercial/non-commercial catch split assumed at the time to be 51/49. Quota owners were concerned that in the absence of any effective constraints on recreational fishing a TACC reduction would serve simply as a reallocation of available catch to non-commercial users and have no meaningful impact in regards to halting stock decline.

11. Coordinated by the CRA 2 Rock Lobster Management Company Ltd (CRAMAC 2), industry participants reviewed recent commercial catch and effort and determined that ACE was aggregating to statistical area 906 – an area of CRA 2 which was becoming the most intensively fished by both commercial and recreational interests.

12. CRAMAC 2 sought to reduce tensions with recreational users and coastal residents by endeavouring to:

    a) implement commercial pot limits within the 906 boundary; and

    b) set a limit on the amount of ACE available to commercial operators domiciled within the 906 boundary. CRAMAC 2 recommended that the percentage of ACE available should be proportional to the percentage of the total landed catch from 906 over ten years.

13. In the absence of any regulatory authority the ACE spreading and pot limit initiatives were purely voluntary and considerable effort was made to secure support from both the participant fishermen and the ACE providers. CRAMAC 2 developed a *906 Commercial Harvest Plan* and the industry made a genuine attempt to implement it. However, in the subsequent season a very small minority of fishers flouted the pot limits and exceeded their designated ACE.

14. The CRA 2 Management Procedure was again run for the fishery in 2013 which invoked a TACC reduction from April 2014. As a consequence, some fishers lost interest in the *906 Commercial Harvest Plan* and reverted to previous fishing behaviour. CPUE has declined since and a second TACC reduction was only narrowly avoided when the Management Procedure was operated in November 2015.

15. As part of a properly integrated CRA 2 Fishery Plan[2] a rigorous ACE management plan and only small changes to fishing behaviour during the months of high recreational fishing and dive activity would benefit the CRA 2 fishery, the industry, and all fisheries stakeholders in the longer term. The lack of a binding agreement or agreed sanctions for non-compliance currently conspires against such outcomes.

2) CRA 3 Voluntary Commercial Closure

16. In the CRA 3 (Gisborne) rock lobster fishery, a regulated differential minimum capture size (MLS) applies to commercially caught rock lobsters from two of three Statistical Areas in the months of June, July and August in every season. The differential MLS is perceived by recreational fishing lobbyists as being an inequity and there has been a long campaign to have it abolished. When the differential was first implemented in 1993 it was anticipated that both commercial and recreational users would avail themselves of the opportunity. However the then MFish Compliance Unit urged the Minister of the day not to allow recreational differential MLS and MPI Compliance currently hold the same view. The 'inequity' is a consequence of Ministry decisions, not the size differential itself.

17. Sensitive to the mood of the recreational lobby and frustrated by the Ministry's refusal to remove the inequity, the CRA 3 industry, represented by the Tairawhiti Rock Lobster Industry Association (CRAMAC 3) implemented a voluntary commercial closed season in Statistical Areas 909 and 910.[3] The first voluntary closure ran from 15 December to 15 January in every season, but from 2010 the tensions generated by the recreational lobbyists drew a response from the Ministry and a series of CRA 3 fishery reviews were conducted. The CRA 3 industry responded to the complaints of the recreational lobby by implementing a longer commercial closure – it is currently running for four and a half months from 1 September through to 15 January.

18. The voluntary arrangements held well until 2014/15 when a change in CRA 3 quota ownership and control brought a relatively new but potentially influential player to the industry. The CRAMAC 3 executive has been obliged to re-litigate the justification for the voluntary commercial closure in circumstances where the 'new entrant' was never a party to the original agreement.

19. The lack of any binding authority places CRAMAC 3 in a difficult situation. Whilst there are no stock management outcomes intended of the voluntary closed season it has served to buffer the persistent complaints of the recreational lobbyists and enabled the CRA 3 industry to take

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[2] Industry does not accept that sustainability and utilisation outcomes can only be dependent upon managing commercial fishing – all extractive user groups and MPI have a shared responsibility.

[3] The original closures implemented in 1993 were regulated, but the closed season is now voluntary. The regulations were revoked because they were inflexible in respect to fine tuning the fishing activity in response to variable stock abundance and changing market preferences over time.

better economic advantage of landing a greater proportion of the available TACC in the winter months when lobsters are in good condition, market demand is steady, and beach prices are at a premium.

20. As the demographic of CRA 3 quota share and ACE ownership and control changes over time the CRAMAC 3 executive are required to refresh industry support for the voluntary closure and reprise the history of the more strategic and not always subtle issues confronting the utilisation agenda for the CRA 3 fishery.

3) PAU 7 ACE Shelving

21. The PAU 7 (Marlborough) paua fishery has a relatively low CPUE in comparison to other paua fisheries. In an effort to increase the rate of stock rebuild, PAU 7 quota owners have implemented an ambitious programme of ACE shelving. Successful ACE shelving requires each quota owner to voluntarily refrain from fishing an agreed proportion of their ACE. It is typically implemented by quota owners transferring the shelved ACE to a single (non-fishing) third party so that it is unavailable to harvesters. In order to be effective, shelving requires a high level of support across all quota owners in a stock. Quota owners will not shelve their ACE unless they are confident that the other quota owners are also foregoing the same share of their catch.[4]

22. PAU 7 quota owners first shelved 15 percent of the available ACE in 2003. CPUE began to increase and the shelving was therefore not maintained in subsequent years. When CPUE again began to decline in 2011, further attempts at ACE shelving were initiated and the debate shifted to the level of shelving required. Some local iwi shareholders advocated for 40 percent shelving to 'get in front of' the potential decline in stock abundance. The industry organisation PAUAMAC 7 considered that a substantial level of shelving was required in order to kick-start a more rapid rebuild for the fishery and eventually proposed a 30 percent shelving. While this proposal was supported by the majority of PAU 7 quota owners a significant minority, who together owned around 20 percent of PAU 7 quota shares, made it clear that they were not prepared to shelve 30 percent of their ACE. In the end, 20 percent of the available ACE was able to be shelved in 2011/12 and this level of shelving was continued in the 2012/13 and 2013/14 fishing years.

23. In spite of the reduction in commercial catch, for a range of reasons the PAU 7 fishery failed to show signs of a significant rebuild. The most recent PAU 7 stock assessment, completed in 2012, found that although the PAU 7 stock was not in decline, the rebuild rate had slowed to just 2 percent, well below the target rate. CPUE remained very low and harvesters continued to express concerns about the state of the fishery. It was apparent to quota owners that the

[4] A further case study on ACE shelving – in the Gisborne and Wairarapa (CRA 3 and CRA 4) rock lobster fisheries – is appended to the core industry submission.

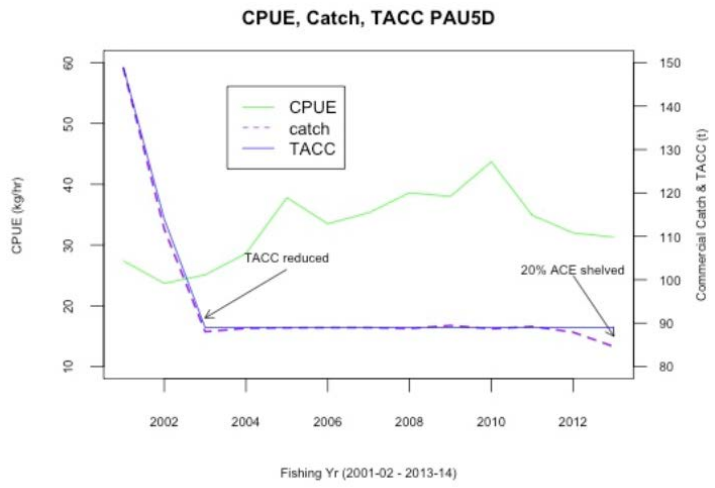
20 percent ACE shelving on its own was not resulting in a discernible improvement in the fishery and that further measures were required. In response, the PauaMAC 7 Executive proposed additional management measures for the 2014/15 year and beyond, including slowing the extraction rate for the first four months of the season, increasing the minimum harvest size in a sub-area, and a seasonal fishery closure for the month of September.

