



2012 Review of Rock Lobster Regulatory Controls

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Introduction

The National Rock Lobster Management Group (NRLMG) is a national level, multi-stakeholder group comprising representatives of customary, recreational and commercial fishing sectors, and the Ministry for Primary Industries (MPI). The NRLMG is the primary advisor to the Minister for Primary Industries (the Minister) on catch limit, regulatory and other management actions that apply specifically to rock lobster fisheries.

There are two Initial Advice Papers (IPPs) enclosed that provide the NRLMG's initial considerations on proposals to:

1. Review Rock Lobster Concession Area Regulations associated with the taking, landing, transport, processing and sale of rock lobsters;
2. Review Fiordland (Te Moana o Atawhenua) Marine Area Rock Lobster Amateur Regulations.

The views outlined in this paper are preliminary and are provided as a basis for consultation with stakeholders as required under the Fisheries Act 1996 (the Act).

In February 2013, and after considering submissions from interested parties, the NRLMG will compile the Final Advice Paper (FAP) for the attached proposals. The FAP will summarise tangata whenua and stakeholder views on the regulations being reviewed, and provide NRLMG final advice and recommendations to the Minister.

The FAP and the Minister's final decision letter will be posted on the MPI website as soon as it becomes available. Hard copies will be available on request.

Deadline for submissions

MPI (on behalf of the NRLMG) welcomes information and comments from tangata whenua, fishery stakeholders and other interested parties on the proposals. All written submissions must be received by MPI no later than 5pm on Thursday 13 December 2012.

Written submissions should be sent directly to:

Email: FMSubmission@mpi.govt.nz

Post: Rock Lobster Submissions
Fisheries Management – Inshore Fisheries
Ministry for Primary Industries
P O Box 2526
Wellington 6140

All submissions are subject to the Official Information Act 1982 and can be released if requested, under this Act. If you have specific reasons for wanting to have your submission withheld, please set out your reasons in the submission. MPI will consider those reasons when making any assessment for the release of submissions if requested under the Official Information Act.

Review of Rock Lobster Concession Area Regulations – Initial Position Paper

1.1 SUMMARY

The NRLMG is seeking tangata whenua and stakeholder views on proposals to amend Concession Area Regulations.

Rock lobster management areas covered by Concession Area Regulations include: CRA 3 (Gisborne); CRA 7 (Otago); and CRA 8 (Southern)¹.

Concession Area Regulations comprise regulations controlling the commercial minimum legal size (MLS), taking, landing, transport, processing and sale of rock lobsters. Each set of Concession Area Regulations has been progressively implemented and amended (CRA 7 since the mid-1900s, CRA 3 since 1993 and CRA 8 since 1988). Because of this the Concession Area Regulations are not consistent in their operation and industry compliance costs.

Regulations proposed for amendment relate to closed seasons for commercial fishing (CRA 3 and CRA 7), an area closed to commercial fishing (CRA 7), and vessel, landing, exporting, packaging, domestic sale and reporting requirements (CRA 3, CRA 7 and CRA 8). The commercial MLS regulations are excluded from this proposal because the Minister decided to retain these in May 2012.

The options considered are outlined in Table 1.1.

The NRLMG welcomes views from tangata whenua and stakeholders on the options outlined or any combination of the options (i.e. from amending all of the regulations proposed to amending only some).

Table 1.1: Summary of options considered in the review of Concession Area Regulations

Regulation type	The Status Quo (Option 1)	Proposed Change (Option 2)
A. CRA 3 and CRA 7 closed seasons	CRA 3 is closed to commercial fishing during May	Remove the CRA 3 May closure
	CRA 7 is closed to commercial fishing from 20 November to 31 May	Remove the CRA 7 closed season
B. CRA 7 closed area	CRA 7 commercial fishing is prohibited in the 'Otago Concession Area Buffer Zone'	Remove the CRA 7 'Buffer Zone'
C. CRA 7 vessel requirements	CRA 7 commercial fishers must register their fishing vessel at Dunedin and domicile it within the area	Remove the CRA 7 vessel requirement
D. Landing requirements	CRA 3, must be landed within the area (or elsewhere subject to prior approval and conditions) and be delivered and sold to a licensed fish receiver (LFR)	<i>No change</i>
	CRA 7, must be landed within the area at port of domicile for the vessel and to a LFR in CRA 7 only	Amend the CRA 7 landing requirements to equate with the existing CRA 3 requirements.
	CRA 8, must be landed within CRA 8 and to a LFR in the area, or fish can be moved to an LFR outside subject to written approval	Amend the CRA 8 landing requirements to equate with the existing CRA 3 requirements

¹ Refer to Appendix 1 for a map of rock lobster quota management areas.

Regulation type	The Status Quo (Option 1)	Proposed Change (Option 2)
E. Domestic sales	CRA 7 domestic sales allowed subject to 'consumer pack' packaging requirements.	Allow CRA 7 domestic sales outside of a 'consumer pack'
	CRA 3 & 8 domestic sales are prohibited	Allow CRA 3 & 8 domestic sales
F. Export container labelling and packaging requirements	CRA 3, must be held in containers marked 'Gisborne rock lobsters'	Amend container labelling requirements to 'CRA 3 rock lobsters'
	CRA 7, must be packed in a sealed container under the direction of a Fishery Officer	Amend CRA 7 requirements to: must be held in containers marked 'CRA 7 rock lobsters'
	CRA 8, must be packed in a sealed and marked 'Southland concession pack'	Amend CRA 8 requirements to: must be held in containers marked 'CRA 8 rock lobsters'
G. Export requirements	CRA 3 export must be from LFR only	Amend the CRA 3 & 7 export requirements to equate with the existing CRA 8 requirements
	CRA 7 export must be direct from CRA 7 LFR	
	CRA 8 export must be direct from LFR, or through export transhipment point subject to prior approval and conditions	<i>No change</i>
H. Export notification & records	CRA 3, no export notification or records required	<i>No change</i>
	CRA 7 & 8, LFR must notify export particulars to MPI prior to shipping. In addition for CRA 8, specific LFR records are required	Remove export notification and record requirements for CRA 7 & 8

The underlying management issue that the proposals are responding to is that the Concession Area Regulations are limiting the ability for the rock lobster industry to maximise benefits from the use of the resource.

The proposed amendments to the Concession Area Regulations have been considered and selected to ensure they would achieve desired fisheries management outcomes. These outcomes include utilisation while ensuring sustainability and cost-effective compliance and enforcement.

The proposals to amend the Concession Area Regulations (Option 2):

- Are unlikely to impact stock sustainability. The total allowable catch (TAC) is the principal sustainability control that governs how much fish can be taken.
- Should provide industry with additional benefits, including a reduction in operational barriers and an increase in domestic market opportunities.
- Should not have negative impacts on non-commercial fishers for Options 2C to H in particular. Information is limited to accurately determine whether Options 2A and B will negatively impact customary and recreational fishers.
- Have the potential to reduce MPI compliance costs. MPI, however, considers that removal of some of the regulations (e.g. a relaxation of landing requirements and removal of domestic sale prohibitions) could increase compliance risk and resources for rock lobster if additional measures are not implemented to mitigate the risk (e.g. through landing restrictions and labelling/tagging of domestically sold lobsters).

At this time, the NRLMG has varying views on how the Concession Area Regulations should be amended:

- Customary members in principle support Options 2C to H because they consider these regulations are imposing unnecessary costs on the industry. They do not currently have a preferred position for Options A and B.

- Recreational members do not support any amendments to the Concession Area Regulations until: the MLS inequity in CRA 3, CRA 7 and CRA 8 is removed; and research is carried out to investigate whether the regulations pertaining to the commercial MLS in CRA 3, CRA 7 and CRA 8 are negatively impacting recreational benefits.
- Commercial and MPI members in principle support Options 2A to H. This is because some of the regulations were introduced before the Quota Management System (QMS) was applied to rock lobsters and/or are imposing unnecessary costs and restrictions on the industry in the current QMS, recordkeeping and reporting environment. These members do have different views on how some of the proposals should be implemented, however (discussed further in this paper).

The NRLMG also welcomes views from tangata whenua and stakeholders on other management measures. These measures include allowing recreational fishers' access to the commercial MLS in CRA 3, CRA 7 and CRA 8, and changing the CRA 7 MLS measure from tail length (TL) to tail width (TW).

1.2 REGULATORY IMPACT ANALYSIS

Cabinet Regulatory Impact Analysis (RIA) requirements apply to the release of an IPP that contains options that may lead to legislative or regulatory change. RIA involves assessing one of more options against the situation expected to occur in the absence of any further government action or decisions (the status quo).

The NRLMG and MPI consider that this IPP contains the substantive elements of a RIA.

1.3 REVIEW OBJECTIVES

In 2011/12 MPI (formerly the Ministry of Fisheries) undertook 'Phase I' of the Concession Area Regulations review which looked at the MLS regulations only. The Minister decided to retain all of the existing rock lobster Concession Area Regulations in regard to the commercial MLS in May 2012 because their removal would have negative impacts on business. The Concession Area Regulations pertaining to the commercial MLS are therefore outside the scope of this regulatory review.

The NRLMG has since commenced 'Phase II' of the Concession Area Regulations review. The objectives of this review were to ensure that each set of Concession Area Regulations enables utilisation whilst ensuring sustainability and cost-effective compliance and enforcement.

1.4 THE CURRENT SITUATION

Rock lobster is New Zealand's most valuable inshore commercial fishery with export earnings of around \$220m per annum in 2011. Based on an average landed rock lobster beach price of \$56 per kilogram, the value of the 2011-12 fishing year commercial landed catch is estimated to be \$10.8 million in CRA 3, \$3.6 million in CRA 7 and \$54 million in CRA 8.

The Concession Area Regulations pertaining to the commercial MLS provide commercial fishers with an opportunity to harvest a greater size range of rock lobsters compared to other areas. This provides the industry with greater flexibility to match rock lobster grades to market demand.

