



Fisheries New Zealand

Tini a Tangaroa

Proposal to introduce recreational telson clipping and an accumulation limit in the CRA 5 rock lobster fishery

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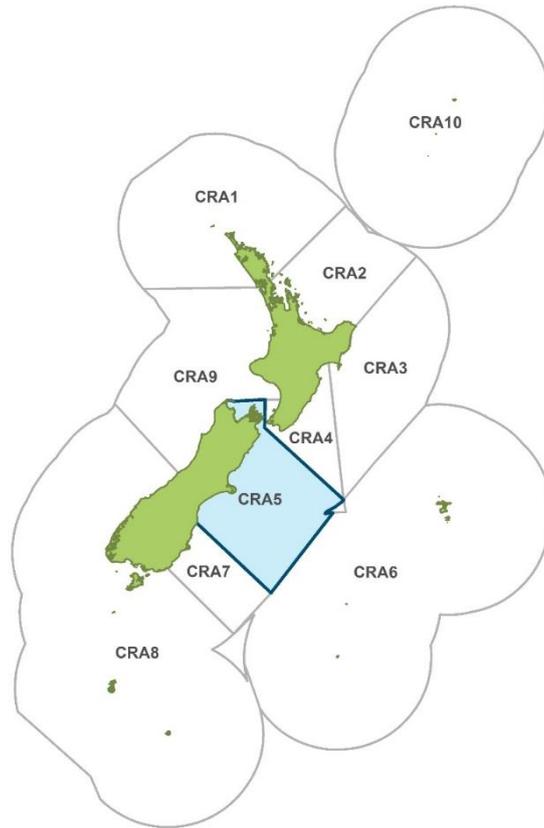


Figure 1: Map of rock lobster Quota Management Areas with CRA 5 highlighted in blue.

1 Executive Summary

1. Fisheries New Zealand welcomes feedback on measures proposed by the National Rock Lobster Management Group¹ for recreational fishers in the CRA 5 (Canterbury/Marlborough) spiny rock lobster (*Jasus edwardsii*) fishery (Figure 1) to discourage the illegal take and sale of rock lobsters.
2. There is a higher than normal risk that poaching and black market activity (i.e. the unauthorised taking of rock lobsters for sale or barter) will occur in the CRA 5 fishery. This is due to a combination of reasons, including:
 - Easy access to the fishery because much of the CRA 5 coastline can be reached from the road;
 - There are generally favourable fishing conditions;
 - Rock lobster can be taken in isolated areas where the chances of being seen by someone who could report the activity are lower; and
 - The fishery is currently experiencing high levels of stock abundance providing incentives for illegal take by opportunistic fishers.

¹ A group with representatives of customary, recreational and commercial fishing interests, and Fisheries New Zealand that advises the Minister of Fisheries on rock lobster management matters.

3. The presence of illegal fishing can undermine the integrity of the fisheries management regime, reduce the benefits that legitimate fishers can realise from the use of the resource, contribute to localised depletion, and result in increased non-compliance of legitimate fishers if they lose confidence in the fisheries management regime.
4. It is proposed that the Fisheries (Amateur Fishing) Regulations 2013 (Amateur Regulations) be amended to introduce the following measures:
 - a) **Telson clipping (Option 1A):**

Recreational fishers are required to clip the last third of the middle part of the tail fan (the “telson”) of every legal sized rock lobster that will be kept (see Figure 2 for an image of a clipped lobster). This marks a lobster as being recreationally caught, and so is not permitted to be bought, bartered or traded.
 - b) **Accumulation limit and associated ‘bag and tag’ conditions (Option 2A):**
 - i. *Accumulation limit:*

The number of rock lobsters that a recreational fisher can accumulate is limited to three daily bag limits (i.e. 18 lobsters), provided that the catch for any one day does not exceed the current daily limit of six rock lobsters per person.
 - ii. *‘Bag and tag’ conditions:*

Recreational fishers are required to hold rock lobsters in a container or bag that only contains a single day’s catch (i.e. up to six rock lobsters), and is clearly labelled with the individual fisher’s name, date it was taken, number held and where it was taken. This provides evidence that accumulated lobsters are taken within the daily limit over three days or more.
5. Since 2014, telson clipping, an accumulation limit, and bag and tag conditions have applied to recreational fishers in a portion of the CRA 5 fishery, known as Te Whata Kai o Rakihouia i Te Tai o Marokura (the Kaikōura Marine Area). Ministry for Primary Industries (MPI) Fisheries Compliance advise that telson clipping has been particularly effective in the Kaikōura Marine Area in reducing the number of recreationally caught rock lobsters illegally entering the commercial supply chain (such as restaurants and fish dealers).

