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Hon Pete Hodgson
Minister of Fisheries
Parliament House
WELLINGTON

Tena koe e te Minita

**Review of Sustainability Measures and Other
Management Controls for the Fishing Year
Commencing 1 April 2002**

A. GENERAL INTRODUCTION

The Commission (Te Ohu Kai Moana) has been provided for comment material issued by your Ministry (MFish) on 20 December 2001 relating to sustainability, management and regulatory measures to apply either for the fishing year commencing 1 April 2002 or from that date in the case of regulatory changes. This response was prepared prior to Te Ohu Kai Moana receiving any indication of your initial views on the various proposals.

This letter therefore contains Te Ohu Kai Moana's comments on the issues canvassed only in the MFish communication.

B. SUSTAINABILITY AND MANAGEMENT ISSUES

Rock Lobster

General Comment

Te Ohu Kai Moana is impressed with the comprehensiveness of the National Rock Lobster Management Group (NRLMG) report for 2001 and largely supports the recommendations it contains and the path the NRLMG proposes to follow for the future. To us, this Group has been one of the few success stories (Challenger Scallops is another) in the development of fisheries management approaches in New Zealand in recent years.

CRA 3

We agree with both the industry CRAMAC and with the NRLMG that events have moved on in the CRA 3 fishery since the dire times of 1993 when the present operational constraints in that fishery were designed and implemented as stock restoration measures. We have also expressed concern on several occasions during the stock assessment working group process at the concentration of the commercial

fishery on taking male rock lobsters, particularly as more evidence has become available of the gains to reproductive success of having large male animals present to service larger females. The practical difficulties of taking the increased TACC resulting from a recovered stock in mainly the winter months have also been apparent in the last two seasons.

The NRLMG has addressed many of these issues in its 2001 report and we largely support the changes it proposes although we do have some concerns about the protection of berried females and the continuation of the lower minimum size for males of 52mm.

Removal of seasonal closures: Te Ohu Kai Moana supports the removal of the current commercial seasonal closures in the CRA 3 fishery of 1 May to 31 May and 1 December to 31 January, provided the proposed voluntary closure between 15 December and 15 January proceeds.

We are rather less convinced of the proposed removal of the commercial and recreational fishery closures during the period 1 September to 30 November because of the increased risks of capturing berried females but have noted the comments of the NRLMG in paragraphs 150 and 151 of its report. On balance we are prepared to support these closure removals also but consider the issue needs to be kept under review to check removal effects.

We are encouraged to support the various closure removals by the fact that the presence of recreational and commercial fishers on the water during these periods will provide additional information for MFish Compliance staff on the activities of fish thieves. We can only hope that there will be sufficient Compliance staff effort available to take advantage of the extra information.

Landing of legal females in June-August: As noted by the NRLMG, the CRA 3 fishery is the only rock lobster fishery in the country which has a ban on the landing of legal sized, unberried females during the months June, July and August. In view of the comments in paragraphs 149 – 151 of the NRLMG report Te Ohu Kai Moana is prepared to also support the removal of this constraint but we again feel the effects need to be kept under review. Any substantive increase in the number of scrubbed or berried females on the market or in processing sheds should act as a signal for a reintroduction of the ban.

Minimum legal size (MLS): The NRLMG report (paragraphs 155 – 164) reflects obvious differences of opinion over continuation of the present MLS of 52mm tail width for male rock lobsters in the commercial CRA 3 fishery.

As noted in the report, the reduction from the standard 54mm tail width for male lobsters applied elsewhere was part of the 1993 package of corrective actions and was intended to slightly soften the economic effects of the remaining measures on commercial fishermen. If the seasonal closures and female landing restraints are removed as proposed, Te Ohu Kai Moana would agree with MFish that the need for a reduced male lobster MLS becomes less relevant, particularly when it is borne in mind that the advantage conferred is not available to recreational fishers in the CRA 3 area.

While the analysis in paragraphs 160 – 164 of the NRMLG report is somewhat confused it does mention several issues which need to be considered before a male lobster MLS change is made, namely –

- What are the sustainability impacts of the closed season removals?
- What are the sustainability impacts of removing the ban on landing unberried females?
- What are the sustainability impacts of reverting to the national MLS for male lobsters?
- Do the various sustainability and economic effects balance out?
- What are the economic impacts of such a male MLS change on the commercial industry? To this point we would add the economic effects of the first three points also.