The NRLMG also recognises that rock lobsters are taonga to Maori and are highly sought after by recreational fishers, with significant non-commercial cultural and social value.

1.4.1 Background to Concession Area Regulations

Each set of Concession Area Regulations was introduced for different reasons, at different times and each contains varying regulations controlling the commercial MLS, taking, landing, transport, processing and sale of rock lobsters.

Except for the CRA 3, CRA 7 and CRA 8 rock lobster fisheries, the commercial and recreational MLSs are 54 mm TW for males and 60 mm TW for females². Rock lobsters taken by commercial fishers from CRA 3, CRA 7 and CRA 8 have a different MLS. Regulated MLSs do not apply to customary non-commercial fishers.

The Concession Area Regulations were implemented:

- For **CRA 3** in 1993 as a component of an agreed harvest strategy that was proposed by regional stakeholders. The CRA 3 Concession Area Regulations allow commercial fishers to take and land male rock lobsters at or above 52 mm TW during June, July and August. At other times of year the male MLS is 54 mm TW and at all times of year the female MLS is 60 mm TW³.
- For **CRA 7** in the mid-1900s in response to the biology and behaviour of rock lobster in the area. Information suggests that few rock lobsters grow beyond the 54/60 mm TW and large numbers of small rock lobsters move out of the fishery at certain times, emigrating south towards Foveaux Strait (within CRA 8). The CRA 7 Concession Area Regulations allow commercial fishers to take male and female rock lobsters at or above 127 mm TL from 1 June to 19 November in any year⁴. CRA 7 has retained the TL measure despite a shift to TW in all other management areas (other than Packhorse rock lobster).
- For **CRA 8** in 1988 in response to the morphology (the form and structure) of rock lobsters in the area (i.e. rock lobster tails are narrower for a given length in the south⁵). The CRA 8 Concession Area Regulations allow commercial fishers to take and land female rock lobsters at or above 57 mm TW at any time of year⁶. At all times of year the male MLS is 54 mm TW.

1.4.2 MPI Compliance risk of Concession Area Regulations

Rock lobster is a high value resource easily accessible around the coastline of New Zealand. As a result rock lobster fisheries are deemed by MPI to be subject to relatively high levels of compliance risk, particularly in relation to poaching and black market activities. Rock lobster has a high priority for MPI compliance and enforcement services.

Concession Area Regulations (which enable differential MLS) create an opportunity for fish thieves to trade illegal undersized rock lobster from any management area where a larger size limit applies. This risk is currently underpinned by a limited ability to determine the origin of a particular rock lobster and what size limit should apply during inspections along the supply chain beyond the point of landing.

² Specified in regulation 37 of the Fisheries (Commercial Fishing) Regulations 2001 and regulation 25A of the Fisheries (Amateur Fishing) Regulations 1986.

³ Specified in regulation 14K of the Fisheries (Central Area Commercial Fishing) Regulations 1986.

⁴ Specified in regulation 6 of the Fisheries (South-East Area Commercial Fishing) Regulations 1986.

⁵ Breen, P.A., Booth, J.D., and Tyson, P.J. 1988: Feasibility of a minimum size limit based on tail width for the New Zealand red rock lobster, *Jasus edwardsii*. New Zealand Fisheries Technical Report No. 6.

⁶ Specified in regulations 5C of the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986.

The implementation of Concession Area Regulations that restrict movements of rock lobsters less than 54/60 mm TW (e.g. vessel and landing requirements) were originally intended to support compliance and enforcement services. Many of these regulations were introduced prior to rock lobster entering the QMS.

1.5 THE PROBLEM DEFINITION

The problem is that many of the Concession Area Regulations are additional to the industry recordkeeping requirements, and in their current format are no longer required to ensure adequate auditing and monitoring of commercial product flow.

The rock lobster fishing industry makes a significant contribution to the New Zealand economy. The performance of the industry and the value that it generates, are critically important elements of the Government's goals of building a more competitive and productive economy, and better and less regulation.

The commercial sector has highlighted to the NRLMG that the regulatory framework applying to each set of Concession Area Regulations is limiting the ability for the rock lobster industry to maximise benefits from the use of the resource. These limitations include:

- Regulations that no longer reflect the practices of industry (e.g. packaging requirements that were developed before the live trade of rock lobsters);
- Restrictions on business practices that introduce unnecessary costs in time and resources (e.g. lack of domestic sales in CRA 3 and CRA 8 and restricted movements of CRA 7 lobsters);
- Seasonal closures in CRA 3 and CRA 7, and an area closure in CRA 7. The CRA 3 closure has introduced operational inefficiencies (through removing gear from the water for short periods) and the CRA 7 closure is limiting access to markets at critical times.

Commercial landing information provides an indication of the number of individuals/companies that operate in each Concession Area that could be constrained by the current Concession Area Regulations. In the 2011/12 April fishing year:

1. The number of vessels reporting at least 1 tonne of rock lobster catch was 25 in CRA 3, 11 in CRA 7 and 64 in CRA 8;
2. The number of Licensed Fish Receivers (LFRs) that reported purchasing rock lobsters from CRA 3 was 10, 8 in CRA 7 and 9 in CRA 8.

Many of the Concession Area Regulations that apply in CRA 7 and CRA 8 were implemented prior to rock lobster entering the QMS on 1 April 1990 and before the Fisheries (Recordkeeping) Regulations 1990 were introduced⁷. The CRA 3 Concession Area Regulations were implemented later in 1993 and are not as restrictive as the CRA 7 and CRA 8 regulations.

The purpose of the Fisheries (Recordkeeping) Regulations is to ensure that:

1. The origin and ownership of any batch of fish can be readily traced at any stage through the supply chain from commercial fisher to the consumer;
2. Those involved in the sale, purchase, processing and storage of fish have accounting systems capable of being audited by MPI.

⁷ Refer to www.legislation.govt.nz for a full copy of the Fisheries (Recordkeeping) Regulations 1990.

Industry compliance with record keeping and other catch, effort and landing reporting requirements is essential to the integrity of the QMS.

1.6 OPTIONS

Following the 'Phase II' review, the NRLMG is seeking comments and information from tangata whenua and stakeholders on any utilisation, economic, social, and cultural factors that may be relevant to the following management options (also refer to Table 1.1). Comments are also welcomed on any combination of the options (i.e. from amending all of the regulations as proposed or only some).

1.6.1 Maintain the status quo

Options 1A to H would maintain the current set of Concession Area Regulations for the CRA 3, CRA 7 and CRA 8 rock lobster fisheries. These regulations include:

- A. Closed seasons in CRA 3 and CRA 7;
- B. A closed area in CRA 7 (or 'Buffer Zone');
- C. CRA 7 vessel registration and home port requirements;
- D. Different landing requirements for rock lobsters less than 54/60 mm TW from CRA 3, CRA 7 and CRA 8;
- E. Domestic sale prohibitions in CRA 3 and CRA 8;
- F. Different export container labelling and packaging requirements for rock lobsters less than 54/60 mm TW from CRA 3, CRA 7 and CRA 8;
- G. The general requirement for rock lobsters less than 54/60 mm TW to be exported from a LFR, but with different specifications for each area;
- H. Export notifications for CRA 7 and CRA 8 rock lobsters less than 54/60 mm TW and specific LFR records for CRA 8.

1.6.2 Change the current set of Concession Area Regulations

Options 2A to H would result in changes to the current Concession Area Regulations for CRA 3, CRA 7 and CRA 8:

- A. Remove the CRA 3 and CRA 7 closed seasons;
- B. Remove the CRA 7 'Buffer Zone';
- C. Remove the CRA 7 home port and vessel registration requirements;
- D. Amend the CRA 7 and CRA 8 landing requirements for rock lobsters less than 54/60 mm TW to equate with the existing CRA 3 requirements;
- E. Allow CRA 3 and CRA 8 domestic sales (including all sales outside of a 'consumer pack')⁸;
- F. Amend export container labelling and packaging requirements for rock lobsters less than 54/60 mm TW from CRA 3, CRA 7 and CRA 8 resulting in consistency across the areas;
- G. Keep the general requirement for rock lobsters less than 54/60 mm TW to be exported from a LFR, but amend the CRA 3 and CRA 7 specifications to ensure consistency with CRA 8;
- H. Remove export notifications for CRA 7 and CRA 8 rock lobsters less than 54/60 mm TW and specific LFR records for CRA 8.

The implementation date for any of these options, if adopted, is anticipated to be 1 June 2013. This option would require amendments to be made to existing commercial fishing regulations pursuant to section 297 (General Regulations) of the Act⁹.

⁸ A consumer pack means a container which contains whole rock lobsters or tails; does not exceed a net weight of 1kg, and when sold the pack is sealed with an unbroken seal.

1.6.3 Non-regulatory options

The NRLMG has considered available non-regulatory options, including education and voluntary measures. However, NRLMG customary, commercial and MPI members consider that regulatory change is needed to deal with the operational constraints on industry that are discussed in this paper.

1.7 IMPACTS AND BENEFITS

This section discusses the potential effect of amending Concession Area Regulations on stock sustainability, non-commercial and commercial utilisation benefits and management costs, including commercial and MPI compliance costs.

1.7.1 Stock sustainability (Options 2A to H)

Stock sustainability is unlikely to be impacted by the proposals. This conclusion, however, is dependent on achieving an appropriate level of compliance with measures that are intended to maintain the integrity of the TACs.

The TAC is the principal sustainability control that governs how many rock lobsters can be taken from the water. There are currently no proposals to change the TACs for CRA 3, CRA 7 or CRA 8 rock lobster fisheries. The setting of catch limits for each fishery is a separate process that is informed by stock assessments and other TAC setting processes (i.e. management procedures).

Impacts on rock lobster recruitment

A key objective of fisheries management is to maintain reproductive output (egg production) and to secure recruitment into the fishery.