2 Submission Information

6. Fisheries New Zealand, on behalf of the National Rock Lobster Management Group, welcomes written submissions to inform the review and the proposals contained in this Discussion Document. All written submissions must be received by Fisheries New Zealand, no later than **5pm, 3 October, 2018**.

7. Written submissions should be emailed to: FMSubmissions@mpi.govt.nz

or sent to:

Inshore Fisheries Management
Fisheries New Zealand
P O Box 2526
Wellington 6140.

8. All submissions are subject to the Official Information Act 1982 and can be released (along with the personal details of the submitter) under the Act. If you have specific reasons for wanting to have your submission or personal details withheld, please set out your reasons in the submission. Fisheries New Zealand will consider those reasons when making any assessment for the release of submissions if requested under the Official Information Act.

3 Purpose

9. The purpose of this document is to initiate consultation on behalf of the Minister of Fisheries (the Minister) on whether the Amateur Regulations should be amended to introduce telson clipping, an accumulation limit, and bag and tag conditions for recreational fishers in the wider CRA 5 fishery to help reduce the illegal take and sale of rock lobsters.
10. Fisheries New Zealand, on behalf of the National Rock Lobster Management Group, is consulting and seeking submissions on the options provided in Table 1. Tangata whenua and all other stakeholders with an interest in the CRA 5 fishery are encouraged to provide their views and any other information relevant to the review. Submitters' views will be included in the final advice provided to the Minister by Fisheries New Zealand and the National Rock Lobster Management Group.

Table 1: Telson clipping, accumulation limit, and bag and tag condition proposals for CRA 5.

Measure	Option	Description
Telson clipping	1A	Telson clipping is mandatory for recreational fishers: Amend the Amateur Regulations to require a recreational fisher to clip the telson of every legal sized rock lobster taken from CRA 5 that they intend to keep.
	1B	Status quo: There is no mandatory requirement for a recreational fisher to telson clip every legal sized rock lobster that they intend to keep from CRA 5, except in the Kaikōura Marine Area where the measure currently applies. A recreational fisher can currently choose to voluntarily clip a lobster.
Accumulation limit and bag and tag conditions	2A	An accumulation limit and associated bag and tag conditions are mandatory for recreational fishers: Amend the Amateur Regulations to: i. Limit the number of rock lobsters taken recreationally from CRA 5 to three daily bag limits (i.e. 18 rock lobsters); and, ii. Require a person in CRA 5 to hold each single day's rock lobster catch in a container or bag clearly labelled with the fisher's name, date and place it was taken, fisher's name, and the number held in that container.
	2B	Status quo: There is no accumulation limit for recreationally caught rock lobsters in CRA 5 nor mandatory bag and tag conditions, except in the Kaikōura Marine Area where the two measures currently apply. A recreational fisher can currently choose to voluntarily apply these measures.

4 Problem Definition

11. Fisheries New Zealand, the National Rock Lobster Management Group, and fishing stakeholders continue to be concerned about the apparent level of illegal fishing for rock lobster in CRA 5. Any rock lobster that is not taken under a commercial fishing permit or a customary authorisation is subject to legislation governing recreational fishing. Commercial rock lobster catches can be sold (subject to a stringent record keeping and reporting regime), but customary and recreational catches cannot.
12. Rock lobster is prone to being illegally taken or sold because:
 - It is highly valued by many New Zealanders;
 - It can be easily accessed by divers and potters, and can be taken in isolated areas where the chances of being seen by someone who could report the activity are lower;
 - Legally caught rock lobster is more expensive than rock lobster from the black market;
 - Rock lobsters are scarce in the domestic market, because commercial fishers receive better returns from exporting their rock lobsters, which means there is demand for illegal product; and
 - Rock lobsters are valuable barter goods. The inherent financial and ‘status’ value of lobsters makes trading and bartering a frequent means of disposal of illegal product.
13. The presence of illegal fishing can undermine the integrity of the fisheries management regime, reduce the benefits that legitimate fishers can realise from the use of the resource, contribute to localised depletion, and result in increased non-compliance of legitimate fishers if they lose confidence in the fisheries management regime.
14. The level of illegal take of rock lobsters is difficult to quantify because it is hard to detect. There is considerable uncertainty in current levels of illegal take from the CRA 5 fishery; despite this, an estimate of 30 tonnes was used in the 2015 scientific assessment to represent illegal take².
15. Fisheries New Zealand considers that there is a higher than normal risk that recreational rock lobster offences will occur in the CRA 5 fishery and this is why the measures proposed in this document relate to recreational fishing rules. This risk is due to a combination of factors including:
 - The fishery is easily accessed because much of the coastline in CRA 5 can be reached from the road;
 - There are generally favourable fishing conditions;
 - Rock lobster can be taken in isolated areas where the chances of being overseen by someone who could report the activity are lower; and
 - The fishery is currently experiencing high levels of stock abundance (the stock is currently well above its agreed management target) meaning rock lobsters are easy to catch.