We do not agree that further work on assessing the sustainability of the CRA 3 fishery is warranted at this stage. The CRA 3 fishery has been the subject of intensive sustainability assessment in recent years and, while there are some caveats on the accuracy of some of the estimates included in the 2001 year assessment model, the results indicate there should be little concern over the stock status for the next five years. Accordingly Te Ohu Kai Moana is of the view that no special assessment of the CRA 3 stock is required during 2002, the stock should merely take its normal place in the forward programme for reviews of rock lobster sub-stocks.

We do agree though with MFish that CRA 3 stakeholders need to justify retention of the 52mm MLS for male rock lobsters, rather than reverting to the national MLS of 54mm, assuming the other operational changes proposed are implemented. We consider a final decision on this issue should be made as part of the 2003/04 year sustainability and management considerations. We would expect the commercial CRA 3 stakeholders, in submitting a case either way for the 2003/04 year, to include analysis of the operational and economic effects of implementing the other 1 April 2002 changes and to report the views of other interested parties following discussions with them during calendar 2002.

Compliance issues: The issue of illegal removals is an ongoing problem in all rock lobster fisheries but is particularly serious for the CRA 3 stock. Te Ohu Kai Moana supports the NRLMG comments and recommendations (Section 5.3 of its report) and welcomes any moves to address the problem.

We have not seen the outcomes of or participated in the Threat Assessment work undertaken for rock lobster by MFish Compliance.

General Rock Lobster Issues

Amateur telson clipping: The concept of identifying recreationally-taken rock lobster by telson clipping is an interesting one. It certainly has the scope to identify legitimate recreational catch but whether it would assist in identifying illegally-taken animals is a moot point. Any efforts to reduce illegal catch and its marketing though are to be applauded and Te Ohu Kai Moana is happy to see the idea pursued with effect from 1 April 2002. In that context, our comments on the status of the NZ Recreational Fishing Council below under the heading *Number of amateur rock lobster pots* are also relevant to the timing delay MFish is promoting.

We agree that, if implemented, education of recreational fishers would be essential.

If the telson clipping concept was also applied to animals taken for customary purposes under Reg. 27 and Customary Fishing Regulation authorities it could be

more effective. That point might be worthy of further investigation, rather than the basic concept.

Numbers of amateur rock lobster pots: We note that MFish considers the NZ Recreational Fishing Council's proposal – to apply nationally the amateur rock lobster pot limits applying currently in areas CRA 2, 3 and 4 – cannot be adequately consulted on before 1 April 2002.

We are somewhat surprised at that view. MFish has regularly made a point in other fora that it regards the Council as being representative of the views of recreational fishers and it is obviously happy to use the NRLMG report as an Initial Position Paper for consultative purposes on all other issues. To single this particular issue out for special treatment seems inconsistent to us. Either the Council is accepted as representing recreational fisher views or it is not. If it is, the responses to the current consultation should be sufficient to allow a decision on the proposal proceeding or not from 1 April 2002. If the Council is not so accepted, further consultation on the issue may be necessary **but** MFish must also treat the views of the Council as unrepresentative on all issues be they relating to rock lobster or any other matters.

Te Ohu Kai Moana is comfortable with the proposal proceeding from 1 April 2002 but notes that education of recreational fishers will be required.

Other Species with a 1 April Fishing Year

Coromandel Scallops

Te Ohu Kai Moana, with difficulty, has already provided a submission to the MFish Auckland office on the proposed introduction of Coromandel scallops into the QMS from 1 April 2002. That submission included comments on sustainability and management issues.

Northland Scallops

No material has yet been received by Te Ohu Kai Moana for comment relating to the Northland scallop fishery for the 1 April 2002 year. On past experience we do not expect to sight such material until early June 2002 even although the fishing year commences on 1 April and the fishing season around 15 June. The timescale allowed for comment is again likely to be severely compressed.

It seems completely illogical to treat Northland scallops differently from Coromandel and Challenger scallops, both of which are being addressed in time for 1 April 2002 decisionmaking. Te Ohu Kai Moana would strongly suggest that, for future years, all scallop fisheries are included in the December/January Reviews so that decisions are able to be made prior to the commencement of the fishing year, rather than the fishing season.

Southern Blue Whiting

We have participated in industry/MFish discussions aimed at addressing the ongoing problems with applying the latest available research information in the FMA 6 southern blue whiting fisheries. Those discussions have largely reached agreement that decisionmaking for sustainability and management purposes would be better delayed until early May each year to allow adequate time for the previous season's research results to be analysed, reviewed and considered.