24. Although the Executive took considerable steps to promote the package of supporting measures, it did not attract sufficient support from quota owners and the measures were unable to be implemented. The PauaMAC 7 Executive then proposed that 30 percent of ACE should be shelved in the 2014/15 year as part of a 5-year rebuild plan for the fishery. The 30 percent shelve was again supported by majority of quota owners, but the same significant minority (now owning around 17 percent of quota shares) agreed to shelve only 20 percent of their ACE.

25. A new PAU 7 stock assessment is now being undertaken and the fishery will almost certainly be subject to a TACC reduction in 2016/17. Shelving has undoubtedly helped to prevent the rebuild rate from declining even further. However, a longstanding difference of view among quota owners in the fishery has prevented the industry from achieving the desired rebuild rate. In addition, the cost of shelving has been spread inequitably across quota owners. Because the PAU 7 quota owners lacked appropriate tools to address the problem when it was first observed, the management challenges facing the PAU 7 fishery have now shifted from utilisation issues (e.g., decisions about the appropriate rebuild rate) to a sustainability issue.

4) PAU5D impacts of erosion of spatial access

26. The PAU 5D (Southland/Otago) paua fishery was subject to a substantial TACC reduction in 2003, which enabled the fishery to rapidly rebuild towards its target level. However, the rebuild rate began to level off around 2008 and, by 2010, CPUE began to decline once more.



27. The PAU 5D fishery has 972 km of coastline, but habitat constraints and closed areas mean that the TACC is harvested from just 20 percent of the coast. The fishery is therefore very

vulnerable to the impacts of spatial displacement of fishing effort. Industry participants consider that the observed slowing of the rebuild rate and decline in CPUE is directly attributable to the establishment of three mātaitai reserves in the period 2008-2010. The mātaitai reserves covered coastline that had previously produced 8-10 percent of the PAU 5D TACC. Commercial catch from these areas was displaced into the remainder of PAU 5D (equivalent to a 10 percent TACC increase across the fishery), reducing the stock rebuild rate and CPUE to the detriment of all fishery users.

28. In addition to the mātaitai reserves, access for commercial paua diving in PAU 5D is also restricted by one taiapure (with regulated commercial closures), four voluntary closed areas, and eight historical regulatory closures (established for non-fisheries reasons, but still in place).

29. In response to the declining CPUE, quota owners, co-ordinated by the industry organisation PAUAMAC 5, shelved 20 percent of their ACE in 2013/14 and increased the level of shelving to 30 percent in 2015/16. However, the current shelving programme does not have the support of all quota owners and may not be able to be sustained. The willingness and ability of quota owners to continue their shelving initiatives is not assisted by the additional uncertainty about future spatial access in the fishery as a result of the establishment of the Otago MPA Planning Forum. PAU 5D quota owners have in a very real sense 'paid the price' (as foregone catch) for the lack of effective integration between the QMS and spatial measures imposed for other utilisation purposes such as customary fishing or biodiversity protection.

3) Score card

30. As a contribution to the review, PIC and NZ RLIC have compiled a 'score card' for New Zealand's fisheries management system for paua and rock lobster fisheries (attached). We divided the management regime into 29 components and scored each component on a score ranging from A (perfect system, couldn't be better) to E (system failure, needs substantive change). Comments next to score indicate whether areas of concern relate to legislative or operational issues. While the score card approach is somewhat simplistic, it does provide an overview of where we see the 'rub points' and potential areas for improvement.

31. Based on the attached score card, we have assigned the following overall scores to the fisheries management regime:

Overall score for ensuring sustainability	B	[excellent system, further improvements by fine-tuning only]
Overall score for enabling utilisation	C	[average system, still room for substantial improvements]

4) Reform proposals

Rebalancing loss of spatial access for fishing

32. The core seafood industry submission identifies the need to develop new mechanisms to enable fisheries to be used in a way that reflects their highest value by building on the foundations of the QMS, rather than – as is currently the case – detracting from it. PIC and NZ RLIC support the analysis in the core industry submission. Case study 4 in our own submission illustrates how value is being eroded in the absence of effective mechanisms to facilitate transfers of use. In an ideal world, the rights of all users (including those who favour non-extractive use) would be fully defined and the statutory framework would enable sectors to make trade-offs by direct negotiation among themselves. Although a regime of this nature is beyond the scope of the current reforms, the review process provides an opportunity to set in place measures that can move New Zealand's fisheries management regime in the general direction of the required reforms (even if only incrementally).

33. It is on this basis that PIC and NZ RLIC propose the adoption of a policy (with supporting legislation) we refer to as 'rebalancing' for loss of spatial access for fishing. Rebalancing is designed to address the common situation in fisheries management where new uses of coastal space are achieved only at the expense of existing fishing rights. For example, the establishment of a marine reserve displaces customary, commercial and recreational fishing that previously took place in that area, and the Government's proposed 'recreational only' fishing parks will displace commercial fishing from designated areas. These spatial tools are not necessary in order to ensure fisheries sustainability, but instead give effect to decisions about the utilisation of fisheries resources.

34. Paua and rock lobster are fully utilised fisheries with a strong spatial dependency. In such fisheries displacement of fishing effort leads to localised depletion outside the closed area as fishers compete to take their existing catch entitlements from a reduced area and, consequently, a smaller resource. Localised depletion can, in turn, lead to stock-wide sustainability risks. While these effects are most apparent in sessile and sedentary species, the same principle applies to all fisheries. The attainment of one policy objective (e.g., protecting marine biodiversity by establishing a marine reserve) occurs only at the expense of another public good policy objective (i.e., sustainable fisheries).

35. NZ RLIC and PIC therefore propose that when the Crown makes a decision that results in a loss of access to a specific fishery, a two-step response is required to 're-balance' the system, thus:

    1) a fisheries management response removes the displaced catch from the fishery (rebalancing the biological system); and

    2) a market-based response ensures that affected quota owners are no worse off (rebalancing economic incentives for the effective operation of the QMS).

36. The rebalancing policy would apply to all fisheries closures other than closures implemented for fisheries sustainability reasons and closures for other commercial uses such as aquaculture or other marine structures.[5] Statutory support for rebalancing would help the QMS to function more effectively by giving quota owners confidence that the value of quota will be retained following any loss of access to fisheries (i.e., erosion of the spatial attributes of ITQ). This will maintain incentives for sustainable management, thereby benefiting all New Zealanders. A rebalancing policy would also promote:

- more flexible solutions – e.g., a marine reserve proposal that was unacceptable in the absence of rebalancing could proceed if displaced fishing effort was removed from the system and market compensation applied; and
- better decisions – with market-based compensation in the mix, decision-makers are faced with the true costs of their decisions and decisions are more likely to reflect 'highest and best use'.

37. Some closure decisions have a statutory test – e.g., the 'prevent' test for mātaitai reserves and the 'undue interference' test for marine reserves. The rebalancing policy does not detract from the operation of statutory tests, but operates where displacement is below the threshold of the tests. This is because for sessile and sedentary fisheries such as paua and rock lobster, any displacement of catch, no matter how small, will have an impact. By not specifying a minimum threshold of displacement, the policy seeks to ensure that numerous small displacements will not have cumulative adverse effects on fisheries utilisation and sustainability.