The CRA 7 closed season and the 12-month closure of the CRA 7 'Buffer Zone' were both implemented in 1994 based on a multi-stakeholder regional harvest initiative. This initiative promoted the continued productivity and sustainability of the CRA 7 fishery and was proposed to address a perceived lack of egg production from the area.

Rock lobsters have a complex life cycle. Their larvae can spend 10-20 months free floating in the ocean hundreds of kilometres offshore. The dynamics of the ocean currents (i.e. temperature, speed and distance from shore) are thought to influence strengths of larval recruitment into the Otago area. Cooler water temperatures are also considered to contribute to a large size at onset of sexual maturity for female rock lobsters in Otago relative to the rest of New Zealand (50% of females rock lobsters are mature in Moeraki, Otago at approximately 71 mm TW).

Removal of the CRA 7 commercial closure and the 'Buffer Zone' is unlikely to negatively impact future CRA 7 egg production and recruitment. CRA 7 is not biologically isolated from the rest of New Zealand rock lobster fishery. Due to the long larval life cycle of rock lobster, extensive mixing is likely to occur between management areas and larvae settling in CRA 7 are likely to have originated from outside the area.

Rock lobster recruitment is unlikely to be negatively impacted by the other proposals discussed in this paper.

⁹ Fisheries (Central Area Commercial Fishing) Regulations 1986, Fisheries (South-East Commercial Fishing) Regulations 1986, and Fisheries (Southland and Sub-Antarctic Fishing) Regulations 1986.

1.7.2 Remove the CRA 3 and CRA 7 commercial closed seasons (Option 2A)

CRA 3 May closed season

Key points to consider for this proposal

- The CRA 3 fishery is closed to commercial fishing during May.
- The CRA 3 May closure was implemented in 1993 to remove the possibility of male rock lobsters between 52 and 54 mm TW caught from February to April being held over for landing when the Concession Area Regulations commenced on 1 June.
- There has generally been limited commercial fishing activity at the beginning of the fishing season in April (in 2012, 3 vessels each fished in statistical areas 910 - Gisborne and 911 - Mahia during April and no vessels fished in 909 - East Cape).

Non-commercial utilisation

Information on the extent and timing of recreational fishing in CRA 3 is limited and affects the NRLMG's ability to accurately assess any potential negative impact of removal of the May commercial closure.

The month of May is not a popular fishing time for CRA 3 recreational fishers. Therefore, ease of access and fishing success in CRA 3 is unlikely to reduce for recreational fishers through opening the commercial fishery up by an additional 31 days. This proposal will not result in commercial fishers taking more rock lobsters over the fishing year because the TACC is the principal constraint that governs commercial landings.

Commercial utilisation

The May commercial closure creates operational difficulties for CRA 3 industry participants. For example, commercial fishers are required to deploy and retrieve fishing gear in a short period of time, and live lobster processing facilities are often closed for a month while fishing is prohibited.

Removal of the closure should benefit the operation of the CRA 3 rock lobster industry by reducing operational costs and allowing a better match of fishing opportunities to market opportunities.

Compliance risks and resources

MPI compliance resources should reduce through removal of the May commercial closure. Currently some compliance monitoring effort is required during May to ensure fishers are complying with the closure and that pots are out of the water. This effort will not be required if the closure is removed.

CRA 7 closed season

Key points to consider for this proposal

- The CRA 7 fishery is closed to commercial fishing from 20 November to 31 May.
- The commercial closed season was shortened by 19 days in 2009 to provide industry with additional flexibility to supply markets. Industry requested that the closure was completely removed at this time to allow a 12-month fishing season that was consistent with most other rock lobster management areas.

- Removing the CRA 7 commercial closure would result in commercial fishers being able to fish at the CRA 7 commercial MLS year round. In other words, industry would have a full 12-month season to land the TACC.

Non-commercial utilisation

Information on the extent and timing of recreational fishing in CRA 7 is limited and affects the NRLMG's ability to assess any potential negative impact of removal of the CRA 7 commercial closure. Anecdotal information from recreational fishers suggests summer and autumn are popular recreational fishing periods in CRA 7. Removing the closure is likely to result in commercial and recreational fishers sharing the same fishing grounds at the same time, but it is uncertain if this will result in reduced recreational utilisation benefits.

This proposal will not result in commercial fishers taking more rock lobsters over the fishing year because the TACC is the principal constraint that governs commercial landings. Industry representatives suggest that spreading commercial effort and landings over a longer period of time may actually benefit the fishery.

Commercial utilisation

The CRA 7 industry is prevented from maximising benefits they receive from harvesting rock lobster with the commercial closure in place. The NRLMG understands that the current 6-month fishing season makes it difficult at times for industry to target suitable fish for the live export market. It also restricts the flexibility for industry to fish when prices paid for rock lobster are generally higher.

Compliance risks and resources

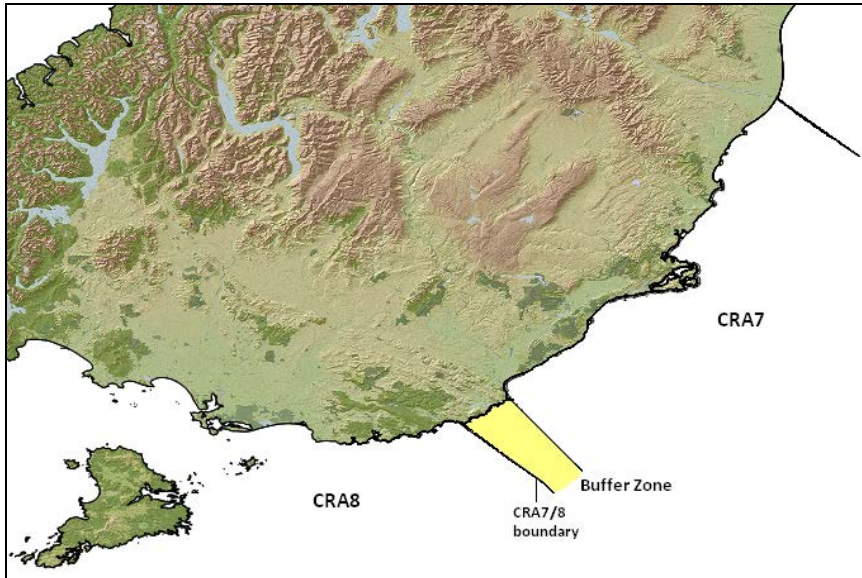
During the time of the CRA 7 closure (November to June) routine compliance monitoring effort is currently directed at inshore finfish vessels and auditing of LFRs. MPI considers there will be a minimal increase in compliance effort to check rock lobster vessels and landings (in addition to finfish) if the CRA 7 commercial closure is removed.

1.7.3 Remove the CRA 7 commercial closed area or 'Buffer Zone' (Option 2B)

Key points to consider for this proposal

- The CRA 7 'Buffer Zone' (refer Figure 1.1 below) was closed to commercial fishing 12 months of the year in 1994. Previously the 'Buffer Zone' was closed only during the period that the commercial catch of Otago Concession Area lobsters was allowed.
- The 'Buffer Zone' separates (by way of no go area) the CRA 7 and CRA 8 rock lobster fisheries where MLS differentials apply to commercial fishers (there is no equivalent buffer zone on the northern boundary of CRA 7 with CRA 5 (Marlborough/Canterbury)).
- It is estimated that the 'Buffer Zone' comprises about 12% of the suitable rock lobster habitat in CRA 7.

Figure 1.1: Map showing the CRA 7 'Buffer Zone'



Non-commercial utilisation

The extent of any negative impact of removal of the 'Buffer Zone' on recreational fishers is difficult to assess because information on the extent of recreational fishing in the 'Buffer Zone' is limited. Anecdotal information from recreational fishers suggests few people harvest rock lobster from this area given the remoteness and small population base in the area.

Commercial utilisation

CRA 7 commercial fishers would be provided with access to fishing grounds unavailable since 1994 under this proposal.

The NRLMG has limited information on the abundance of rock lobster within the 'Buffer Zone'. Industry representatives note that an area to north of the 'Buffer Zone' was closed to commercial fishing when the Puna-wai-Toriki Mataitai was established at Nugget Point. This had a significant impact on resident commercial fishers. Given this, it may be assumed that there are potentially good commercial catches to be taken from the nearby 'Buffer Zone'.

Compliance risks and resources

MPI considers there is minimal compliance risk associated with removing the 'Buffer Zone' as long as requirements are implemented to restrict movements of rock lobsters from one management area to another prior to landing to an LFR. These include:

- Prohibiting any person from being in possession of any CRA 7 and CRA 8 rock lobster catch together at the same time (e.g. on board any vessel or vehicle).
- A mandatory requirement for any rock lobster taken in accordance with the CRA 7 and CRA 8 Concession Area Regulations to be landed only to an LFR within the respective management area that they were caught (or landed elsewhere subject to prior approval and conditions).
- Prohibiting any person from removing rock lobster (taken in accordance with the CRA 7 and CRA 8 Concession Area Regulations) from one management area and then possessing the same rock lobster in another management area, by prohibiting the transport, transfer, holding and storage of rock lobsters between CRA 7 and CRA 8.

NRLMG commercial members note that when rock lobster entered the QMS in 1990 this resulted in well defined commercial fishing rights, confined by individual transferable quota and annual catch entitlement (ACE). The QMS has resulted in long-term investment in the business of rock lobster fishing, from vessels to processing facilities, which in turn has reduced incentives for illegal activity. Also any compliance risk associated with removal of the 'Buffer Zone' is mitigated by the requirement for commercial rock lobster fishers to have 3 tonnes minimum ACE holding for a management area before fishing can commence.

1.7.4 Remove the CRA 7 home port and vessel registration requirements (Option 2C)

Key points to consider for this proposal

- Any fishing vessel used in the taking of rock lobsters in accordance with the CRA 7 Concession Area Regulations must be registered at Dunedin and domiciled at a port of place within the area. These vessel restrictions were implemented in 1964.
- There are no similar vessel restrictions in CRA 3 and CRA 8 Concession Area Regulations.