² Starr, P.J.; Breen, P.A.; Webber, D.N. (2016). Data for the 2015 stock assessments of red rock lobsters (*Jasus edwardsii*) in CRA 5, CRA 7 and CRA 8. *New Zealand Fisheries Assessment Report 2016/21*. 99 p.

16. In recent years, MPI Fisheries Compliance has found rock lobster being sold in Christchurch in contravention of the Fisheries Act 1996 (the Act). Since 2013 there have been 34 successful prosecutions of individuals involved in the unlawful sale of CRA 5 rock lobsters. Compliance information indicates the rock lobsters were taken from within the CRA 5 area, including Kaikōura, Motunau and Amberley coasts.

Discussion questions:

- Do you agree with how we have defined the problem?
- Is the illegal take and sale of rock lobsters in CRA 5 a problem?

5 Objective

17. The objective of this review is to provide MPI Fisheries Compliance with additional and cost-effective tools in their toolkit to address the illegal take and sale of rock lobsters from the CRA 5 fishery by opportunistic non-commercial fishers and fish thieves.

6 Proposal to Introduce Telson Clipping

6.1 BACKGROUND

18. The proposal to identify recreational rock lobster catches by telson clipping was initially promoted by the New Zealand Recreational Fishing Council in the early 2000s as a way of reducing illegal sales of rock lobsters. The measure was not progressed to review by MPI (or its predecessors) because of differing views about the costs and benefits of the proposal in the New Zealand context (i.e. telson clipping is one tool in the compliance toolkit). The Kaikōura Coastal Marine Guardians (Te Korowai o Te Tai o Marokura), however, implemented telson clipping in the Kaikōura Marine Area in 2014.

Telson clipping in Western Australia

19. The New Zealand Recreational Fishing Council's proposal was based on experience from Western Australia, where telson clipping was being used to successfully constrain black market activity. It assisted Fishery Officers in distinguishing recreationally caught rock lobster from those landed by licensed commercial fishers.
20. Recreational fisheries in Western Australia have some differences to those of New Zealand, but their experience is useful to consider, and suggests that telson clipping:
- Can be helpful in inspections of commercial fish retailers and wholesalers because it can assist Fishery Officers in detecting illegally sold catch; and
 - Provides a deterrent or disincentive to sell recreational catch.
21. While telson clipping may assist in reducing the number of recreationally caught lobsters entering the domestic market, Western Australia found that there were still numerous small-scale 'backyard' black market operations involving sales to friends and neighbours or bartering in exchange for goods or services that telson clipping wasn't effective at addressing.



One third of the telson
has been clipped

Figure 2: A telson clipped rock lobster. Photo credit: K. Ingram.

Telson clipping in the Kaikōura Marine Area

22. Based on the Western Australian example, in 2012 the Kaikōura Coastal Marine Guardians proposed that telson clipping be introduced to the Kaikōura Marine Area. This was to help minimise illegal take because they considered that fish theft was the biggest risk to rock lobster in the area.
23. Telson clipping was implemented for the Kaikōura Marine Area, a sub-area of CRA 5, in August 2014. MPI Fisheries Compliance advise that telson clipping in this area has successfully reduced the illegal sale of recreationally caught rock lobsters by commercial operators i.e., by fish dealers and restaurants.

Support for telson clipping in CRA 5

24. Since the proposed measures already apply in the Kaikōura Marine Area, a subset of the CRA 5 area, there is support from members in the CRA 5 community to extend the measures to the whole of CRA 5 to help address illegal take and sale.
25. Feedback from the Te Waka a Māui me Ōna Toka Forum, the Fisheries New Zealand iwi customary fisheries forum that covers the South Island, suggested earlier in 2016 that there is tangata whenua support for the CRA 5 telson clipping proposal.
26. MPI conducted preliminary community engagement on the telson clipping proposal in late 2016 and received feedback from 20 individuals or groups. Of these, sixteen individuals or groups supported telson clipping in CRA 5. In general, people thought telson clipping was one tool that could be applied to help manage illegal removals from the fishery that was clear cut and enforceable.
27. Four individuals or groups did not support CRA 5 telson clipping for the following reasons:
 - a) It causes pain to the lobster (discussed below);
 - b) It will not address black market rock lobster sales;
 - c) It is not appropriate to extend the measure to all of CRA 5, when some areas do not have the non-compliance problems that Kaikōura has; and
 - d) It will only be successful with increased surveillance and compliance activity.

