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Tena koe Trudie,

Sea-Right Investments Ltd – Application for Exemption from Quota Aggregation Limits

Introduction

1. On 26 May the Ministry of Fisheries (MFish) released a consultation paper relating to an application by Sea-Right Investments Ltd to obtain an exemption from quota aggregation limits in KBB3G and KBB4G.
2. Te Ohu appreciates having additional time to make this submission. We have consulted Moriori, Ngati Mutunga, and the Chatham Island Enterprise Trust in relation to the application by Sea-Right Investments. Their views have been incorporated into this submission.

Proposal

3. Sea-Right Investments Ltd has made an application to the Minister of Fisheries for an exemption from the quota aggregation limits set out in the Fisheries Act 1996 (the Act) to hold quota shares in excess of 35% of the combined total allowable commercial catches that are allowed for every stock of a single species (s59(1) of the Act). The exemption would apply to the attached bladder kelp stocks, KBB3G and KBB4G, which will enter the Quota Management System on 1 October 2010.
4. Section 60 of the Act requires the Minister, when dealing with such requests, to consult with persons and organisations the Minister considers are representative of those classes of persons having an interest in the exemption decision. In making a decision the Minister is required to consider the matters specified in s 60 (3) of the Act, which include:
 - (a) The willingness and ability of other members of the New Zealand fishing industry to acquire quota of the relevant species;
 - (b) The likely effect of the granting or withholding of the consent on:
 - i) The development of any new existing stock or species;
 - ii) Other quota owners or commercial fishers
 - iii) The processing and marketing of that stock or species;
 - iv) The ability of the applicant to take any other stock or species;
 - v) The efficiency of the New Zealand fishing industry or any person engaged in the New Zealand fishing industry;
 - vi) Such other matters as the Minister considers relevant

Comments

5. Moriori, Ngati Mutunga, and Chatham Island Enterprise Trust have indicated in earlier submissions concerning KBB4G that they wish to receive KBB4G quotas due to them through the operation of the legislation.
6. Section 49 (4) of the Act provides that when quota for a Chatham Islands quota management area is allocated to the Crown after allocation to Te Ohu Kaimoana and after allocation of any provisional catch history, it is to be transferred to the Chatham Islands Enterprise Trust.
7. Section 59 (8) of the Act provides the Chatham Island Enterprise Trust with an exemption to aggregation limits.
8. In relation to iwi, section 142 of the Maori Fisheries Act 2004 (*Chatham Island allocations and zoning*) also recognises the uniqueness and special circumstances of the Chatham Island and establishes a zone around the Chatham Island for allocation of settlement assets that benefits the iwi of the Chatham Islands.
9. Government treated the Chathams as a special case when the above provisions were put in legislation. In our view MFish should continue to treat the Chathams in this way. These organisations have a major task to perform in terms of ensuring the survival of the Island and its community. Iwi and the Chatham Enterprise Trust receiving a significant portion of the KBB4G quota shares and developing them into a commercial fishery will help create employment and revenues for the Island.

General comments on IPPs relating to bladder kelp

10. MFish has already consulted on proposed TAC TACCs for bladder kelp. Stakeholders responded with strong recommendations for a set of options to provide for far higher TAC/TACCs than those proposed. This consultation exercise on aggregation limits is being treated as a separate issue, alongside a further set of proposals for management measures, for which submissions are due on 23 July.
11. While these matters are being treated separately – they are all part of the same set of issues. The fact that MFish is consulting on an exemption to aggregation limits in this fishery suggests that it is proposing to retain the low options for setting TAC/TACCs – particularly in regard to the Chatham Islands fishery. An exemption is only required for the applicant in the situation where there is a very low TACC. Such a decision is condemning quota owners including iwi to meet the costs of the fishery in the QMS system at a sub-economic level and requiring quota owners to meet extra costs to develop the fishery when there are no material sustainability issues at higher TACC levels.
12. If the Minister was to align with the recommendations made by Ngati Mutunga, Moriori, Te Ohu Kaimoana, the Chatham Island Enterprise Trust, and Sea-Right Investments - that is to re-consult on higher options for a TAC (including a 1000 tonne option) – we understand that it would be possible for all prospective shareholders to receive the benefits they are seeking:
 - Sea-Right Investments would receive approximately 25 tonnes, based upon their agreement with MFish in relation to catch history [we note that the allocation of Crown quota based on provisional catch history ceased to be the basis for allocation of stocks introduced into the QMS after 1 October 2009, therefore Sea-Right

Investment's agreement with MFish represents an exception to the regime that now applies]

- Ngati Mutunga and Moriori would each receive 10% of the quota shares, based upon their entitlements and agreements under the Maori Fisheries Act 2004, and,
- the Chatham Island Enterprise Trust would receive the balance, based upon a number of provisions of the Act, which we identify below.

13. If MFish decides to approve Sea-Right Investments application for an aggregation exemption (and therefore to stay with their original TAC options), the following will occur:

- The Chatham Island Enterprise Trust will be prevented from receiving any KBB4G quota, undermining the reason for the special provisions that relate to the Chatham Islands
- The Chathams including its iwi will be delivered an uneconomic fishery.

In this situation we consider that such a decision will frustrate the development of the stock and will compromise other quota owners (iwi) the applicant and the Chathams Enterprise trust (the relevant matters in sections 60 (b) (i) and (ii) of the Fisheries Act).

RECOMMENDATIONS

14. Te Ohu:

- opposes the application by Sea-Right Investments to exceed the aggregation limits in KBB4G
- requests MFish to meet and discuss this application and the broader set of issues with Te Ohu Kaimoana and the Chathams iwi
- Proposes that MFish consider re-consulting on an integrated package of proposals.

Noho ora mai



Kirsty Woods
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