Non-commercial utilisation

Non-commercial fishing will not be negatively impacted by the removal of the CRA 7 home port and vessel registration requirements. Ultimately the harvest of CRA 7 commercial fishers is limited by the TACC.

Commercial utilisation

Industry will be provided with flexibility for operators from outside Otago to fish for CRA 7 rock lobsters (subject to minimum ACE requirements) if the CRA 7 vessel requirements were removed. This will align CRA 7 vessel requirements with all other management areas.

Compliance risks and resources

The CRA 7 commercial MLS is substantially smaller than the MLSs that apply in other management areas. MPI considers that this increases compliance risk of 'trucking' and for illegal undersized rock lobsters harvested from outside of the CRA 7 fishery to be passed off as CRA 7 commercial catch.

As discussed in the previous section, MPI considers that requirements should be implemented to restrict movements of rock lobsters from one management area to another, thus reducing the compliance risk of 'trucking'. Industry representatives, on the other hand, consider the CRA 7 Concession Area Regulations create no greater risk than there is in someone catching rock lobsters in, for example, CRA 5 and passing them off as CRA 4 (Wellington/Hawkes Bay) rock lobsters.

1.7.5 Amend the CRA 7 and CRA 8 landing requirements to equate with the CRA 3 requirements (Option 2D)

Key points to consider for this proposal

- The landing requirements for rock lobsters taken in accordance with the CRA 3, CRA 7 and CRA 8 Concession Area Regulations are inconsistent.
- The landing requirements for CRA 7 rock lobsters taken in accordance with the CRA 7 Concession Area Regulations are the most restrictive because they cannot be landed or delivered and sold to an LFR outside of the CRA 7 area. This enables more effective compliance monitoring, but also restricts the market for CRA 7 rock lobsters.
- The landing requirements for CRA 3 male rock lobsters taken in accordance with the CRA 3 Concession Area Regulations are that they must be landed within the CRA 3 area.

If they are landed elsewhere, they are subject to prior approval by MPI and in accordance with such conditions as MPI impose, and be delivered and sold to a LFR.

- CRA 8 female rock lobsters that are taken in accordance with the CRA 8 Concession Area Regulations cannot be landed outside the CRA 8 area, but can be delivered to a LFR outside subject to prior approval by MPI.

Non-commercial utilisation

Non-commercial fishing will not be negatively impacted by amendments to the CRA 7 and CRA 8 landing requirements.

Commercial utilisation

Industry will be provided with flexibility to land to preferred LFRs (subject to prior approval) outside of the area in which they are taken if the landing requirements for CRA 7 and CRA 8 rock lobsters taken in accordance with the Concession Area Regulations are amended.

The NRLMG understands that there is only one export packhouse located in Otago and this reduces the chance of competition between companies (which influences prices paid to fishers). Ngai Tahu Seafoods have confirmed that they should benefit from this proposal because they have expressed a desire to process CRA 7 lobsters at their plant in Christchurch. This will provide Ngai Tahu Seafoods with the opportunity to export direct to China.

Compliance risks and resources

MPI considers that there should be minimal compliance risks associated with amending the landing requirements for CRA 7 and CRA 8 rock lobsters taken in accordance with the Concession Area Regulations. As long as additional requirements are implemented to restrict movements of rock lobsters (as discussed above), industry recordkeeping requirements should provide adequate means to track movements of all rock lobsters from vessel landing to the LFR.

Prior approval of any movements of rock lobster landings to an LFR outside of the area provides MPI with additional opportunities to audit and monitor landings, thus mitigating any compliance risk of area misreporting.

1.7.6 Allow CRA 3 and CRA 8 domestic sales and CRA 7 domestic sales outside of a 'consumer pack' for rock lobsters taken in accordance with the Concession Area Regulations (Option 2 E)

Key points to consider for this proposal

- Domestic sales of whole or tailed CRA 7 rock lobsters less than 54/60 mm TW are allowed only if they are packed in a sealed 'consumer pack' and when sold the pack is sealed with an unbroken seal.
- CRA 3 and CRA 8 rock lobsters less than 54/60 mm TW can only be exported (currently they cannot be sold on the New Zealand domestic market).

Non-commercial utilisation

Non-commercial fishing will not be negatively impacted by domestic sales of CRA 3 and CRA 8 rock lobsters less than 54/60 mm TW.

Commercial utilisation

CRA 3 and CRA 8 domestic sales could provide industry with additional benefits. This proposal will enable sellers of rock lobster to target the best price (other than on the export market) and provide processors with a means to sell export rock lobsters unsuitable for export on the domestic market.

Some current industry compliance costs will be removed if rock lobsters can be sold outside of a sealed 'consumer pack'. The current requirement to package rock lobsters taken in accordance with the CRA 7 Concession Area Regulations in 'consumer packs' is inconsistent with current domestic market preferences for a live product.

'Consumer packs' also represent marketing constraints and compliance challenges because lobsters must be held in consumer packs until the final point of sale. The 'consumer pack' regulations also require a contents weight (of no greater than 1kg) which can be inconsistent with consumer purchasing preferences.

Compliance risks and resources

MPI reports that there is evidence of high levels of illegal removals from CRA 3 (although uncertain, CRA 3 illegal take is currently estimated at 30% of the TAC). MPI considers allowing the domestic sale of CRA 3 male rock lobsters less than 54 mm TW has the potential to increase poaching and black market activities. This arises from incentives for illegally harvested undersized rock lobsters to be passed off as CRA 3 commercial catch along the supply chain (particularly because rock lobsters less than 54/60 mm TW would now be able to be sold at low-end retailers under this proposal (i.e. dealers in fish, restaurants, and fish n' chip shops)).

Industry representatives consider that the risk in CRA 3 is no greater than it is currently because MLSs do not create and/or enable fish thieves. CRA 3 commercial catches are and will remain subject to audit and monitoring of product flow.

MPI considers the level of compliance risk associated with allowing CRA 8 domestic sales is low given the current dynamics of the commercial fishery.

Overall, MPI considers the compliance risk related to domestic sales of CRA 3, CRA 7 and CRA 8 rock lobster could be mitigated by implementing new measures to track movements of rock lobster taken in accordance with the Concession Area Regulations (e.g. unique labelling or tagging of rock lobsters to be sold on the domestic market). Industry representatives, however, consider the current recordkeeping and reporting requirements provide adequate means to audit movements of commercially landed rock lobsters along the supply chain.

Other impacts

Domestic consumers of rock lobster may benefit from the proposal to allow an increase in the domestic sale of rock lobsters. This relates to the possibility of larger quantities of rock lobsters being available at a potentially lower price than paid for export grade rock lobsters.

NRLMG recreational members suggest that there are likely to be negative public perceptions from an increase in the domestic sale of rock lobsters below 54/60 mm TW. NRLMG commercial members suggest if commercial operators are faced with negative consumer

comments they would take adequate steps to explain that lobsters taken in accordance with the Concession Area Regulations are not illegal and do not represent any risk to stock sustainability.

1.7.7 Amend the export container labelling and packaging requirements for rock lobsters taken in accordance with the CRA 3, CRA 7 and CRA 8 Concession Area Regulations (Option 2F)

Key points to consider for this proposal

- The export container labelling and packaging requirements for rock lobsters taken in accordance with the Concession Area Regulations are inconsistent between areas.
- The export packaging requirements for CRA 7 rock lobsters are the most restrictive because export product must be packed in a sealed container under the direction of a Fishery Officer.
- It is proposed the export labelling and packaging requirements for all areas are amended to equate with the CRA 3 requirements (apart from a naming change).
- It is proposed that export containers are marked with the fishstock code (i.e. CRA 3) instead of the management area name (i.e. Gisborne) from which they were taken to clearly show these lobsters come from a wider area.

Non-commercial utilisation

Non-commercial fishing will not be negatively impacted by amendments to the export container labelling and packaging requirements for rock lobsters taken in accordance with the Concession Area Regulations.

Commercial utilisation

CRA 7 and CRA 8 industry processing costs (time and staff resources) may reduce through amendments to the packaging requirements.

Compliance risks and resources

There are likely to be minimal MPI compliance risks related to the export labelling and packaging proposal. Under the recordkeeping requirements, rock lobsters packed on LFR premises shall be marked with its common and scientific name, date of packaging, and the name of the LFR. These requirements provide compliance with an additional tool to identify the source of rock lobster through the supply chain.

1.7.8 Amend the CRA 3 and CRA 7 export requirements to equate with the current CRA 8 Requirements (Option 2G)

Key points to consider for this proposal

- It is proposed that rock lobsters taken in accordance with the Concession Area Regulations will continue to be exported from an LFR.
- The specific export specifications for CRA 3 and CRA 7 rock lobsters taken in accordance with the Concession Area Regulations will be amended to ensure consistency with CRA 8.
- The CRA 8 export specifications allow female rock lobsters taken in accordance with the Concession Area Regulations to be delivered to an export transshipment point subject to prior approval and conditions by MPI.
- The export requirements for CRA 7 rock lobsters taken in accordance with the Concession Area Regulations are currently the most restrictive because these lobsters must be exported direct from a LFR within CRA 7.

Non-commercial utilisation

Non-commercial fishing will not be negatively impacted by amendments to the export specifications for CRA 3 and CRA 7 rock lobsters taken in accordance with the Concession Area Regulations.

Commercial utilisation

The CRA 3 and CRA 7 industries will be provided with the flexibility to export through different transshipment points in the future (subject to MPI approval) if the export specifications are amended. This will remove current operational constraints for industry.

Compliance risks and resources

Allowing CRA 3 and CRA 7 rock lobsters, taken in accordance with the Concession Area Regulations, to be exported through transshipment points is likely to increase the distance these lobsters are transported from their point of landing. This in turn, is considered by MPI to increase the compliance risk of illegal undersized rock lobsters being passed off as rock lobsters taken in accordance with the Concession Area Regulations. MPI considers this risk could be mitigated by implementing new measures to track movements of rock lobsters to be sold on the domestic market.