Applying telson clipping to the rest of New Zealand

28. The CRA 5 fishery faces a higher than normal risk of poaching and black market activities in comparison to other South Island rock lobster fisheries (CRA 7, 8 & 9). The trial of telson clipping in the Kaikōura Marine Area has proven effective, which is why the measure is proposed for the rest of the CRA 5 fishery to see if it can be an effective at a broader scale.
29. Fisheries New Zealand is currently considering whether telson clipping or other compliance tools could be introduced for some North Island rock lobster stocks to address the high risk of poaching and black market activities (e.g. for the . CRA 2 (Hauraki Gulf/Bay of Plenty) fishery).

6.2 PROPOSED OPTIONS

30. Regulatory options proposed for CRA 5 under this review are outlined in Table 2, including the *status quo*. Non-regulatory options have not been identified in detail, because voluntary application of any marking measure is unlikely to be as effective.

Table 2: Telson clipping proposals for CRA 5.

Option	Description
1A	<p>Telson clipping is mandatory for recreational fishers: Amend the Amateur Regulations to require a recreational fisher to clip the telson of every legal sized rock lobster that they intend to keep from CRA 5.</p>
1B	<p>Status quo: There is no mandatory requirement for a recreational fisher to telson clip every legal sized rock lobster that they intend to keep from CRA 5, except in the Kaikōura Marine Area where the measure currently applies. A recreational fisher can currently choose to voluntarily clip a lobster.</p>

Option 1A – Telson clipping is mandatory for recreational fishers in CRA 5

31. Option 1A would apply to recreational fishers. A “recreational fisher” is a person fishing under the Amateur Regulations, and includes those fishing on an amateur fishing charter vessel and commercial fishers taking fish for non-commercial purposes under section 111 of the Act³.
32. Under Option 1A it is proposed that:
1. Recreational fishers must clip the last third of the middle part of the tail fan (the “telson”) of every legal sized rock lobster that will be kept from CRA 5 (even if the lobsters are to be moved outside of the area) (refer to Figure 2 above);
 2. It would be an offence for a recreational fisher to possess any rock lobsters caught from CRA 5 that do not have clipped telsons;
 3. Lobsters retained and landed by recreational fishers must be kept and stored with the telson clipped tail intact until being prepared for immediate consumption or being eaten; and
 4. It would be illegal for owners and operators of commercial premises such as licensed fish receivers or dealers in fish to possess any rock lobsters with a clipped telson.
33. Option 1A will require amendments to be made to the existing regulatory restrictions pursuant to section 297 (general regulations) of the Act.
34. The Amateur Regulations would be amended to reflect points 1 to 3 above in paragraph 35. This is along with an extension of the existing Kaikōura Marine Area telson clipping penalties and offences to the wider CRA 5 fishery:
- A \$250 infringement fee for failing to telson clip a rock lobster;
 - A \$250 infringement fee for possessing a rock lobster without a clipped telson; and
 - For repeated or more serious offending, a person commits an offence and is liable on conviction to a fine not exceeding \$10,000, if a person, on any day, takes or possess a rock lobster from the CRA 5 area without a clipped telson.

³ Section 111 of the Act allows for recreational take from commercial vessels with prior approval from MPI’s Director General, including the requirement to take rock lobsters in accordance with the Amateur Regulations (e.g. size limit, daily bag limits and methods).

35. The Fisheries (Commercial Fishing) Regulations 2001 (Commercial Regulations) would be amended to reflect point 4 in paragraph 34. This includes the creation of a new offence for a person who possesses a telson clipped rock lobster on a commercial premises to be liable on conviction to a fine not exceeding \$10,000.
36. Telson clipping will not be made mandatory for customary fishers (catch taken under the authority of Māori Customary Fishing Regulations) because those regulations let iwi and hapu manage their non-commercial fishing in a way that best fits their local practices, without having a major effect on the fishing rights of others. However, tangata kaitiaki/tiaki will be encouraged to make telson clipping a condition of customary permits or authorisations under this option.
37. If a recreational fisher takes a rock lobster from outside the CRA 5 fishery (i.e. CRA 7 (Otago) or CRA 8 (Southern)) there will be no requirement for it to be telson clipped. Therefore, if this un-clipped lobster is brought into the CRA 5 fishery and the catch is inspected by Fishery Officers, it will be up to the recreational fisher to provide evidence that the lobster was harvested outside of CRA 5. Extending telson clipping to the whole CRA 5 area will encompass a greater number of fishers who take rock lobsters from CRA 5 (i.e. from Marlborough Sounds and Christchurch), which should assist with enforcement of the rule.

Option 1B – *Status quo* (no mandatory telson clipping, except for Kaikōura)

38. Under Option 1B, the existing management controls for recreational fishers in CRA 5 would continue. Recreational fishers will not be required to identify removals of rock lobster from the CRA 5 fishery by telson clipping, except for in the Kaikōura Marine Area where telson clipping has applied since 2014.