38. When a government decision triggers the requirement for rebalancing, a catch reduction would normally be required in order to remove the displaced catch from the fishery (i.e., rebalancing the biological system). Commercial catch reductions can reliably be implemented by cutting the TACC or shelving ACE. However, for recreational catch, changes in other management settings (e.g., bag limits or MLS) are likely to be required to implement a meaningful catch reduction. For customary catch, customary fisheries managers (Tangata Tiaki/Kaitiaki) are best placed to implement any necessary measures.

39. Following a commercial catch reduction, compensation would then be provided to quota owners to ensure that QMS incentives continue to operate as intended. A *pro rata* market-based compensation payment ensures that all quota owners in an affected stock are compensated, reflecting the collective effect of the closure on quota value and incentives.[6]

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[5] In these cases the private beneficiary should negotiate a rebalancing arrangement directly with affected fisheries rights owners.

[6] The alternative approach (i.e., the Crown buying quota on the market and then 'retiring' it) is not preferred because it results in Crown ownership of quota shares, reduces the number of quota shares available for trading, and compensates only those who sell quota and not those who remain in the fishery. The rebalancing policy does not include financial compensation for non-commercial fishing sectors because non-commercial sectors are not subject to a management regime that is reliant on economic incentives.

40. Further policy work is required in order to develop details such as methodologies for assessing the amount of displaced catch and the equivalent quota value, designing appropriate triggers to apply the policy to more mobile or less fully developed fisheries, and enabling quota owners to take responsibility for providing adjustment assistance to fishing permit holders made redundant by area closures.

Enhancing the status quo toolbox

41. The core industry submission identifies as a 'supporting reform' the need to enhance the *status quo* management regime by identifying where minor changes to regulations or procedures can improve the management system. NZ RLIC and PIC have identified several areas in which improvements of this nature could be made. Three are outlined below, and several others are flagged in the attached 'score card'.

Aligning regulatory changes with TAC decisions

42. The implementation of TAC/TACC decisions and other supporting management measures is poorly integrated under the current fisheries management regime. Using the National Rock Lobster Management Group (NRLMG) as an example, the NRLMG regularly examines stock status and identifies appropriate management responses. Often measures in addition to a TAC/TACC adjustment are required. For example a supporting suite of regulatory amendments may be necessary to ensure that non-commercial removals are constrained to the allowances set for them. The TAC/TACC decision is implemented by Gazette Notice and comes into force on the first day of the rock lobster fishing year (1 April). However, the regulatory process is longer and more complicated and the attendant regulations in support of the TAC/TACC decision are at best implemented six months later on 1 October, or possibly even twelve months later.

43. NZ RLIC and PIC recommend that consideration should be given to better alignment of TAC/TACC decisions and regulatory measures that help support TAC/TACC decisions.

Improving recreational catch reporting

44. NZ RLIC and PIC observe that effective recreational catch and effort reporting is far more achievable in 2015 than it has been at any time previously. Not only does new technology now make the mechanics of catch reporting easier for recreational fishers, but there are now well-established precedents both in saltwater and fresh water fisheries in other jurisdictions (particularly Australia). Contemporary fishing media coverage has reported those arrangements and they should be familiar to most sports fishermen at least.

45. We attach for your information an article on management of recreational fishing in other jurisdictions which was recently published in the Seafood New Zealand magazine.

Extending to building societies the protection currently given to banks

46. Quota is often the principal asset of a fishing company, and the availability of quota as sound security is therefore important for the financing of fishing industry businesses. Building societies are a significant source of finance for our industry, but the current quota forfeiture provisions in the Fisheries Act create unnecessary uncertainty for building societies which own quota as security for loans and may have a chilling effect on lending to the fishing industry. The specific concern, as we understand it, is that all quota owned by a building society may be considered 'associated quota' under section 255 of the Act, and may therefore be at risk of forfeiture in the event that the building society also owns quota as security for a person convicted of a serious offence under the Act.

47. The banking industry had sufficient residual concern over this issue that they obtained a specific statutory exemption in section 255(6) of the Fisheries Act, giving them greater confidence to lend to the industry. However, this exemption applies only to banks and not to building societies.

48. We understand that the Wairarapa Building Society proposed an amendment for inclusion in the 2015 Statutes Amendment Bill which would extend to licensed building societies the same express protection given to banks under the Fisheries Act from forfeiture of fishing quota they own as security for loans.[7] The proposed amendment would amend section 255(6) as follows (additional wording underlined):

> *"No quota owned by any bank registered under the Reserve Bank of New Zealand Act 1989 <u>or by any building society licensed under the Non-bank Deposit Takers Act 2013</u> is to be regarded as associated quota merely because the bank <u>or building society</u> has in the ordinary course of its business as a financier become the owner of that quota."*

49. NZ RLIC and PIC support the extension of the existing exemption in section 255(6) to building societies. Our industry does not rely on credit unions as a source of funds and we understand that it may not be straightforward to extend the exemption to finance companies. Therefore we support extending the exemption to building societies only.

[7] The recommended amendment was not picked up in the Statutes Amendment Bill.

5) Concluding comments

50. There are many opportunities, both within the current review process and beyond it, to enhance the value that New Zealanders obtain from rock lobster and paua fisheries and to ensure that New Zealand continues to have one of the best fisheries management regimes in the world. PIC and NZ RLIC would therefore like this submission to be the starting point for a process of dialogue and engagement between MPI and the paua and rock lobster industries in 2016 and beyond.

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New Zealand's fisheries management system 2015
Score card for paua and rock lobster fisheries

A	perfect system, couldn't be better
B	excellent system, further improvements by fine-tuning only
C	average system, still room for substantial improvements
D	below desirable level of system performance, plenty of scope for improvement
E	system failure, needs substantive change

	Topic	Grade	Comments
Information for fisheries management			
1	Information on commercial catch	B	Information is comprehensive and reliable, whether it is obtained through MPI's record keeping and reporting system or through industry initiatives. Industry provides and requires fisheries data at a finer spatial scale and more immediate temporal scale than MPI. **Improvements**: more timely delivery of information from data bases
2	Information on customary catch	C	Information is incomplete and of unknown reliability (i.e., not verifiable). Information is not integrated into central research data base. **Improvements**: mandatory, verifiable catch reporting; greater availability/use of catch information in management; reporting code for landings from commercial vessels taken under the authority of a customary permit
3	Information on recreational catch	D	Information is incomplete, unreliable, and costly to obtain, creating significant uncertainty and loss of value for all stakeholders. **Improvements:** comprehensive, mandatory, verifiable recreational catch and effort reporting; (in the interim – improved design and sequencing of ramp surveys and comprehensive recreational charter fishing industry record keeping and reporting)
4	Information on illegal catch	D	MPI Enforcement may or may not have reliable estimates of illegal harvest, but from the perspective of fisheries managers, the information is unavailable and/or unreliable. **Improvements**: greater availability of reliable estimates for management purposes
"Sustainability measures"			

5	Setting TACs	B	Legislation is sound (section 13), process is working adequately (good science informs decision making), but some of the input data are incomplete or unreliable. Use of management procedures has created greater certainty in rock lobster fisheries. **Improvements**: better data inputs (as above); an ongoing commitment to the use of management procedures to guide TAC/TACC setting.
6	Avoiding, remedying or mitigating adverse effects of fishing	B	Not a significant issue in rock lobster and paua fisheries. Wider ecosystem interactions are adequately managed through the TAC/TACC and industry codes of practice. **Improvements**: greater clarity about expectations of environmental performance; better tools for industry to manage performance
Allocation of fisheries			
7	Allocation of the TAC (setting TACCs and allowances)	C	The Act provides little guidance on allocation and, in practice, significant inter-sectoral reallocations in TAC decisions have not been the norm. However, future allocation of the TAC remains a significant source of uncertainty for the industry, particularly when combined with the lack of verifiable information on non-commercial catch and inability to constrain non-commercial sectors to the allowances (resulting in *de facto* reallocation of actual catch shares). In this environment, quota owners cannot be confident that their investments in improving fisheries abundance will deliver the benefits that they anticipated. **Improvements**: better data on non-commercial catch; constraint of sectoral catch within allowances; reallocation only by negotiated tradeoffs between sectors
Management of fishing activity			
8	Management of commercial fishing	B	Statutory tools are available for regulatory purposes, but are not always used in a strategic or co-ordinated manner. Regulations are often too prescriptive and inflexible (e.g., single MLS for all commercial paua), and unresponsive to change. Voluntary industry management initiatives have been successful in paua and rock lobster fisheries, but are constrained by the need to obtain 100 percent agreement to measures and the lack of sanctions for non-compliance **Improvements**: statutory basis for industry collective management of harvesting activity at a finer scale than regulations; fine-tuning of MPI's regulatory framework