Industry representatives do not consider that this proposal will increase the compliance risk of illegal undersized rock lobsters entering the supply chain in comparison to rock lobsters of any MLS.

1.7.9 Remove the CRA 7 and CRA 8 export notification and record requirements (Option 2H)

Key points to consider for this proposal

- CRA 3 currently has no export notification or record requirements for male rock lobsters taken in accordance with the Concession Area Regulations.
- LFRs must currently notify export particulars to MPI prior to shipping of CRA 7 and CRA 8 rock lobsters. Also, for CRA 8 only, the LFR is required to keep specific records (e.g. purchase details, containers received, greenweight, unit price, inventory of Southland 'concession packs' held, and sale details).

Non-commercial utilisation

Non-commercial fishing will not be negatively impacted by removal of the export notification and record requirements for rock lobsters taken in accordance with the CRA 7 and CRA 8 Concession Area Regulations.

Commercial utilisation

The proposal will minimise the documentation LFRs are required to provide to comply with the rules for rock lobsters taken in accordance with the CRA 7 and CRA 8 Concession Area Regulations.

Compliance risks and resources

The CRA 7 and CRA 8 export notification requirements currently support compliance monitoring activities by providing information on the source and movements of rock lobsters taken in accordance with CRA 7 and CRA 8 Concession Area Regulations. MPI is open to amending these regulations if compliance risks associated with domestic sales are addressed (as discussed previously).

1.8 OTHER MANAGEMENT MEASURES FOR CRA 3, CRA 7 AND CRA 8

While not part of the review of the Concession Area Regulations, there are some regulations which apply to these Concession Areas which it is timely to consider in the light of the recent decisions about commercial MLS and the supporting review of regulations discussed above.

Comments from tangata whenua and fishery stakeholders are also invited on the management measures outlined below for CRA 3, CRA 7 and CRA 8.

1.8.1 Allow recreational fishers access to the CRA 3, CRA 7 and CRA 8 commercial MLS

The NRLMG would like to consider the impacts and benefits of allowing recreational fishers access to the CRA 3, CRA 7 and CRA 8 commercial MLS.

Allowing recreational fishers to take lobsters at the same MLS as commercial fishers may:

- increase the availability of rock lobsters to recreational fishers through access to previously unavailable size classes;
- reduce perceptions of inequity held by some recreational fishers in CRA 3 and CRA 7 (few negative views are held for CRA 8);
- not have a significant negative impact on stock sustainability (the stock assessment approach for these fisheries already assumes recreational fishers are taking rock lobster at the commercial MLS);
- pose unacceptable compliance risk in some areas.

MPI have indicated that they are open to allowing recreational access to the CRA 7 and CRA 8 commercial MLS at the same time as commercial fishers. MPI, however, does not support the proposal to allow recreational access to CRA 3 commercial MLS during June, July and August. This is because there is evidence of high levels of illegal removals from the CRA 3 fishery and changing the recreational MLS has the potential to result in an increase in activities by opportunistic fish thieves (i.e. through passing off illegal undersized lobsters from outside the CRA 3 management area as legitimate CRA 3 rock lobsters).

MPI notes that compliance implications of the proposals to allow recreational access to the CRA 7 and CRA 8 commercial MLS could be mitigated through a requirement that recreational fishers must not possess rock lobsters below 54/60 mm TW outside of the Otago or Southern area. A similar approach is used for the recreational Taranaki paua which has a smaller MLS than elsewhere. MPI note that new measuring (see below) and educational material would be required under this proposal.

1.8.2 Change the CRA 7 MLS measure from tail length to tail width

The CRA 7 commercial MLS is still measured in TL. The MLS measure for the rest of New Zealand changed from TL to TW in 1988. This change resulted from concerns that pressure was being applied to rock lobsters which lead to widespread 'stretching' of the tail and subsequent mortality of sub-legal lobsters from heavy measuring.

It is understood CRA 7 did not change to the TW measure because the Otago Concession Area MLS was under review at the time. As the Minister has decided to retain the CRA 7 commercial MLS, it is now considered appropriate by NRLMG recreational and MPI members to consider changing the CRA 7 MLS measure from TL to TW. This measure change is particularly important if recreational fishers are allowed access to the CRA 7 commercial MLS because of 'stretching' and mortality concerns with the TL measure. NRLMG

commercial or MPI members do not currently consider that 'stretching' is a problem in the CRA 7 commercial fishery.

A review of the appropriate equivalent TL and TW measurements would be required as the intention would be that there is no net change to the commercial size limit. Data on the CRA 7 TW equivalents of the TL measure exist through work described by Breen *et al.* in 1988¹⁰. The approximate equivalent TW size limits for CRA 7 rock lobsters are 46 mm for males and 47 mm for females.

Additional questions for tangata whenua and stakeholders to consider for submissions

- **Are there any additional options that need to be considered?**
- **Have the key features of each option been accurately set out?**
- **Have all the impacts and benefits been identified and accurately described?**
- **Are there any other comments you would like to make about the proposed changes to the Concession Area Regulations?**

1.9 MONITORING, EVALUATION AND REVIEW

The NRLMG (including MPI compliance and inshore fisheries management teams) will be responsible for overseeing an ongoing programme of monitoring and evaluation if any of the proposed regulatory changes comes into effect. The programme will ensure any regulatory changes for each management area continue to achieve the desired fisheries management outcomes, in relation to sustainable utilisation and compliance and enforcement, in the most cost-effective way without imposing unnecessary constraints on a fisheries sector group.

1.10 NRLMG CONCLUSION

At this time, the NRLMG has varying views on how the Concession Area Regulations should be amended:

- **Customary members** support Options 2C to H in principle, particularly where they are supported by industry. They consider these regulations are imposing unnecessary costs on the industry. Customary members do not currently have a preferred position on whether amendments should be made to Options A and B.
- **Recreational members** do not support any amendments to the Concession Area Regulations. These members request that the size inequity in CRA 3, CRA 7, CRA 8 is considered first, and that research is carried out to investigate whether the CRA 3, CRA 7 and CRA 8 commercial MLSs are negatively impacting recreational benefits.
- **Commercial members** support Options 2A to H because these options will standardise operational requirements and could provide additional economic benefits to the industry (e.g. through reduced industry operational constraints and compliance costs, an increase in domestic market opportunities, and a reduction on landing restrictions).
- **MPI members** support Options 2A to H in principle because they remove unnecessary costs and restrictions on the industry in the QMS and current recordkeeping

¹⁰ Breen, P.A., Booth, J.D., and Tyson, P.J. 1988: Feasibility of a minimum size limit based on tail width for the New Zealand red rock lobster, *Jasus edwardsii*. New Zealand Fisheries Technical Report No. 6.

environments. MPI considers the compliance risks related to Options 2B, C, E, G and H could be mitigated by implementing new measures to track movements of rock lobster taken in accordance with the Concession Area Regulations (e.g. unique labelling or tagging of rock lobsters to be sold on the domestic market).

It is important to note the Minister has broad discretion in exercising his powers of decision-making. The Minister will make his own independent assessment of the information presented to him by both the NRLMG and tangata whenua and fishery stakeholders before making a final decision.

Review of Fiordland (Te Moana o Atawhenua) Marine Area Rock Lobster Amateur Regulations – Initial Position Paper

2.1 SUMMARY

The NRLMG is seeking tangata whenua and stakeholder views on proposals to review rock lobster amateur regulations for the Fiordland (Te Moana o Atawhenua) Marine Area (FMA)¹¹.

In 2011/12 the Fiordland Marine Guardians (FMG)¹² requested the NRLMG and MPI to endorse their recommendations to amend the Fisheries (Southland and Sub-Antarctic Areas Amateur Fishing) Regulations 1991 (the Regulations).

The options considered are outlined in Table 2.1.

Table 2.1: Summary of options considered for the FMA

Regulation	The Status Quo (Option 1)	Proposed Change (Option 2)
A. Daily Bag Limit	Retain the current maximum daily limit of 3 rock lobsters per amateur fisher in the internal waters of Fiordland	Increase the maximum daily number of rock lobster that may be taken or possessed by amateur fishers from 3 to 6 per day in the internal waters of Fiordland, except for Milford Sound, which is to remain at 3
B. Accumulation Limit	Retain the current rock lobster accumulation defence provisions that allow for accumulation of up to 3 rock lobsters in the internal waters of Fiordland	Amend the rock lobster accumulation defence provisions by removing the accumulation limit of 3 rock lobsters in the internal waters of Fiordland, except for Milford Sound, to allow for an accumulation of up to 15 rock lobsters
C. Written Records	Retain the current amateur rock lobster accumulation defence provision conditions for the FMA	Amend the rock lobster accumulation defence provision conditions by requiring amateur fishers to maintain a written record of all live rock lobsters stored in and removed from holding pots in the FMA
D. Potting Prohibition	Retain the current use of amateur rock lobster pots in the internal waters of Fiordland	Prohibit the use of amateur rock lobster pots in the internal waters of Fiordland adjacent to Seymour Island, in Pendulo Reach, Doubtful Sound

The FMG recommendations are intended to:

- allow for greater amateur utilisation of the rock lobster resource in the internal waters of Fiordland, except for Milford Sound (Options 2A and 2B);
- rectify a compliance issue in relation to the identification of an individual amateur fishers rock lobster catch when holding pots are used by multiple fishers at sea in the FMA (Option 2C);
- prohibit amateur rock lobster potting in a small area of the internal waters to protect significant bottom sill¹³ species and habitat biodiversity (Option 2D).

¹¹ Refer to Appendix 2 for a map of the Fiordland Marine Area.

¹² An advisory body appointed by the Minister for the Environment to advise central and local government agencies on the management of the Fiordland Marine Area.