Voluntary application of telson clipping

39. The Amateur Regulations do not prohibit a recreational fisher from choosing to voluntarily clip any legal sized rock lobster they intend to keep. However, Fisheries New Zealand is not aware of any recreational fishers voluntarily clipping rock lobsters in CRA 5 at this time.
40. If the *status quo* were maintained, voluntary telson clipping could be encouraged via fisher education. However, a purely voluntary measure is unlikely to be effective or to have widespread uptake.

6.3 ANALYSIS OF OPTIONS

Option 1A: Benefits

Additional Compliance measure

41. Telson clipping (Option 1A) will provide Fishery Officers with an additional tool in their toolkit to address the illegal take and sale of rock lobsters from the CRA 5 fishery by:
 - Opportunistic non-commercial fishers who sell or barter their catch for financial gain; or
 - Dedicated fish thieves who conceal their activity under legitimate non-commercial fishing (i.e. legal sized fish and within the recreational daily bag limit of six rock lobsters).
42. The benefits that Fisheries New Zealand could gain from telson clipping relate to areas where Fishery Officers currently carry out inspections of non-commercial catch (e.g. at sea, on landing (i.e. at boat ramps), and at road checks). Telson clipping will provide Fishery Officers with the immediate ability to recognise the alleged use of recreational rock lobster catches (aside from fishers' claims) and may make detection of illegal fishing clearer than the *status quo* (Option 1B).
48. Telson clipping should also deter licensed fish receivers and dealers in fish from opportunistically purchasing illegally caught lobsters. If Fishery Officers find clipped rock lobsters at commercial premises, this would reveal involvement in illegal trade. This could result in a decrease in the market for illegally landed lobsters.

Low cost and simple to do

49. No special tools or devices are required to clip the telson of a rock lobster. Telson clipping can be done quickly and easily with ordinary kitchen scissors, which are readily available and cheap. It also involves minimal actions by the fisher considering the normal handling of a rock lobster (during measuring, moving in and out of pots, etc.).

Option 1A: Impacts

50. Telson clipping is likely to assist with addressing some aspect of illegal take (as discussed above), however it may not help with reducing illegal take by determined offenders. This is because individuals involved with poaching and black market activities often operate in settings and locations where inspection and detection of offences are difficult. For example, when lobsters are illegally sold to consumers in informal settings, or are stored on private premises before entering the premises of a restaurant. Other compliance tools are required to minimise this type of illegal activity.

Education and Enforcement

51. The requirement for a recreational fisher to telson clip rock lobsters could potentially penalise previously compliant fishers if they are found with unclipped lobsters in their possession. This is rather than determined offenders who are believed to be responsible for most of the illegal catch and black market trade of rock lobsters.

52. Based on the experience of the introduction of telson clipping into the Kaikōura Marine Area, it took some time for fishers to comply with the new rule. Given this, Fisheries New Zealand will need to spend time educating the community on the requirement (and method) of telson clipping, including updates to signage and the publication of guidance information for fishers and the community.
53. Regardless of the introduction of telson clipping, Fisheries New Zealand and MPI will still need to maintain high levels of surveillance and monitoring activities in CRA 5 because of the relatively high risk of non-compliance.

Animal welfare considerations

43. Rock lobsters are defined as an animal by the Animal Welfare Act 1999, and this Act recognises all animals as sentient (able to perceive or feel things). The Act requires that people who own or are in charge of an animal must meet their physical, health and behavioural needs in accordance with good practice and scientific knowledge. This includes treating any ill or injured animals, and killing them in a way that does not cause unnecessary or unreasonable pain or distress. The Animal Welfare Act applies to any rock lobster captured in a wild state (unless the animal has been captured for the purpose of facilitating its imminent destruction).
44. In the past, some recreational fishers have raised concerns about whether telson clipping causes a rock lobster pain or undue discomfort. To address this question, an Australian review in 2003⁴ examined nervous tissue present in the tail fan of the spiny rock lobster. This review suggested that the type of nerve tissue present in the tail fan of the lobster is simplistic, and that telson clipping represents a less intense stimulus for rock lobster than being removed from the water.⁵
45. Nevertheless, if telson clipping is not done properly and a greater proportion than the last third of the telson is clipped (because nervous tissue becomes thinner towards the end of the telson) there is some uncertainty about the level of discomfort. Therefore, Fisheries New Zealand welcomes feedback on any alternative, effective and non-invasive techniques to mark a rock lobster as recreationally caught.