9	Management of recreational fishing	D	Statutory tools are available to manage recreational catch (bag limits etc) but have not been implemented in a manner that constrains recreational catch within the allowances. The recreational sector currently lacks the organisation, mandate, structure, incentives and tools to take an interest in the management of its own activities. **Improvements**: meaningful bag limits and other measures; clearer definition of recreational fishing rights so as to engender a sense of shared responsibility, exercised through mandated representative body(s)
10	Management of customary fishing	B	Customary management tools (e.g., mātaitai) are somewhat blunt and inflexible. In comparison with other sectors, customary managers have relatively powerful tools to manage their own customary fishing activities **Improvements**: more flexible tools, e.g., species or method specific mātaitai reserves.
11	Integrated management of commercial, recreational and customary fishing	E	There is no statutory mechanism for effectively integrating commercial, recreational and customary fishing, and no consistent MPI policy or approach. Operationally, the Crown's intervention in inter-sectoral utilisation creates problems (uncertainty, erosion of value, perceived lack of fairness etc) rather than resolves them. Problems are particularly apparent at a cumulative level (e.g., the effect of displaced commercial fishing effort from multiple sequential closures) **Improvements**: establish a framework in which fisheries rights holders can make the necessary tradeoffs by negotiation among themselves (requires improved definition of all types of rights)
Planning and decision-making			
12	Fisheries plans	D	A part of the Act that has not been implemented to its full potential – currently fisheries plans serve only to inform MPI's corporate planning needs and do not provide an agreed framework for managing fisheries **Improvements**: fisheries rights owners prepare fisheries plans which define management strategies and services for fisheries
13	Consultation processes	B	Statutory consultation opportunities exist for most types of fisheries decisions, but implementation is variable. Submitters do not always see their perspectives reflected in advice that is provided to Ministers and – in spite of

			obvious shared interests – there are few opportunities for joint policy development and management work **Improvements**: better, more timely feedback from consultation; more opportunities for genuine engagement
14	Participation of commercial sector in planning and decision-making	B	Industry participation is sometimes compromised by competing individual interests (in place of a collective view based on common principles). The sector is usually willing and able to commit to voluntary management measures, but this is not always acknowledged or accepted by government or other stakeholders **Improvements**: more certain basis for industry collective management initiatives
15	Participation of recreational sector	C	Sector representatives lack mandate and accountability and appear not to have access to credible and peer reviewed scientific advice. Representatives are unable to commit to management measures on behalf of the sector, so rely on lobbying decision-makers to impose constraints on others **Improvements**: clearer definition of recreational fishing rights so as to establish common interest in the resource
16	Participation of customary sector	B	Participation is inconsistent and not always adequately informed. Often customary input is sought separately from other input. Maori customary and commercial interests are not always well aligned
17	Participation of other interests (ENGOs, local community etc)	C	ENGOs show little interest in rock lobster and paua fisheries and have not taken up opportunities to participate. Local community interests tend to be given effect through non-fisheries processes such as the locally-initiated 'Guardians' approach
Fisheries services			
18	Compliance / Enforcement (includes penalty regime)	C	Compliance activity is not consistently allocated to areas of significant risk to the stock. Allocation of compliance resources is not transparent, although it seems that resources to detect illegal fishing have been reduced. **Improvements**: revise MPI compliance approach to better align with the underlying incentives of the QMS (i.e., more strategic and enabling, and better aligned with management requirements); revise penalty regime, particularly around technical offences
19	Observer services	B	Observer services are generally not applicable to rock lobster and paua fisheries.

			Improvements: shift focus to defining specific information requirements, rather than observers *per se*
20	Research services (includes CSP)	C	Research planning processes are working well, but improvements are required in procurement. CSP is of limited relevance to rock lobster and paua fisheries, but it is divorced from fisheries management requirements and operates on politically-defined priorities **Improvements**: more competitive service provision; more efficient contract management; remove CSP and carry out necessary research directly under Fisheries Act
21	Administrative services (registries, permitting etc)	B	FishServe provides cost-effective services to a high standard and is fully supported by the industry. **Improvements**: shift more services to a devolved (rather than contracted) basis and expand the scope of functions that can be delivered by an ASDO
22	Cost recovery	D	Provisions in the Act are adequate, but implementation through the cost recovery rules does not reflect principles in the Act. Behaviours that cost recovery was designed to engender (e.g., transparency, accountability, efficiency in government service provision) have not eventuated. **Improvements**: reduce scope of cost recovery by establishing alternative governance models whereby rights holders purchase and/or provide services directly or through an ASDO; principled cost recovery rules
Mechanics of the QMS			
23	Relationship between quota, ACE and fishing permits	B	Quota owners, ACE holders and fishing permit holders share common interests and generally have constructive relationships at an individual/firm level, but at a stock level relationships can be fragmented and insecure. **Improvements**: statutory basis to encourage and support collective industry initiatives
24	Aggregation limits	D	The low aggregation limits in rock lobster (10 percent of a stock) and paua (20 percent of a stock) are no longer serving their intended purpose – it is becoming increasingly apparent that the partial and uneven application of aggregation limits is hindering rather than enabling competition in the quota market. **Improvements**: review the level of the aggregation limits for rock lobster and paua quota
25	28N rights	C	Not relevant to rock lobster, but is an issue that needs to be resolved in paua fisheries in order to facilitate

			collective industry response to setting commercial catch levels. **Improvements**: revoke 28N rights in a manner that does not leave the rights holders worse off than they would be were the rights to be given full effect
26	Minimum ACE holdings	B	Useful in rock lobster and paua fisheries
Integrated marine management			
27	Interactions with activities managed under other statutory regimes (Marine Reserves Act, MPAs, EEZ act)	D	There is no evidence of any integrated, planned approach. Decisions are made under other legislation with little or no understanding by decision makers of impacts on the sustainability of fisheries resources or the integrity of the QMS (e.g., a fundamental dishonesty is exposed when MPAs are presented in the guise of 'sustainability measures'). Cumulative displacement of catch from multiple closures has a value-destroying effect on rock lobster and paua fisheries. **Improvements**: 'rebalance' fisheries closures by ensuring that displaced catch does not have an adverse effect on stock abundance and that quota owners are no worse off; in the longer term, build on the security and transferability of ITQ rights by establishing a framework in which different marine users (including those who favour non-extractive use) can make principled and enduring tradeoffs to resolve competing uses
28	Impacts of land based activities on fisheries resources	C	Fisheries are on the receiving end of environmental damage caused by other MPI-overseen primary production activities such as agriculture and forestry. Integration measures exist in the law, but implementation is variable and disaggregated. MPI (fisheries) is not visible in RMA processes and industry participation is time consuming but not always effective. **Improvements**: definitely required, but beyond the scope of the Fisheries Act
29	Aquaculture / UAE provisions	C	Has little direct impact on rock lobster and paua fisheries. Aquaculture is a private use of marine resources so should not be allowed to replace existing commercial fishing rights without the agreement of quota owners. **Improvements**: replace UAE test and compulsory arbitration with negotiated agreements (facilitated by statutory collective decision making tool)

Managing recreational fishing – how does New Zealand stack up?