The NRLMG's preferred position is for changes to be made to the Regulations for the FMA (Options 2A to 2D). The NRLMG considers that the proposed changes will provide for a responsive management approach for the FMA. The commercial rock lobster industry is unlikely to be negatively impacted by any of the proposals.

The NRLMG also welcomes views from tangata whenua and stakeholders on whether an additional method should be required to identify an individual amateur fisher's rock lobster catch when holding pots are used (i.e. the attachment of coloured cable ties to the base of a rock lobster feeler).

2.2 REGULATORY IMPACT ANALYSIS

Cabinet Regulatory Impact Analysis (RIA) requirements apply to the release of an IPP that contains options that may lead to legislative or regulatory change. RIA involves assessing one of more options against the situation expected to occur in the absence of any further government action or decisions (the status quo).

The NRLMG and MPI consider that this IPP contains the substantive elements of a RIA.

2.3 OBJECTIVES FOR THE FMA

The FMG's overarching vision is:

"That the quality of the Fiordland's marine environment and fisheries, including the wider fishery experience, be maintained or improved for future generations to use and enjoy".

The FMG has also adopted a number of key fisheries objectives. These include (but are not limited to):

- Ensuring sustainable utilisation of fisheries resources.
- Preventing uncontrolled expansion of effort/harvest by all groups.
- Ensuring that the rights of tangata whenua, recreational, charter operators, commercial and other user groups are identified and recognised.
- Encouraging voluntary compliance with the rules.

In 2010, the FMG initiated a 5-year review of the rules governing the FMA that pertained to the original management objectives. The review examined progress against the FMG's original management objectives, including key objectives relating to fisheries, compliance and the marine environment.

The proposals outlined in this paper are based on final recommendations the FMG provided to the NRLMG and MPI in 2011/12.

2.4 THE CURRENT SITUATION AND PROBLEM DEFINITION

2.4.1 Background to the FMA

There are two distinct fishing areas within the FMA; the designated 'internal waters of Fiordland' and the outer waters of Fiordland (which include the fiord entrances and outer coast). As part of the 'gifts' and 'gains' process undertaken in the establishment of an integrated strategy and subsequently the introduction of the Fiordland (Te Moana o

¹³ Pendulo Reach is an internal 'sill' feature that rises up to a shallow depth of 30 metres. It was formed around 20,000 years ago by the intersection of at least 3 large glaciers that carved out Doubtful, Thompson and Bradshaw Sounds.

Atawhenua) Marine Management Act 2005, commercial fishers agreed to stop fishing within the internal waters. The internal waters are entirely non-commercial fishing areas.

The FMA lies within the Southern (CRA 8) rock lobster fishery¹⁴. The CRA 8 fishery is the largest mainland fishery geographically and also has the largest TAC for rock lobster in New Zealand (currently set at 1053 tonnes).

Recreational fishers are increasingly drawn to Fiordland to experience the iconic wilderness values of the fiords and to enjoy its unique fishing and diving opportunities. Rock Lobster is the most important amateur target fishery in the FMA.

2.4.2 Maximum daily limit and limits on accumulation in the internal waters

Rock lobster amateur fishing rules that apply in the internal waters are more conservative than those that apply in the outer waters of Fiordland or elsewhere in the CRA 8 rock lobster fishery.

Within the internal waters the following regulations currently apply to daily limit and accumulation provisions¹⁵:

- a maximum daily limit of 3 rock lobsters per fisher;
- no accumulation (i.e. only 3 rock lobsters can be possessed).

The Regulations were implemented in 2005, on the recommendation of the original FMG group, in response to low abundance within the inner fiords at the time. The Regulations limited amateur rock lobster harvest and reduced risks of localised depletion in the inner fiords.

Anecdotal information from the FMG and MPI suggests rock lobster abundance has increased in the internal waters since the original regulations were introduced in 2005.

The FMG recognise that amateur daily limits and accumulation provisions need to be realistic for the Fiordland situation and also reflect changes in stock abundance.

2.4.3 Amateur defence provisions in the Regulations

In 2005, amateur defence provisions in the Regulations were amended for the FMA to allow amateur fishers to accumulate up to 15 rock lobsters when taken within prescribed daily limits over three days or more (but with a maximum of 3 rock lobster from the internal waters). To satisfy this defence, amateur fishers must comply with the following 'bag and tag' conditions¹⁶.

Rock lobsters must be held in containers or bags that:

- contain only rock lobster taken on a single day; and
- are clearly labelled to record –
 - a) the individual fisher's full name;
 - b) the date the rock lobster was taken;
 - c) the number of rock lobster held in the container or bag; and
 - d) the number of those rock lobster (if any) taken from the internal waters of Fiordland.

¹⁴ Refer to Appendix 1 for a map of rock lobster quota management areas.

¹⁵ Specified in regulation 4AA of the Regulations.

¹⁶ Specified in regulation 7 of the Regulations.

The 'bag and tag' conditions work well when rock lobsters are frozen on vessels with onboard freezers. However, some fishers need to or prefer to store live rock lobster in holding pots at sea, particularly those onboard smaller vessels without freezers.

The Regulations also restrict the maximum number of holding pots that can be used on any vessel to two. This means that when multiple fishers are using the same holding pots over a number of days, the 'bag and tag' conditions are impractical to comply with and problematic for MPI's Fishery Officers to enforce.

2.4.4 Amateur potting in the internal waters adjacent to Seymour Island, in Pendulo Reach, Doubtful Sound

Several management measures have already been implemented to ensure the ongoing integrity of areas of special significance within Fiordland's marine environment. These include: Marine Reserves, no take areas for specific species, fishing method restrictions and 'China shop' no anchoring zones¹⁷, to protect fragile seabed species and sill communities.

New research, using side-scan sonar and remote underwater vehicles, has discovered an area of previously unknown sensitive bottom sill habitat adjacent to Seymour Island in Pendulo Reach, at the fiord junction of Doubtful and Thompson Sounds. This bottom sill area supports a wide range of highly significant fragile species including delicate lace and fan corals, red corals, sponges, sea pens and large black coral trees. The survey also found a large number of rock lobsters were sheltering amongst the black coral trees and coral assemblages.

The FMG consider the highest risks to the fragile species and habitats in the Pendulo Reach area are from amateur rock lobster pots, including holding pots, vessel anchors and heavy anchor chains.

Commercial potting for rock lobster is already prohibited within the area, and therefore is not a threat to this marine community. However, it still remains lawful for commercial fishers to use large holding 'coff' pots to store live rock lobsters and temporarily store unbaited catching pots within the internal waters. These activities could potentially impact the fragile species in the Pendulo Reach area.

Questions for tangata whenua and stakeholders to consider for submissions

- **Is the current situation as described an accurate reflection of affected parties' experience?**
- **Is the problem definition accurate?**

¹⁷ The term 'China Shops' is described in the Fiordland (Te Moana o Atawhenua) Marine Management Act 2005 as being small discrete areas that are outstanding for the abundance and/or diversity of animal communities or mixed animal and plant communities. As a result of the FMA Act implementation, the Southland Regional Coastal Plan now prohibits anchoring or mooring for 23 China shops, 10 of which are located within marine reserves.

2.5 OPTIONS

The NRLMG welcomes comments and information from tangata whenua and stakeholders on the following management options.

2.5.1 Maintain the status quo

The status quo would maintain the current suite of rock lobster amateur regulations for the FMA in relation to:

- the maximum daily limit in the internal waters (Option 1A);
- accumulation provisions in the internal waters (Option 1B);
- defence provisions for the FMA (Option 1C);
- the use of amateur rock lobster pots in the internal waters (Option 1D).

2.5.2 Amend the current suite of rock lobster amateur regulations for the FMA

Under Option 2 the rock lobster provisions in the Regulations for the FMA would be amended as follows:

- **Option 2A** - Increase the maximum daily number of rock lobster that may be taken or possessed by amateur fishers from three to six per day in the internal waters of Fiordland, except for Milford Sound.
- **Option 2B** - Amend the accumulation defence provisions by removing the condition that 'not more than 3 rock lobsters were taken from the internal waters of Fiordland' for all fiords, except for the internal waters of Milford Sound, to allow for an accumulation of up to 15 rock lobsters.
- **Option 2C** - Amend the rock lobster accumulation defence provisions to require the person in charge of a vessel, or the individual amateur fisher to maintain a written record that clearly records:
 - a) the individual fisher's full name;
 - b) the date on which that fisher took the rock lobster;
 - c) the number of rock lobster taken and the number of rock lobster stored in a holding pot;
 - d) the GPS position or physical location of the holding pot; and
 - e) the date and number of rock lobster removed from the holding pot.
- **Option 2D** - Prohibit the use of amateur rock lobsters pots and holding pots in the internal waters adjacent to Seymour Island, in Pendulo Reach, Doubtful Sound (refer to Figure 2.1 below).

The changes require amendments to be made to the Regulations pursuant to section 297 (General Regulations) of the Fisheries Act 1996.

It is anticipated that these changes would be implemented from 1 June 2013, depending on the timing of government regulatory processes.

2.6 IMPACTS AND BENEFITS

This section discusses the potential impact of changing the current suite of rock lobster amateur regulations for the FMA on sustainability and environment, non-commercial utilisation benefits, and compliance and enforcement.

The commercial rock lobster industry is unlikely to be negatively impacted by any of the proposals. This is because the inner fiords are closed to commercial rock lobster fishing, and amateur rock lobster fishing is unlikely to increase in the outer fiords, where commercial fishing takes place, as a result of the proposals.

2.6.1 Maximum daily limit and limits on accumulation in the internal waters

Options 1A and 1B (status quo)

Options 1A and 1B:

- retain the existing amateur maximum daily limit and accumulation provisions for rock lobster in the internal waters;
- could result in a larger stock size in the internal waters than Options 2A and 2B (this conclusion, however, assumes rock lobster amateur participation and harvest in the internal waters will not significantly change from current levels);
- would continue to limit utilisation opportunities in the amateur fishery;
- would not change existing compliance and enforcement resources.