Option 1B (*Status quo*): Benefits and Impacts

54. Under Option 1B, no additional benefits or costs would be borne by recreational fishers on top of what is currently required under the Amateur Regulations. Recreational fishers would not be required to telson clip rock lobsters in CRA 5, except within the Kaikōura Marine Area.

⁴ *Recreational rock lobster fisheries: An examination of the welfare implications of the management procedure of tail fin clipping*. A report prepared by the Department of Primary Industries and Resources South Australia, Government of South Australia, July 2003.

⁵ *Ibid.*

55. For telson clipping to have the greatest effect, there needs to be widespread buy-in and use of the measure. It is unlikely that the measure will be consistently applied throughout CRA 5 if it is not required under the Amateur Regulations, therefore, voluntary application of the measure, while possible under the existing *status quo*, would not be as effective as the proposed mandatory measure.

Discussion questions:

- **Do you agree that these are the correct options to help minimise illegal take and sale of rock lobster? If not, why not?**
- **Are you aware of any effective non-invasive techniques that could be used as an alternative to telson clipping?**
- **Are there any other benefits and impacts of telson clipping in addition to those discussed here?**

7 Proposal to Introduce an Accumulation Limit and associated Bag and Tag Conditions

7.1 BACKGROUND

Accumulation limits

56. Accumulation limits are intended to limit the ability to store and transport large quantities of fish. Such practices are central to organised and large scale illegal fishing and sales. An accumulation limit creates an additional compliance tool to address such illegal activities without unnecessarily constraining legitimate recreational fishing.
57. An accumulation limit of three daily bag limits (18 rock lobsters) was initially proposed by the Kaikōura Coastal Marine Guardians. Since August 2014, this limit has applied to the Kaikōura Marine Area, a small part of the wider CRA 5 fishery.
58. Accumulation limits also currently apply in a number of recreational fisheries across New Zealand, with different limits reflecting different characteristics of the fishery. This includes accumulation limits of:
- 20 paua across New Zealand (i.e. 2 daily bag limits of 10);
 - Four blue cod in the Challenger East and Marlborough Sounds Areas (i.e. two daily bag limits of two fish); and
 - 15 rock lobsters in the Fiordland (Te Moana o Atawhenua) Marine Area when harvested over three or more days, provided the daily bag limit of 6 rock lobsters is not exceeded on any day (except for Milford Sound where an accumulation limit of 3 applies).

Bag and tag conditions

59. 'Bag and tag' conditions are intended to assist with the enforcement of the accumulation limit. Fisheries New Zealand considers that bag and tag conditions are indispensable for catch inspections, because they enable Fishery Officers to promptly quantify and identify each fisher's accumulated catch to ensure individual fishers' daily bag limits are not exceeded (i.e. no more than six lobsters were taken per day, over three days or more).
60. Within the Kaikoura and Fiordland Marine Areas bag and tag conditions currently apply to satisfy the defence provisions, which allows recreational fishers to accumulate up to 18 (Kaikoura) or 15 (Fiordland) rock lobsters when taken within prescribed limits over three days or more.

Support for an accumulation limit in CRA 5

61. Feedback from the Te Waka a Māui me Ōna Toka Forum, the Fisheries New Zealand iwi customary fisheries forum that covers the South Island, suggests that there is tangata whenua support for the CRA 5 accumulation limit proposal.
62. Fisheries New Zealand conducted preliminary community engagement on the accumulation limit and bag and tag conditions in late October 2016 and received feedback from 20 individuals or groups.
63. Fifteen individuals or groups supported an accumulation limit of 18 in CRA 5 for the following reasons:
 - a) The necessity to restrain illegal sales of recreational catch; and
 - b) An accumulation limit of 18 is sufficient and helps to preserve the fishery for the use of future generations.
64. A group and an individual did not support an accumulation limit for in CRA 5 because:
 - a) 18 is too small a limit; and
 - b) It will reduce enjoyment of fishing and fishers' ability to catch rock lobster.

Applying the measures to the rest of New Zealand

65. CRA 5 faces a high threat to the fishery from poaching and black market activities in comparison to other South Island rock lobster stocks (CRA 7, 8 & 9). The trial of an accumulation limit and bag and tag conditions in the Kaikoura Marine Area has provided Fishery Officers with another tool in the toolkit to address illegal take in the fishery. It is proposed that these measures are extended to the rest of the CRA 5 fishery to aid compliance and enforcement.
66. Fisheries New Zealand is currently considering whether these measures could be introduced for some North Island rock lobsters stocks to address the high threat of poaching and black market activities.

7.2 PROPOSED OPTIONS

67. Regulatory options proposed under this review are outlined in Table 3, including the *status quo*. Fisheries New Zealand has not identified any non-regulatory options in detail, because voluntary application of the measure will not be as effective.