Nici Gibbs

"I cannot believe that anyone would be proposing bringing in a recreational licence scheme. That would go down like a cup of sick with all of our kiwi mum and dad fishers, who really enjoy taking their children out and catching fish."

This was Fisheries Minister Nathan Guy's response in July last year to a parliamentary question from his Ministerial colleague Gerry Brownlee, who asked him, "if a recreational fishing licence was required for salt-water fishing… how many New Zealanders may be denied the opportunity to catch fish on the seashore or on their boat on the ocean?"

The Ministers' exchange leaves no doubt about the Government's position on licensing recreational fishers, but a quick scan of how marine recreational fishing licences work in other comparable countries paints a very different picture to the Ministers' view of licensing.

FAO recommends licensing recreational fishing

New Zealand prides itself on its "world leading" quota management system (QMS) but our management of recreational fishing lags behind the world's best practice as defined by the United Nations Food and Agriculture Organisation (FAO). The FAO's 2012 guidelines for responsible recreational fisheries stress that "recreational fishing should be considered a privilege" and recommend that recreational fishing should be licensed under all types of management regimes. According to the FAO, licensing has three important advantages – it provides a potential funding stream to support management activities, can help ensure biological sustainability, and is a means to account for and study recreational fishers.

Using licence fees to support fisheries management

The use of licence fee revenue to improve recreational fishing experience has helped secure support for licences in Australia.

In Queensland, where recreational fishers don't need a licence, the stakeholder group Queensland Recreational Fishers Network supports licensing so long as all funds are used solely to benefit recreational fishing by way of a trust fund overseen by a stakeholder board. The group's conditional support for licensing is driven by its members' desire to help rebuild Queensland's depleted fish stocks.

In Western Australia, recreational fishing licence fees contribute over $6 million annually, every cent of which must by law be spent on recreational fishing. Together with a state contribution of $13 million, the funds are used for projects such as building artificial reefs, restocking depleted fisheries, training future fisheries leaders, researching important recreational species and undertaking surveys. Fifteen per cent of the revenue funds Recfishwest, the peak recreational fishing body, which represents the recreational fishing community in an impressively effective manner.

Western Australia has achieved these results with relatively modest annual licence fees of $30 for a recreational boat fishing licence or $40 for a rock lobster or abalone licence (all licence fees are given in the local currency). Children under 16, seniors and beneficiaries are half price and traditional aboriginal fishers are exempt. You don't need a licence to fish from the shore or from a boat without a motor, such as a row boat or kayak.

Licence fees in other Australian states are comparable. In New South Wales $35 will buy you an annual licence for all forms of fishing in the state's marine and fresh waters, and in Victoria a licence is just $24.50. Tasmania's basic licence fee is $51.80 with $7.40 for each additional licence – so if you already have an abalone licence, for an extra $7.40 you can add rock lobster. North American licence fees are also surprisingly reasonable – for instance, $47 in California and just $17 in Florida. The USA also operates a National Saltwater Angler Registry with a registration fee of $25, although most state-issued licences automatically register the licence holder on the national register at no additional cost.

North American and Australian states all provide a range of fee exemptions (e.g., for under 18s, indigenous fishers or shore-based fishers) and concessions for seniors and beneficiaries. Many states provide discounted family licences, multi-year licences or lifetime licences and some also issue cheaper daily or monthly licences. Licence applications can typically be made on-line, often with same-day service.

Some licence regimes cover all types of recreational fishing, whereas others apply only to specific fishing methods or species of management interest – for example, you'll need a separate licence to take abalone in California, Tasmania and Western Australia. Some states offer a basic licence with extra "stamps" that can be purchased to harvest particular species.

Differential rates for residents and non-residents are a feature of North American regimes. If you're from British Columbia you can buy a fishing licence for $22, but the same licence will cost a non-resident $106. In Alaska the differential is even larger. Interestingly, differential licence fees already operate

> **"Innovative models for recreational fishing rules abound in overseas abalone and rock lobster fisheries"**

in New Zealand's freshwater fisheries, where residents pay $123 for a season licence and non-residents $160.

But it's not all about the money – the FAO notes that licensing need not be fee-based in order to be useful. Even licensing regimes with no fees provide important information to help with fisheries management. In Maine, for example, fishers pay a nominal $1 registration fee, allowing the state to monitor how many people are fishing recreationally in its waters. In California, children under 16 don't need a licence to catch lobster but they must still fill out report cards so that all the catch, fishing effort and gear used in the fishery can be monitored.

Innovative recreational fishing rules

Contrary to the fears expressed by Ministers Guy and Brownlee, no jurisdictions use fishing licences to deny mums, dads and kids access to marine fisheries. In every example reviewed here, licence fees are set to make a contribution to management costs, not to limit access to fisheries. Where states want to control recreational fishing access or effort they use rules and regulations rather than the granting or withholding of licences.

Innovative models for recreational fishing rules abound in overseas abalone and rock lobster fisheries and, in many cases, licensing enhances compliance with the rules. For example, in California recreational fishers harvest highly valued red abalone by hand picking or free diving. Fishers require both a licence and an Abalone Report Card which comes with eighteen tags attached to the bottom. Each time a fisher takes an abalone they make an entry on the report card and attach one tag to the shell of the abalone. Harvest reporting ensures that fishers comply with individual annual harvest limits of nine or eighteen abalone, depending on the area. The tags allow enforcement officers to easily see that an abalone was taken legally and to identify who took it. The abalone must remain in the shell and tagged, even if it is gifted to someone else, until it is prepared for immediate consumption.

Distinguishing recreational catch by tagging or marking is also common in Australian states. In Tasmania and Victoria, recreationally-caught rock lobsters are marked by clipping or punching a hole in the central flap of the tail fan. While no licences are required in South Australia, recreationally-caught lobsters must still be marked and recreational rock lobster pots must be registered. In Western Australia, fishing nets and lobster gear are identified with a code unique to the recreational fishing licence holder to help detect illegal fishing.

New types of possession rules have also been implemented in some states. In Victoria, fisheries officers noticed that large groups of people had been regularly travelling in single vehicles to harvest abalone and shellfish and, although personal bag limits were not exceeded, excessive pressure was being placed on the fishery. In response, the state recently introduced vehicle possession limits of 10 abalone and two litres of other shucked shellfish per vehicle to supplement the standard daily bag limits and possession limits.

Fishing effort in the recreational charter fishing industry is managed under a permit regime in New South Wales and Western Australia. Both states prohibit the granting of new charter boat permits, so new businesses can start up only by purchasing a permit from an existing operator. But the most well developed recreational charter management regime is the Alaskan halibut fishery, where charter permit holders are able to purchase annual leases of commercial individual fishing quota (IFQ). With this optional commercial quota, known as guided angler fish (GAF), a charter operator can offer customers higher daily and annual bag limits and exemption from slot fishing rules. GAF is subject to end-of-trip reporting and cost recovery just like IFQ.

What next for New Zealand?

Meanwhile, back in New Zealand, our management of recreational fishing is not looking quite so flash. Although we've had licences for our freshwater fisheries for many years, there are still groups within the recreational fishing community (and at least a couple of Ministers) who aren't even prepared to contemplate an equivalent regime to help manage our marine fisheries.

This article just scratches the surface, but the diversity of licensing regimes reviewed here suggests that it should be possible to initiate a dialogue about a fit-for-purpose regime for New Zealand that doesn't deny anyone access to the fishery. Even a basic, zero-fee registration system would provide a better understanding of how many people are fishing. Add to that a simple reporting requirement, and we'd know what they're catching. Add a licence fee and recreational fishers could have a fund for local projects to enhance recreational fishing experience and a professional, self-funded body representing their interests. Then one day in the not too distant future a Minister of Fisheries might be saying, "I cannot believe that anyone ever opposed bringing in a recreational licence scheme".