Options 2A and 2B (change proposals)

Options 2A and 2B would increase the maximum daily limit for rock lobster and amend the accumulation provisions for the internal waters, except Milford Sound.

Sustainability and the environment

Options 2A and 2B are unlikely to negatively impact the sustainability of the CRA 8 fishery. Research information indicates the CRA 8 stock is healthy and is well above the target stock size.

There is limited information on rock lobster stock abundance in the internal waters (mainly because commercial fishing is prohibited). Anecdotal information from the FMG and MPI suggests that rock lobster abundance has increased in the internal waters.

The NRLMG considers that Options 2A and 2B are unlikely to pose a risk to sustainability of the internal waters over the short- to medium-terms. These options are also unlikely to have negative impacts on the aquatic environment¹⁸.

Milford Sound is excluded from Options 2A and 2B because there is limited rock lobster habitat in this area¹⁹. The FMG advises that any increase in amateur rock lobster take from within the available internal waters of Milford Sound could result in localised depletion of rock lobsters.

¹⁸ Within the FMA a conservative amateur rock lobster pot limit applies with a maximum of 3 rock lobster pots per person and per vessel, where as the national amateur regulations maximum limit is 3 pots per person and 6 pots per vessel.

¹⁹ The northern side of Milford Sound is encompassed within the Piopiotahi Marine Reserve, where all fishing is prohibited.

Utilisation benefits

Options 2A and 2B will provide non-commercial fishers with increased utilisation benefits.

A survey of amateur fisheries in the FMA between 2006 and 2008²⁰ showed that rock lobster targeted and harvested with pots had an overall catch rate of 0.9 fish per hour by charter vessels and 0.3 fish per hour by private/syndicate vessels²¹. Rock lobster targeted and harvested by diving has a catch rate of 3.6 fish per hour by charter vessels and 2.3 fish per hour for private/syndicate vessels. The survey did not provide an estimate of amateur rock lobster harvest for the FMA because it was designed only to provide a snapshot.

Anecdotal information from the FMG and MPI suggests most amateur fishers that target rock lobster in the inner fiords are taking the current daily bag limit of 3 rock lobsters. Increasing the daily limit to six (in line with the national daily rock lobster limit) and allowing an accumulation of up to 15 rock lobsters is likely to benefit individual amateur fishers and charter boat operators (particularly on longer duration fishing trips over 3-days or more).

The NRLMG suggests that while harvest from the internal waters may increase under these options, it is unlikely that the overall harvest of rock lobster from the FMA (and CRA 8) area will increase. At present, amateur fishers take rock lobsters from outside of the internal waters, in the outer fiords, to reach the greater maximum daily limit (of six rock lobsters) and accumulation provisions (of up to 15 rock lobsters).

The best available information on the amateur harvest from the wider CRA 8 fishery is derived from historical regional and national telephone and diary surveys (the mean catch estimate from these surveys is approximately 16 tonnes). Within the CRA 8 TAC an allowance of 33 tonnes has been made for amateur interests (this is 3% of the current TAC). The NRLMG considers that this allowance adequately provides for recreational interests at this time.

Customary Maori fishers are unlikely to be negatively impacted by the potential increase in amateur harvest given the availability of good numbers of rock lobsters in the inner fiords.

Compliance and enforcement

Enforcement of Options 2A and 2B poses no significant compliance costs beyond the normal education requirements to update signage and information brochure material. MPI considers that both enforceability of the rules and voluntary compliance by users will likely be enhanced by removing a redundant layer of complexity.

2.6.2 Amateur accumulation defence provisions for rock lobster

Option 1C (status quo)

Option 1C:

- retains the current accumulation defence provisions for the FMA, including specific 'bag and tag' conditions;
- does not negatively impact on stock sustainability, the environment or amateur harvest.

²⁰ Davey, N.K., Hartill, B. (2011). A characterisation of amateur fisheries in the Fiordland marine area based on monitoring between 2006 and 2008. New Zealand Fisheries Assessment Report 2011/32. 46p.

²¹ Syndicate vessels are vessels owned by groups of people.

In relation to compliance and enforcement, MPI views the current rock lobster 'bag and tag' conditions as being indispensable for catch inspections, particularly in dealing with large groups. The 'bag and tag' conditions enable Fishery Officers to promptly quantify and identify each fisher's accumulated catch to ensure individual fishers' maximum limits are not exceeded.

To date, Fishery Officers have taken a pragmatic approach to enforcing the accumulation defence provision due to the impracticality of separating and identifying each fisher's catch in holding pots when used by multiple fishers at sea. Option 1C will not change current compliance and enforcement resources.

Option 2C (change proposal)

Option 2C would amend the accumulation defence provisions to require amateur fishers to maintain written records when rock lobsters are stored live in holding pots.

Sustainability and the environment

Option 2C does not impact stock sustainability or the environment.

Utilisation benefits

Individual amateur fishers would benefit the most from Option 2C. Requiring amateur fishers to maintain written records of rock lobster stored in holding pots would provide parties of amateur fishers with a practical way to account for stored rock lobster catch, in line with the existing 'bag and tag' conditions.

A new requirement to keep a written record would formalise existing voluntary practices by some regular Fiordland fishers who already keep written records (in varying degrees and formats). It would support the accumulation defence conditions by identifying individual fishers and quantifying their daily catch in line with the 'bag and tag' conditions. These records keep track of daily rock lobster catches to satisfy Fishery Officer inquiries if their holding pots and catch is inspected.

Compliance and enforcement

Option 2C would help to rectify a compliance issue in relation to the identification of an individual amateur fisher's rock lobster catch when holding pots are used by multiple fishers at sea in the FMA. The proposed amendment to the Regulations would ensure the defence provisions are practical to comply with and are able to be enforced.

MPI does not propose that amateur fishers should be required to complete an approved form. Instead, amateur fishers would be encouraged to follow the format of an 'example' record template (refer Appendix 3). However, a certain level of information will be required, including: the fisher's name; the date the rock lobster was taken; number taken and stored in a holding pot, position of holding pot, and date/number of rock lobster removed from a holding pot.

The FMG propose that the record template could be promoted and circulated to their database of amateur fishers to demonstrate the level of written information required to satisfactorily fulfil the accumulation defence provision.

When rock lobsters that have been stored in holding pots are removed from the water, amateur fishers would be required to comply with the existing accumulation defence provisions. This includes the requirement to separate their catch into separate labelled containers or bags.

2.6.3 Amateur potting in the internal waters adjacent to Seymour Island, in Pendulo Reach, Doubtful Sound

Option 1D (status quo)

Option 1D:

- retains the current regulations for amateur potting in the internal waters of Fiordland;
- will not impact current amateur utilisation, or compliance and enforcement resources.

The FMG and NRLMG consider a regulatory prohibition on potting is required to protect significant biodiversity. Therefore, the status quo is not preferred.

Option 2D (change proposal)

Option 2D would prohibit the use of amateur rock lobster pots in Pendulo Reach adjacent to Seymour Island, Doubtful Sound (Figure 2.1).

Figure 2.1: Map of proposed Seymour Island/ Pendulo Reach amateur rock lobster potting prohibition, Doubtful Sound (Source: FMG)



Sustainability and the environment

Option 2D will help to protect marine biodiversity and manage the risk posed by non-commercial fishing activities.

Research surveys in 2011/12 found that the Seymour Island area supports a wide range of fragile species and habitats (some of the most important of any yet found in the Fiordland Marine Area). Species found during the surveys include delicate coral fans, red corals, sponges, sea pens and large black coral trees. Many of these coral species (black, red and

fans) are protected under the Wildlife Act 1953 which means it is illegal to deliberately damage them.

Environment Southland proposes to address negative impacts of cruise ship anchors and anchor chains on the fragile fiord sill bottom habitat. The Council proposes to amend the Cruise Ship Deed of Agreement to prohibit anchoring and has undertaken to change the Southland Regional Coastal Plan in the future to prohibit anchoring of all vessels in the area.

Utilisation benefits

Based on available information, the amateur potting prohibition proposal in the vicinity of Seymour Island is unlikely to negatively impact amateur fishers.

A survey of amateur fisheries in the FMA between 2006 and 2008 suggests charter and private/syndicate vessels harvest the highest abundance of rock lobster in areas outside the proposed prohibition²². These areas include the coastal waters off Dusky and Doubtful Sound.

The FMG advise that rock lobster pots are not currently used with any frequency in the internal waters adjacent to Seymour Island, in Pendulo Reach, Doubtful Sound. There are concerns, however, that once knowledge of the rock lobster population abundance in the Seymour Island vicinity is wider known, that potting will increase and have a negative impact on the fragile sill bottom species.

The FMG carried out informal consultation with amateur fishers and did not receive any negative reaction to the proposal.

Compliance and enforcement

Enforcement of Option 2D poses no significant compliance costs beyond the normal education requirements to update signage and information brochure material.

The Pendulo Reach area, which lies at the junction of three fiords, is a main navigation waterway that is frequented on a daily basis by tourist, charter, recreational and commercial fishing vessels. In addition to local operators acting as compliance 'eyes and ears' the area is regularly patrolled by both MPI Fishery Officers and the Department of Conservation patrol vessel *Southern Winds*, which is based at nearby Deep Cove.

Other impacts

MPI advises commercial holding pots to store live catch are commonly used close by and outside the proposed amateur potting prohibition area, in the near vicinity of Blanket Bay and Secretary Island, west of Omapere Rock. The CRA 8 industry proposes to ensure, through voluntary agreement, that holding pots do not negatively impact the fragile fiord sill bottom habitat in the Pendulo Reach area.

²² Davey, N.K., Hartill, B. (2011). A characterisation of amateur fisheries in the Fiordland marine area based on monitoring between 2006 and 2008. New Zealand Fisheries Assessment Report 2011/32. 46p.