Table 3: Accumulation limit and associated bag and tag condition proposals for CRA 5.

Option	Description
2A	An accumulation limit and associated bag and tag conditions are mandatory for recreational fishers: Amend the Amateur Regulations to limit the number of rock lobsters that a recreational fisher can accumulate in CRA 5 to three daily bag limits (i.e. 18 rock lobsters) , and to introduce associated bag and tag conditions.
2B	Status quo: There is no accumulation limit for recreationally caught rock lobsters in CRA 5 nor mandatory bag and tag conditions, except in the Kaikōura Marine Area where the two measures currently apply. A recreational fisher can currently choose to voluntarily apply these measures.

Option 2A – An accumulation limit of three daily bag limits and associated bag and tag conditions are mandatory for recreational fishers in CRA 5

68. Like telson clipping, Option 2A would apply to all recreational fishers.
69. Under Option 2A it is proposed that:
1. Recreational fishers can only accumulate up to three daily bag limits of rock lobster (i.e. 18), provided the daily bag limit is not exceeded on any day; and
 2. Recreational fishers must comply with the following ‘bag and tag’ conditions that would require a fisher to hold rock lobster in a container or bag that only contains a single day’s catch, and is clearly labelled with the individual fisher’s name, date it was taken, number held and where it was taken from.
70. To introduce these measures, the Amateur Regulations would be amended to extend the defence provision that currently applies to the Kaikōura Marine Area to the wider CRA 5 fishery.⁶ The defence allows a person to be in possession of more than the daily bag limit of rock lobster if they can satisfy the court that the rock lobster were taken legally over a three days or more. The proposed bag and tag conditions are part of this defence and provide evidence that accumulated rock lobsters were taken within the daily bag limit over three days or more.

⁶ The Kaikōura Marine Area defence provision can be viewed here:
<http://www.legislation.govt.nz/regulation/public/2013/0482/latest/DLM6241539.html>

71. If a person was found taking or possessing more than the daily bag limit for rock lobsters the following infringements and offences may apply:
- A \$250 infringement fee for taking or possessing more than the daily limit, but not more than two times the daily limit;
 - A \$500 infringement fee for taking or possessing more than the daily limit, but not more than three times the daily limit; and
 - For repeated or more serious offending, a person commits an offence and is liable on conviction to a fine not exceeding \$10,000, if a person, on any day, takes or possesses more than the daily limit of rock lobster, but not more than three times the daily limit, and a fine not exceeding \$20,000 if a person takes or possesses more than three times the daily limit.
72. An accumulation limit and bag and tag conditions will not be made mandatory for customary fishers (catch taken under the authority of Māori Customary Fishing Regulations) because those regulations let iwi and hapu manage their non-commercial fishing in a way that best fits their local practices, without having a major effect on the fishing rights of others. However, tangata kaitiaki/tiaki will be encouraged to make an accumulation limit and bag and tag conditions a condition of customary permits or authorisations under this option.
73. Under this option, the proposed accumulation limit and bag and tag conditions would not apply to rock lobsters taken from outside the CRA 5 fishery. If rock lobsters from outside of CRA 5 (i.e. CRA 7 (Otago) or CRA 8 (Southern)) are brought into the CRA 5 area and the catch is inspected by Fishery Officers, it will be up to the recreational fisher to provide evidence that the lobster was harvested outside of CRA 5. Extending the measures to the whole CRA 5 area will encompass a greater number of fishers who take rock lobsters from within CRA 5 (i.e. from Marlborough Sounds and Christchurch), which should assist with the enforcement of the rules.

Option 2B – *Status quo* (no mandatory accumulation limit and bag and tag conditions, except for Kaikōura)

74. Under Option 2B, the existing management controls for recreational fishers in CRA 5 would continue. Recreational fishers will not be required to limit their accumulated catch or apply bag and tag conditions for CRA 5 rock lobster, except for in the Kaikōura Marine Area where these measures have applied since 2014.

Voluntary application of the measures

75. The Amateur Regulations do not prohibit a recreational fisher from choosing to voluntarily limit the total number of rock lobster they possess to 18 rock lobsters, and can voluntarily choose to bag and tag their catch.
76. For the measures to have the greatest effect there needs to be widespread buy-in and use of the measures. Fisheries New Zealand does not consider that the measure will be consistently applied throughout CRA 5 if it is not required under the Amateur Regulations, which would reduce its effectiveness. Fisheries New Zealand considers voluntary application of the measure would not be as effective as a mandatory measure.

77. If the *status quo* were maintained, a voluntary accumulation limit and bag and tag conditions could be encouraged via education throughout CRA 5 in the absence of a regulatory option. A purely voluntary measure is unlikely to be effective or to have widespread uptake.