Image: © Sergey Nivens / Dollar Photo Club.

Fisheries Management Review

This feedback to the Ministry for Primary Industry's review of fisheries management is being made on behalf of the following iwi entities which are Mandated Iwi Organisations pursuant to the Māori Fisheries Act 2004:

- Te Runanga Nui O Te Aupouri
- Te Runanga O Te Rarawa
- Te Runanga A Iwi O Ngapuhi
- The Ngatiwai Trust Board
- Te Runanga O Ngati Whatua

The Quota Management System and fisheries management and legislation was established in the context of the Fisheries Settlement, and they are intrinsically related. It is therefore essential that this review is progressed through a partnership between the Crown and its iwi Treaty partners.

Specific issues are identified below.

1) **THE QMS**

a) When the Total Allowable Catch (TAC) is reduced for sustainability reasons, subsequent TAC increases are not returned equitably to the Total Allowable Commercial Catch (TACC) but can go to the recreational sector.
b) Provisions for shelving – ie temporarily retiring quota – need improvement.
c) Levies for high value species fund research, but lower value species accrue insufficient funds for adequate research. Other species as a result lack necessary research.
d) Levies are used for cost recovery for MPI fisheries management. While a users pays method can be appropriate, the accountability for the effectiveness of MPI expenditure is insufficient.
e) Fisheries management is implemented in Fisheries Management Areas (FMAs). These areas are generally large, eg FMA1 is from North Cape to East Cape. The rationale for the setting of the areas is that they are appropriate for the management requirements of fish stock. However there can be specific effects within a part of an FMA which cannot be adequately managed at the broad scale, and need a sub-FMA focus. For FMA1 the Hauraki Gulf, with the pressures from Auckland's large population, is an example of a local need for management responses in a specific location in an FMA.
f) There are two related issues of deemed values and dumping. Deemed values are paid for non target fish caught when fishers lack the appropriate ACE. Too low a deemed value can be an insufficient deterrent to bad practices; too high a deemed value can encourage dumping.

2) **"CUSTOMARY FISHING"**

a) The Sealords Deal was for "commercial" and "non-commercial" fishing. "Customary" applies to all fishing, including commercial, and what is now referred to as "customary" and recreational.
b) There has been considerable dissatisfaction about the implementation of the customary fisheries regulations, and the lack of consistency between implementation in different areas.
c) The capacity and resourcing for kaitiaki appointed pursuant to the regulations is inadequate.
d) While there is often reference to the non-Māori "recreational right" it is in fact a privilege. The Māori "recreational right" has not been adequately recognised in statute or regulation.

3) **RECREATIONAL FISHING**

a) Effective fisheries management relies on sufficient and robust data. Current determination of data on recreational fishing lacks sufficient rigour.
b) If, as is possible, a licence or other regulation for recreational fishing is developed, the Māori Treaty right for recreational fishing must be properly determined with respect to any changes (ie as the other component of non-commercial fishing).

4) **MPI FISHERIES MANAGEMENT**

a) The amalgamation of MFish into MPI has had the result of weakening the focus on and attention to fisheries management. Some key staff, particularly in the regions, who previously had solely fisheries responsibilities now have a range of responsibilities for farming, forestry, biosecurity as well as for fisheries.
b) While some government departments are engaged in RMA processes (for consent applications and plan changes) MFish have not been and MPI is not now. MPI have a potentially strong advocacy role for RMA management issues with the potential to have impacts on fisheries resources. This role should be more effective with MPI's multiple roles. For instance, when farming practices can have impacts on fisheries resources, MPI are in a position to facilitate multi-stakeholder consensus.
c) The Fisheries Act's purpose is the utilisation and sustainability of fisheries resources, but in practice is usually limited to the activities of fishing.
d) There are policy initiatives in recent years which have not been concluded. For instance the Marine Protected Areas policy would have established a multi-agency approach; and the Shared Fisheries policy would have guided allocation between commercial, recreational and "customary" sectors. Without the policy guidance

decisions are ad hoc with much uncertainty and frequent litigation. Collaboratively developed policy frameworks for these and other policy issues are needed.

5) STATUTORY CHANGE

a) The scope of the review excludes changes to the purpose of the Act in s8. However changes to other sections of the Fisheries Act with similar consequences. In particular changes in s9 (Environmental Principles) and s10 (Information Principles) could have material effect on the whole of the Act's implementation. Any consideration for possible changes to these sections will require full iwi participation.
b) There have been various unfinished or partial attempts at developing an integrated oceans management regime. That level of coordination and integration is desirable in principle. That development could be supported by legislative change.
c) There is a requirement in the current Marine Reserves Act for the Minister of Fisheries to give concurrence to the establishment of a reserve. This provision needs to be retained in any legislative change.

6) OTHER ISSUES

a) <u>Ecological Approach to Fisheries management (EAF)</u>
MPI fisheries management, and formerly that of MFish, is dominantly focussed on individual species. The purpose of the Act allows for, and could require, a broader perspective. An Ecological Approach to Fisheries management (EAF) in principle should provide a more effective means of managing fisheries resources.
   i) There are known flow on effects from fisheries management implementation. The most quoted example is that fishing down snapper numbers reduces their predation on kina, which then increase in numbers. The kina then consume kelp in large quantities and create "kina barrens" – ie reefs depleted of kina. What is not clear is to what extent this matters to the overall ecology, and what changes to the MSY[1] of snapper would rectify the impact. Implementing EAF should give guidance to such situations.
   ii) Earlier MFish policy documents[2] anticipated EAF development.
   iii) While EAF in principle can be seen as a desirable methodology, it has in practice to be effectively developed anywhere in the world. Any support for EAF, even in principle, needs to be cautious and limited. Without clear understanding of its potential implementation details, it could have unforeseen and unwelcome consequences.

[1] The Maximum Sustainable Yield
[2] For instance SMEEF – Strategy for Managing the Environmental Effects of Fishing, MFish 2008

b) Treaty and partners

The settlement is for iwi, and while iwi can use to their advantage the provisions of the settlement when developing partnerships with other parties, the actual Treaty benefits need to be retained by iwi. Changes in policy, regulation and legislation must not enable non iwi parties to directly access specific Treaty benefits.

s 9(2)(a)

10 December 2015

Fisheries Management Review 2015 - 2016

Sanford Limited submission

Thank you for the opportunity to comment on the proposed Fisheries Management Review. We agree with others[1] that New Zealand fisheries management is at a fork in the road – one sign reads decentralise decision making while the other reads 'U-turn, more government regulation'.

Sanford is up for the debate. We welcome this opportunity to discuss the changes that we believe are needed to further accelerate economic growth and move our fisheries management processes beyond sustainability.

This review is a wonderful opportunity for New Zealand to once again create a world leading fisheries management framework through an innovative approach. Sanford would welcome a session where stakeholders came together to share ideas on what an ideal future scenario might look like, taking into account a growing population in NZ, increasing sophistication in data collection and fisheries performance, increasingly demanding markets and the need for NZ to build a strong brand to create the highest possible value out of our limited marine living resources.

Future think and then work backwards once we have the vision of what we want, we can then work backwards from there to arrive at our future proofed management system. This approach to planning and problem solving excites and motivates us.

We've collaborated and contributed to the industry submission lodged by Seafood New Zealand, Deepwater Group, Fisheries Inshore New Zealand, NZ Rock Lobster, Paua Industry Council and Te Ohu Kaimoana (referred to in this submission as *SeafoodNZ)*. Sanford supports the SeafoodNZ submission.

Sanford also supports the submission lodged by Fisheries Inshore New Zealand.