2.7 OTHER MANAGEMENT MEASURES

Both the FMG and NRLMG have considered available regulatory and non-regulatory options in developing the proposals presented in this paper. Overall, the FMG and NRLMG consider that regulatory intervention is required to ensure the management options proposed in this paper are effective and can be enforced.

In addition to the options discussed above, the NRLMG also welcomes comments from tangata whenua and fishery stakeholders on the following proposal to amend the accumulation defence provisions.

2.7.1 Require amateur fishers to use coloured plastic cable ties

The FMG recommended that a combination of both written records (Option 2C) and some method of identification of each fisher's catch (e.g. coloured plastic cable ties attached to the base of the feeler of each lobster) should be mandatory when rock lobsters are stored live in holding pots. The FMG consider that the use of coloured cable ties, in conjunction with a written record, would help to identify an individual fisher's catch in a holding pot. It would assist MPI if possession of an unlawful state (e.g. berried or soft shell) or undersized rock lobster was detected.

MPI considers the recommendation has benefits, but is concerned that the requirement may be too onerous for amateur fishers. MPI have a preference for mandatory written records over coloured plastic ties.

Additional questions for tangata whenua and stakeholders to consider for submissions

- **Are there any additional options that need to be considered?**
- **Have the key features of each option been accurately set out?**
- **Have all the impacts and benefits been identified and accurately described?**
- **Are there any other comments you would like to make about the proposed changes to the rock lobster amateur regulations for the FMA?**

2.8 MONITORING, EVALUATION AND REVIEW

The NRLMG and FMG (including MPI compliance and inshore fisheries management teams) would be responsible for overseeing an ongoing programme of monitoring and evaluation if the proposals are implemented. The FMG already have a monitoring programme in place to ensure the management objectives of the FMA are being met (this includes biological and social research, and is overseen by the Department of Conservation).

2.9 NRLMG CONCLUSION

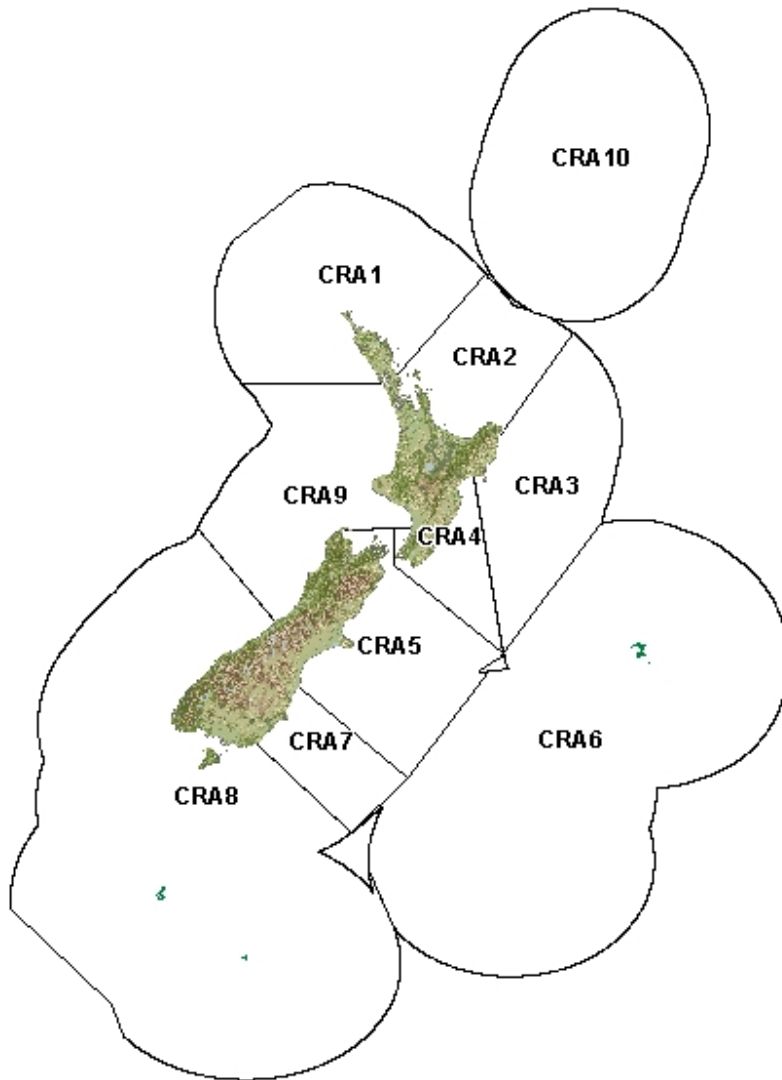
Based on best available information and the analysis set out above, the NRLMG's preferred position is for changes to be made to the rock lobster amateur regulations for the FMA (Option 2A to 2D).

The NRLMG considers that Options 2A to 2D will provide for a responsive management approach for the FMA. The proposals are intended to ensure ongoing sustainable utilisation of rock lobster in the FMA within environmental limits.

It is important to note the Minister has broad discretion in exercising his powers of decision-making. The Minister will make his own independent assessment of the information presented to him by both the NRLMG and tangata whenua and fishery stakeholders before making a final decision.

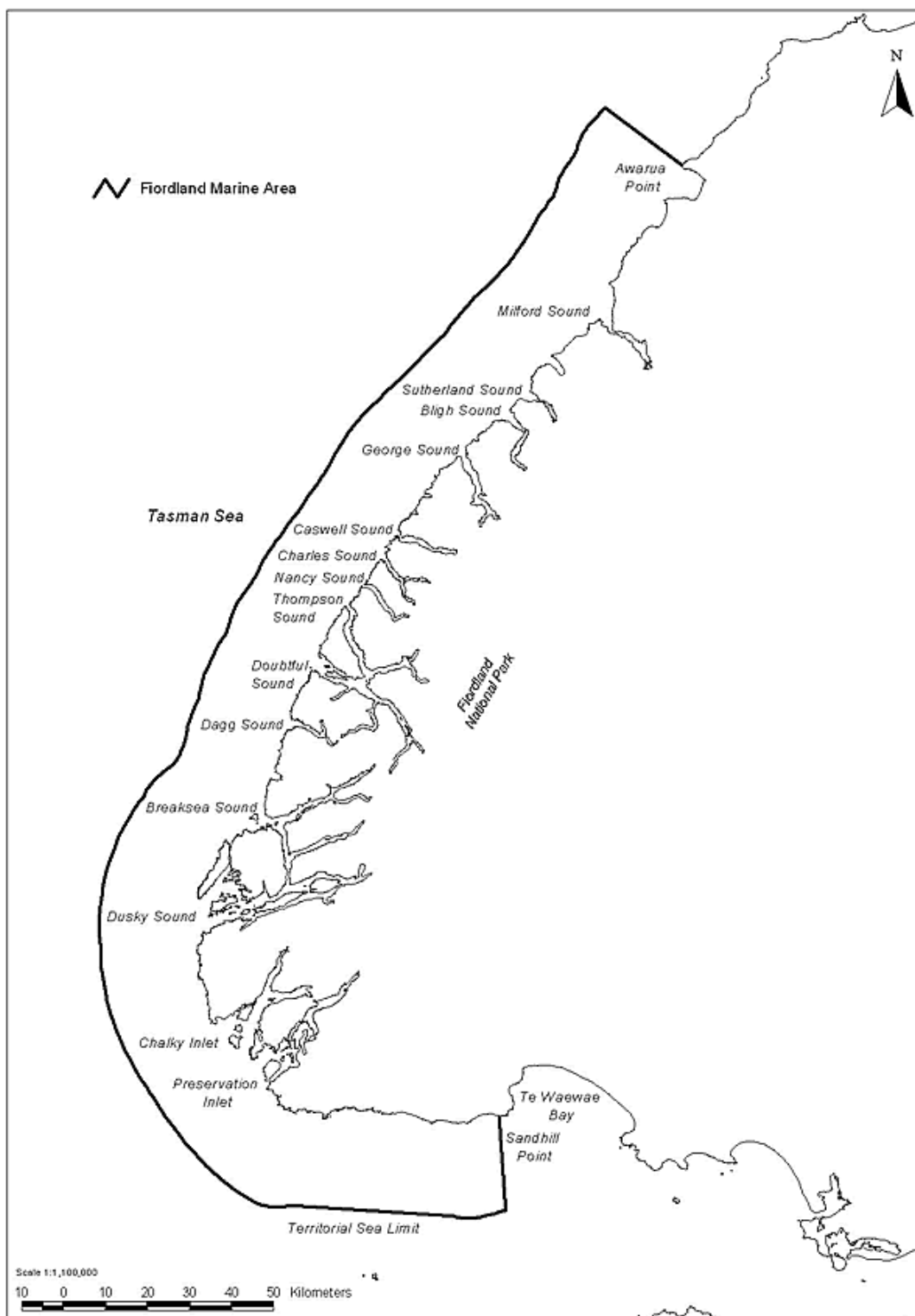
Appendix 1

Map of rock lobster Quota Management Areas



Appendix 2

Map of the Fiordland Marine Area
(Source: Ministry for Environment)



Appendix 3

Example Fiordland Marine Area amateur rock lobster daily catch and holding pot accumulation record

First day of trip	Last day of trip	Landing date	Vessel Name	ACV Operator Number	Vessel Landing location	Page
/ /	/ /	/ /				of

HOLDING POT 1							
Date	Fisher's First Name & Surname	Number of rock lobster taken	Number of rock lobster stored in holding pot	Holding pot GPS location or location description	Date	No. of rock lobster removed from holding pot during trip for consumption	Number of rock lobster removed from pot at end of trip
/ /							
/ /							
/ /							
HOLDING POT 2							
Date	Fisher's First Name & Surname	Number of rock lobster taken	Number of rock lobster stored in holding pot	Holding pot GPS location or location description	Date	Number of rock lobster removed from holding pot during trip for consumption	Number of rock lobster removed from pot at end of trip
/ /							
/ /							
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/ /							
Name of Vessel Skipper		Signature			Date Signed		
					/ /		