7.3 ANALYSIS OF OPTIONS

Option 2A: Benefits

78. A rock lobster accumulation limit and associated ‘bag and tag’ conditions in CRA 5 is intended to prevent people from accumulating large quantities of rock lobster and thereby reduce opportunities for individuals to sell rock lobster, which is illegal.

Additional Compliance measure

79. A rock lobster accumulation limit, associated ‘bag and tag’ conditions, and the defence provision will provide Fisheries New Zealand with ability to quickly identify breaches of the agreed limit, and provide an option to prosecute those recreational fishers who possess more than the limit.
80. The Kaikōura Marine Guardians considered that an accumulation limit of three daily bag limits was reasonable. Given there are no sustainability concerns for the CRA 5 fishery at this time, Fisheries New Zealand considers that a limit of three daily bag limits provides a balance between addressing illegal activity in the CRA 5 fishery and impacting legitimate recreational fishers who wish to land lobsters for a feed. Setting the accumulation limit at three times the daily bag limit in CRA 5 is less likely to generate undesirable outcomes like fishers acting illegally to bypass the limit.

Low cost and simple to do

81. No special tools or devices are required to follow an accumulation limit or the associated bag and tag conditions; bagging and labelling catch can be done quickly and easily with ordinary plastic bags, containers and permanent markers, which are readily available and cheap; and no training is required.

Option 2A: Impacts

82. A rock lobster accumulation limit is likely to assist with addressing some aspect of illegal take (as discussed above), however it may not reduce illegal activities by determined offenders. Individuals involved with poaching and black market activities often operate in settings and locations where inspection and detection of offences are difficult. Other compliance tools are required to minimise this type of illegal activity.
83. Based on the experience of the introduction of the measures into the Kaikōura Marine Area, it took some time for fishers to comply with the new rules. Given this, Fisheries New Zealand will need to educate the community on the requirement (and method) to apply the accumulation limit and bag and tag catch, including updates to signage and the publication of guidance information for fishers and the community. Despite this, the measures are expected to be low cost measures to implement, which does not pose significant compliance costs beyond normal education requirements. Fisheries New Zealand considers that both enforceability of the rule and voluntary compliance by fishers are likely to be enhanced with extending the two measures to the entire CRA 5 area.

84. Even if an accumulation limit and associated bag and tag conditions are introduced to the CRA 5 area, Fisheries New Zealand will still need to maintain high levels of surveillance and monitoring activities in CRA 5 because of the relatively high risk of non-compliance.

Option 2B (*Status quo*): Benefits and Impacts

85. Under Option 2B, no additional benefits or costs would be borne by recreational fishers on top of what is currently required under the Amateur Regulations. Recreational fishers would not be required to apply the accumulation limit and bag and tag conditions to their catch in CRA 5, except within the Kaikōura Marine Area.
86. In comparison to Option 2A, this option does not affect the harvesting activity of legitimate recreational fishers who, for example, are on fishing trips for longer than three days and may accumulate more than 18 rock lobsters, as they can simply choose not to follow the accumulation limit.
87. For an accumulation limit to have the greatest effect, there needs to be widespread buy-in and use of the measure. Fisheries New Zealand does not consider that the measure will be consistently applied throughout CRA 5 if it is not required under the Amateur Regulations, therefore, voluntary application of the measure, while possible under the existing *status quo*, would not be as effective as the proposed mandatory measure.

Discussion questions:

- **Do you agree that these are the correct options to help minimise illegal take and sale of rock lobster? If not, why not?**
- **Is an accumulation limit of 18 rock lobsters appropriate? If not, why not?**
- **Are there any other benefits and impacts of accumulation than discussed here?**

8 Next steps

87. Following consultation, Fisheries New Zealand will develop a Decision Document for the Minister, who will make a decision on the future regulations for telson clipping, an accumulation limit, and bag and tag conditions for recreationally taken rock lobsters in CRA 5. Subject to approval by Cabinet, it is proposed that any changes to the regulations would be implemented by early 2019.
88. The Minister's decisions on the proposals will be posted on the Fisheries New Zealand website and social media pages later this year, and submitters will be notified directly of the decisions.
89. If changes to the regulations are made, Fishery Officers will educate the local community and recreational fishers about the new rules, including demonstrations of telson clipping. To support education initiatives, updates will be made to signage along the coastline and to information brochure material. Enforcement of the new rules will not pose significant compliance costs beyond normal education requirements.

90. Fisheries New Zealand will use existing compliance resources to monitor whether the proposed measures are effective and have made a difference to the number of recreationally caught rock lobsters being illegally bartered, bought, sold, or traded.

Discussion questions:

- **Do you agree with the proposed next steps?**
- **How should the proposals in this document best be implemented, enforced and monitored?**