We echo their calls to enable quota owners and fishers to be more involved in decision making. FishServe is an excellent example of a 'government-industry' partnership initiative that is working well.

For Sanford, the matters that we ask to be brought forward into the next stage of the Review are bulleted and formatted in blue. We welcome an opportunity to sit with other stakeholders and discuss these.

In short Sanford has confidence in the QMS. We believe the QMS has produced remarkable outcomes for all New Zealanders - in 2015 we have sustainable fisheries and the quality and quantity of our marine natural resources are envied. The QMS is not broken, it is delivering. Substantial overhaul

[1] Terry Anderson (2014) The Future of New Zealand Fisheries Management: Progress or Regress

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of the Fisheries Act is unnecessary, minor tweaks to regulations and in particular government processes could bring significant opportunities and an additional $NZ1 billion revenue[2].

The challenge facing all of us in this Review is how to enable greater utilisation opportunities while safeguarding sustainability; how to be more response (innovative) so as to ensure we maximise efficiency gains without alienating some sectors; how to make changes in regulation to enable innovation while not simultaneously undermining the value/security of our ITQ fisheries assets, property rights and business confidence.

Sanford's goal from the Fisheries Review is for outcomes to be fair, to change processes and systems of decision-making so as to enable us to work with MPI in a more collaborative partnership, and too enable faster decision making so windows of opportunity are not lost. Sanford is willing to take on more leadership roles in fisheries management processes.

The Fisheries Act is the best place to deal with fishing issues. Sanford does not support moving aspects, for example recreational fishing or the management of the environmental effects arising from the activity of fishing into other legislation. This creates silo solutions and from a fisheries perspective undermines both the QMS and ITQ value, as experienced in the recent Kermadec announcement. Conservation and sustainability can work in unionism with utilisation.

Sanford submits that it is crucial through the Fisheries Review process

- that any changes to the regulatory management of fishing remains securely inside the Fisheries Act

The QMS is a rights based management regime that has benefited all New Zealanders. In 1986 ITQ ownership made each quota owner and fisher a shareholder in the fish stock they caught, with the future value of each share dependent on the performance of the fishery and robustness of the stock it related to. If the fishery is not performing and the TACC decreases, the value of the share declines. The fact that quota owners continue to invest significant resources and management effort, including being willing to endure short term pain for long term gains to TACCs sends a clear signal that the QMS is working.

The business confidence that grows from having a strong TACC and catch rate is evidenced by industry's continued investments of capital in new and larger vessels, developing fisheries further, spending on research and employing more people. All these investments that companies like Sanford are making contribute to New Zealand's wealth and social wellbeing.

Sanford quota ownership in 2015 equates to 23% of the total New Zealand commerical fishing quota. Sanford was allocated quota based on our historic catch. At that time Sanford made a decision to value its quota as a percentage of the then estimated compensation value. We then set about growing Sanford's quota share by acquisition, discovery of new fisheries and purchase.

The value of our quota underpins Sanford's financial stability and enables us to re-invest in our industry.

[2] Calculated by SeafoodNZ across the seafood sector

Over this last year, there was an increase in the estimated market value of our quota shares in part as a result of market value increases in 11 fish stocks (BCO5, CRA8, GLM9, LIN5, ORH3B, OYU5, RCO3, SNA1, SNA8, SWA3 and SWA4). Seven fish stocks also reduced in value (HAK1, KAK4, HOK1, LIN2, OEO4, OEO6 and WWA5B).

Sanford submits that it is crucial through this Fisheries Review process

- the ITQ remains a secure property right, and
- the value of the quota asset is maintained

While Sanford quota shares are one of our key financial assets, they are not cash in the bank. Our ability to liquidate these assets, or provide a return on our shares requires us to catch and sell fish. To do this not only do we need healthy fish stocks, we need to have the capacity to harvest, be able to afford to catch our ACE, pay for the science to support the TAC, and have access to an international market that wants our products.

In recent years we have observed that as the Ministry has shifted its focus from being a proactive 'enabler' to a 'regulator' owning quota and catching fish has become increasingly difficult and more expensive. For some species such as SNA1 the MPI costs on commercial catchers for fisheries management are almost economically unsustainable.

Sanford submits that it is crucial through this Fisheries Review process that

- increased opportunities are provided for industry to be more involved in developing innovative solutions to reduce or streamline fisheries compliance and management costs
- processing time frames are introduced to regulatory processes such as vessel registrations and permits (the RMA uses 20 working days) to quicker turn around times
- opportunities are provided for seasonal catching arrangements i.e. short term foreign charters for HMS stocks

The purpose of the Fisheries Act is *to provide for the utilisation of fisheries resources while ensuring sustainability*. We refer you to the detailed SeafoodNZ submission and its discussion on the interpretation and effect of the Act's purpose on every-day management decisions.

- Sanford does not support a change to the purpose of the Fisheries Act

Facilitating cooperation government has a role to play in facilitating cooperation between stakeholders. Some legislative change is needed to better enable this cooperation. It is our experience that modern fisheries management is proving to be a significant challenge, and time consuming as the three TAC sectors 'recreation, customary and commercial' work with MPI (independently / collectively / in isolation) to negotiate their way through management decisions.

Earlier in this submission we made the point that the QMS is a rights based approach that has benefited all New Zealanders. In 1986 the QMS established well defined and enforceable property rights for commercial fishers.

In 1996 when Maori were awarded a 20% share of the commercial fishery, government purchased back existing, already allocated commercial quota. This buy back, rather than a legislative take ensured that the value of existing quota was strengthened.

The next step on this evolving QMS pathway is to allocate similar ITQ rights to recreational fishers including, as a first step those operating commercial recreational charters.

In New Zealand licencing appears to work well for fresh water fisheries (trout and salmon). Fresh water fish stocks are managed by those catching the fish. Fish and Game New Zealand took up the government's role and undertake fisheries management / education / advocacy / compliance / licencing / enforcement. Our ocean recreational fisheries are ripe for a similar devolution of power.

Sanford submits that the Fisheries Review could

- establish a national, recreation ocean based fishers group akin to freshwater Fish and Game

Claims on the TAC

a growing concern in several of New Zealand's inshore fin fisheries (Hauraki Gulf, Bay of Plenty, Hawkes Bay and Marlborough Sounds) is that existing quota owners are being forced to debate claims on the TAC from other users – recreational and environmental interests who aim to restrict commercial harvesting in specific areas with no reciprocated offer from their sector on what they would gift in return. What these groups are asking for goes beyond sustainability (MSY). If care is not taken, ie compensation paid or a reciprocal gift made to acknowledge loss of commercial catching rights, the value of ITQ shares will erode.

In the absence of secure well defined and enforceable property rights for recreational fishing, particularly for commercial charter operators there is little incentive for this sector to catch more sustainably, innovate and to change fishing practices. Currently there is a race for fish.

Sanford submits that the Fisheries Reform process should:

- differentiate between recreational fishers and semi commercial fishers, where these two sectors should possibly be treated very differently
- recreational fishing could continue as today, without licensing, with voluntary reporting and on the basis of a % of the TAC allocated to them
- semi commercial sector should be governed by a 'Fish & Game' type organisation, with the initial allocation of property rights to these operators through a government body, and with subsequent management delegated to the management body

A bold change like this (cap on total annual catch) could be a strong incentive to transform the charter fishery from providing an experience of 'hauling in fish' to a wider ocean experience of 'a day out and fun on the water' as charter operators find innovative ways to limit their individual customers' catch rates in order to spread their charter ACE over the fishing year.

Enabling fishers in all sectors to make choices

about conservation, use, enhancement and development of their sectors' share of the fisheries is a legitimate expectation in a modern society.