The SBW fisheries are far larger and more complex than the scallop or rock lobster fisheries and Te Ohu Kai Moana has indicated its willingness to accord with such a revised timing for decisionmaking, with certain provisos.

C. REGULATORY AMENDMENTS

Introduction

Included as Annex 2 to the MFish 20 December 2001 consultative document were a number of proposals for regulatory actions to take effect on 1 April 2002. Te Ohu Kai Moana's comments on the various proposals follow.

High Seas Permit Conditions

We do not operate commercial fishing vessels either within New Zealand waters or on the High Seas. As such Te Ohu Kai Moana is not affected by the proposals under this heading, nor are we in a position to comment on their validity. Accordingly we will leave such comments to the affected industry organisations.

Amendments to the Fisheries (Reporting) Regulations 2001

Again, as a non-fishing entity, Te Ohu Kai Moana is not affected by the proposals although we have read them with interest. Again we will leave substantive comment to the industry groups involved but would remark that the items canvassed appear particularly obscure and bureaucratic. Are these amendments really necessary?

Catch Reporting Under Section 111 Approvals

Perhaps somewhat surprisingly Te Ohu Kai Moana does have an interest in this proposal as a result of the increasing use by Maori of commercial fishing vessels to access fishing locations where they wish to exercise customary harvest rights. A number of skippers have been somewhat reluctant to provide such transport opportunities because of the risk, in their words, of subsequently being hassled by MFish Compliance staff.

The proposal will reduce that risk and is supported from that viewpoint alone. We are not in a position to comment on other aspects of the issues involved and will leave such comment to the industry.

Southern Bluefin Tuna Proposals

- a. Definition:** Te Ohu Kai Moana fully supports the proposed definition changes. We had no part in the inclusion of *Thunnus thynnus* in the original CCSBT Agreement (although we have always been somewhat surprised by its inclusion) and have been aware of the more recent separate classification of *T. orientalis* and of the development of methods able to be used at sea for its differentiation from *T. maccoyi*. We have also received a number of complaints from Maori fishermen at the inclusion of *T. orientalis* catches in the New Zealand CCSBT catch limit of 420mt per year for southern bluefin tuna and are pleased to see the problems now being addressed.
- b. Possession Offences:** While supporting the proposal Te Ohu Kai Moana does find it somewhat ironic that a regulatory amendment is now being proposed. The issues now being addressed are ones we raised when the original "possession after fishery closure" regulation was first proposed but

our comments at that time were ignored. It is to be regretted that the obvious practical issues were not dealt with at that time.

Return to Sea of Nelson/Marlborough Dredge Oysters and Southern Scallops

Te Ohu Kai Moana has been aware for some time of the issues raised in this proposal and its representatives participated in Challenger Scallop Enhancement Company and Challenger Dredge Oyster Management Company discussions of the various options available. We support the proposal as providing a realistic and practical solution to an annoying problem.

TAC and TACC for Southern Scallop Fishery

Te Ohu Kai Moana has been a strong supporter of the innovative management approaches taken by the Challenger Scallop Enhancement Co in the SCA7 fishery and would not like those effective approaches to be in any way eroded.

We are somewhat concerned that such proven, effective management is hamstrung by the wording of the statute and that, as options 2 and 3 in the paper illustrate, the statute could become a limiting factor in the exploiting of successful enhancement activities in the future. This situation suggests poor conceptual thinking in the development of the legislation as the Company's approach was then well established.

If the only way that the Company can continue implementing its approved management plan is for a TAC to be formally established under section 14 of the Fisheries Act 1996, with the consequential setting of allowances for customary harvest and recreational take, then so be it but the requirements seem unduly legalistic and bureaucratic.

The Challenger Scallop Enhancement Co has proven its ability and willingness to meet all the requirements of the Fisheries Act and to successfully integrate customary harvesting and recreational fishing requirements into its planning and management arrangements. Its operations are subject to regular review by yourself through the fisheries planning process and we feel a level of flexibility should be available to the Company if it must be made subject to section 14 TAC setting requirements. Te Ohu Kai Moana would favour the TAC being set at a level above the current harvest level – perhaps at the 1000 - 1200mt meatweight level – to give the Company flexibility to take advantage of advantageous conditions without having to return to you for an in-season adjustment approval. We see no reason to vary the MFish-proposed customary and recreational allowances of 40mt meatweight each if that higher TAC level is adopted.

Kia ora

TE Norris
Manager Fisheries Operations