Based on our commercial experience of managing the TACC, fishers (working as a collective) are best placed to manage their sector; given the opportunity they will make utilisation decisions and trade offs

that can take the fishery beyond sustainability and ultimately bring about cultural changes that can rebuild fisheries.

Using our sector as an example, the trade offs made in the deepwater orange roughy (shelving), sub area catch splitting, and the inshore snapper fishery (SNA1 Commercial Fishers Agreement) are stellar examples of quota owners and fishers going beyond sustainability.

Sanford submits that areas of fisheries management that present opportunities for greater industry responsibility, less regulation and lower management costs include

- fisheries research and levy funding
- Compliance
- observer programme including modern services ie EM, VMS, catch reporting
- fish plans including approved and authorised management procedures for specified (local) fish stocks and procedures for rapid TACC changes, delegated authorities
- incentives and penalties including Deemed value over catch payments
- MLS – process/criteria for determining minimum economic size

Growing confidence since 1986 quota owners have had a strong incentive to invest in their fisheries, self-manage and grow their asset by extracting greater value out of it or rebuilding depleting stocks and growing the TAC. Sanford has repeatedly shown leadership and foresight.

Sanford's significant financial investments in research and innovation illustrates our commitment to the New Zealand seafood industry. We are a proactive partner with government in the PGP PSH project, SpatNZ, acoustic surveys in deep water fisheries and in the inshore arena as the major shareholder in Trident Systems and a sponsor in the development of electronic monitoring and a leader in SNA1 Commercial.

- Sanford submits that the Fisheries Review needs to enable more innovation and leadership

Sanford is 100% committed to New Zealand's QMS and the sustainable utilisation our seafood resources.

We welcome an on-going discussion with you.

Sincerely

Alison Undorf-Lay
On behalf of Volker Kuntzsch
CEO Sanford Limited.

Submission to the Ministry for Primary Industries on the Review of the Fisheries Management System

11 December 2015

Introduction

1. PauaMAC 7 welcomes the opportunity to participate in the Ministry's review of New Zealand's fisheries management system.

2. PauaMAC 7 represents the commercial paua industry in PAU7. Our members include owners of paua quota and Annual Catch Entitlement (ACE) in PAU 7 as well as harvesters and processors. Many of our members also own quota shares or ACE in other paua management areas and in other species.

Support for core industry submissions and Authorised Management

3. PauaMAC 7 supports and fully endorses:

   - The joint submission of the Paua Industry Council and the NZ Rock Lobster Industry Council; and
   - The core industry submission entitled *Initial Seafood Industry Contribution to Fisheries Management Review 2015/16:* ***Creating Value 'Beyond Sustainability'***.

4. In particular, we wish to emphasise that the fundamental framework of New Zealand's fisheries management regime – as embodied in the Quota Management System (QMS) – is sound and has generated significant benefits for all New Zealanders. What is now required in order to further enhance the management of paua fisheries is a capacity for quota owners to adopt more sophisticated fine-scale management measures for commercial fishing.

5. We consider that the improved fisheries governance arrangements proposed in the core industry submission (in particular, the enhanced ability for quota owners to manage commercial harvesting activity under an 'Authorised Management' approach) will enable the paua industry to build on our current voluntary management initiatives, strengthen our relationships with other fisheries stakeholders, and enhance the value that New Zealanders obtain from paua fisheries.

6. The state of the PAU7 fishery has been of concern to PauaMAC members for a number of years, as a traditionally low CPUE has declined further. While the latest stock assessment shows that this decline has stopped, the rate of rebuild for the fishery has slowed down to 2%, well below the target and well below the rebuild that PauaMAC 7 would like to see. PauaMAC 7 has responded by developing a suite

of voluntary management measures for the fishery, including shelving, increased minimum harvest sizes and the use of data loggers. PauaMAC 7 has also developed a comprehensive Code of Practice for harvesters and updates its Annual Operating Plan each year to reflect agreed voluntary management measures for the fishing year.

7. Unfortunately, these measures have only had limited success and the fishery has not yet shown the rate of recovery that is desired. A major contributing factor to this is that the implementation of these measures is hampered (and at times completely stalled) by the lack of an effective method for ensuring participation by all quota and ACE owners and harvesters. In PAU7 there is a significant minority group of quota owners (representing about 17% of PAU7 quota shares) that sit outside the PauaMAC, and it can be a long and potentially fruitless process trying to gain buy-in to the voluntary management measures proposed. The success of any voluntary measure relies on 100% support from quota owners and harvesters, and this is almost impossible to achieve in PAU7 under the current system. The fishery suffers as a result – if a higher percentage shelving had been able to be implemented as recommended in 2011/12 it is likely the fishery would be experiencing a much higher rate of rebuild than 2%.

Other matters

8. The main 'rub points' that we have identified in the current fisheries management regime, together with some proposed solutions, are discussed below.

Management of recreational fishing

9. New Zealand's management of recreational fishing is not at the forefront of international best practice. Currently, information of recreational catch and effort is incomplete, unreliable, and costly to obtain. Uncertainty about recreational catch creates problems not only for recreational fishers, but for all other users of paua fisheries. Because we don't have good information on recreational catch, we can't be confident that TACs and allowances are set appropriately. We also can't be sure that management measures such as daily bag limits are constraining recreational catch within the allowances, meaning that the TAC lacks integrity.

10. PAU7 includes one of the most utilised recreational fishing areas in New Zealand, the Marlborough Sounds. The huge growth in recreational fishing in recent years is a major concern for PauaMAC 7 as it has the potential to undermine commercial management measures and to put the sustainability of the fishery under increasing pressure. The uncertainty around the amount of recreational take in PAU7 weakens the process of TAC setting and poses an unacceptable risk to the fishery, and PauaMAC 7 urges the Ministry to use this review process to address this issue.

11. PauaMAC 7 therefore recommends:

- The introduction of mandatory recreational catch reporting, including through the use of innovative technology; and
- The use of meaningful bag limits and other measures so as to constrain recreational harvest within the recreational allowance and maintain the integrity of the TAC.

Integration of Fisheries Act and Resource Management Act

12. The sustainability of paua fisheries depends upon clean and unpolluted water and healthy aquatic ecosystems. Paua fisheries are particularly vulnerable to point source pollution (e.g., sewage discharges) and non-point source pollution (e.g. run off and sedimentation from agricultural land). Activity on the land – and in particular urban development, farming and forestry activity – is rapidly becoming one of the major constraints on the productivity of paua fisheries. However, fisheries management considerations do not appear to be taken into account in decisions about land-based activities such as forestry harvesting.

13. PauaMAC 7 is increasingly concerned over the effects that external environmental (non-fishing related) stressors might be having on certain paua fisheries. A project has recently been initiated in the Marlborough Sounds to examine the links between terrestrial sedimentation, kelp (Macrocystis pyrifera) health and population levels of paua, kina and rock lobster. The importance of managing sedimentation and run-off from changing land-use activities, and its impact on paua populations and the wider aquatic ecosystem, needs to be recognised.

14. PauaMAC 7 therefore recommends that processes need to be established to ensure that RMA decision-makers are more aware of the impacts of land-based activities on fisheries resources, and that RMA decision-making takes into account the true costs of these activities.

Recreational fishing from commercial vessels

15. Current mechanisms for taking recreational catch off commercial vessels are unnecessarily cumbersome and bureaucratic. Currently two types of recreational take are allowed under s111 – a general purposes permit and a particular purposes permit – and the application and reporting requirements for both types of permits are slow and unnecessarily complicated. There is no great ulterior motive behind the desire for this permitting system to be overhauled – commercial fishermen simply want to be able to take fish home for personal consumption like everyone else.

16. PauaMAC 7 therefore recommends streamlining and simplifying the mechanisms for taking recreational catch on commercial vessels; for example through the use of electronic reporting and the ability to apply online for particular purposes permits.

Barry Chandler
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