

23 June 2020

Document Number: B20-0347

Hector's and Māui dolphin transition support package for commercial fishers

Purpose:

The purpose of this paper is to:

- seek your agreement to the eligibility criteria for the Hector's and Māui dolphin Threat Management Plan transition support funding scheme;
- confirm that you do not want to implement a cap on any ex gratia payment each eligible significantly impacted fisher or Licensed Fish Receiver would receive; and
- provide you with a letter to the Minister of Finance seeking his support for the scheme design and implementation.

Minister	Action Required:	Minister's Deadline
Minister of Fisheries	Agree to provide the attached letter to the Minister of Finance.	As soon as possible

Contact for telephone discussion (if required)

	Name	Position	Work	Mobile
Responsible Director	Emma Taylor	Director Fisheries Management	-	s 9(2)(a)
Responsible Manager	s 9(2)(a)	Manager Dolphin TMP	-	s 9(2)(a)
Principal Authors	s 9(2)(a)	Principal Advisor	-	s 9(2)(a)
		Principal Advisor	-	

Key Messages

1. Cabinet has authorised the Minister of Finance and you to agree to the means for delivering transitional support to fishers significantly impacted by the new fisheries measures to be put in place under a revised Hector's and Māui dolphin Threat Management Plan (TMP).
2. Ideally the details of transition support to significantly impacted parties would be provided at the same time as announcement on new fisheries measures. This would provide fishers some certainty around Government support, and allow them to consider their future operations as soon as possible prior to implementation of fisheries measures on 1 October 2020.
3. A letter requesting the Minister of Finance's urgent consideration of the transition support scheme design is attached for you to sign. The letter outlines your preferred scheme design as noted in your decision on B20-0253 and why you consider that the precedent risk of expectation of future financial support by fishers can be effectively mitigated.
4. We propose a small change to the eligibility criteria previously outlined in B20-0253 to ensure that only fishers who hold a current fishing permit, and have not changed to a fishing method or area not impacted by the measures are eligible for an ex gratia payment. This change will remove ^{s 9(2)(b)(ii)} that would otherwise have been eligible, but who have left the industry or are no longer impacted by the measures (fishing elsewhere).
5. In your decision you did not indicate whether an individual cap on the size of an ex gratia payment each impacted party can receive should be applied. We recommend a cap because it will help to limit precedent, and also set the amount of Government support per individual to levels considered reasonable, noting that the intent of the scheme is not to cover the full amount of impact. If a cap is applied we recommend that it limit individual payments, scaled based on value of catch taken, to a maximum of \$300k. The cap amount is arbitrary. We seek confirmation that you do not want an individual cap to be applied.

Recommendations

6. Fisheries New Zealand recommends that you:

- a) **Note** that we have reflected your comments on B20-0253 in the proposed design of the Hector's and Māui dolphin Threat Management Plan transition support package, including the eligibility criteria.

Noted

- b) **Agree** to the additional eligibility criteria for financial support:

- Fishers must hold a current fishing permit;

Agreed / Not Agreed

- Fishers must not have changed to a fishing method or area not impacted by the measures as at May 2020; and

Agreed / Not Agreed

- Licensed fish receivers (LFRs) must have continued to receive fish from fishers, using the method/area impacted as at May 2020.

Agreed / Not Agreed

- c) **Agree** that any individual ex gratia payment should be subject to a cap.

Agreed / Not Agreed

- d) **Agree** that if individual ex gratia payments are capped, a maximum payment of \$300K would apply.

Agreed / Not Agreed

- e) **Agree** to sign and forward the attached letter to the Minister of Finance.

Agreed / Not Agreed

Emma Taylor
Director Fisheries Management
Fisheries New Zealand

Hon Stuart Nash
Minister of Fisheries

/ / 2020

Background

Issue

7. On 22 June 2020, Cabinet considered your paper titled 'Hector's and Māui Dolphin Threat Management Plan (TMP) Review – Fisheries Measures' [Sub19-0131 refers]. Cabinet agreed to the following recommendations:
 - a. Agree to authorise the Minister of Finance and the Minister of Fisheries to agree to the means for delivering transitional support of up to \$7.1 million through ex gratia payments and/or other mechanisms, to parties that are significantly affected by the fisheries measures I intend to put in place;
 - b. Agree to authorise the Minister of Finance and the Minister of Fisheries to agree to any individual ex gratia payments in excess of \$75,000, provided they are met from within the \$7.1 million cap; and
 - c. Agree that, subject to agreement to the funding, the announcement of fisheries measures and transition support for fishers occur at the same time.
8. You have asked for a letter to seek the Minister of Finance's approval of the scheme design as soon as possible to allow details of the scheme to be released (letter attached). This will provide fishers some certainty around Government support and allow them to make decisions regarding their future as soon as possible prior to implementation of fisheries measures on 1 October 2020.
9. Options for the scheme design, including the proposed eligibility criteria for identifying those permit holders significantly impacted by the new measures, were provided to you previously (B20-0253 refers). That briefing also outlined key factors that Fisheries New Zealand considers will limit, although not remove, risk of precedent/expectation.
10. After consideration of that briefing you agreed to implement Option 1 outlined in that paper which consisted of:
 - a. directing ex gratia payments to fishers who are 20% or more impacted (payments would be scaled based on value of catch taken in the areas by the methods impacted); and
 - b. LFRs would have the value of their ex gratia payment reduced by 30%.
11. The scheme design does not place any restrictions on how the support funding may be used by fishers.
12. You are planning to consult on further measures to manage the remaining fisheries risk to Hector's dolphin in the South Island, which if supported would likely come into effect in 2021. Parties significantly impacted by these further measures will also be eligible for Transitional Support, and this should be provided on the same criteria. Fisheries New Zealand propose that \$1 million of the total \$7.1 transition support package should be set aside for these future

payments. If the impact of any future measures is more extensive than currently assumed, we may need to adjust the eligibility criteria to stay within the total package, or seek additional funding.

Revised eligibility criteria

13. As part of operational testing of the transition scheme and the eligibility criteria, we identified a small group of fishers that meet the initial criteria outlined in B20-0253 but may no longer have commitment to, or be dependent on, the fishery or method that is impacted by your decisions.

They include:

- a. s 9(2)(b)(ii) whose fishing permit has expired and they have exited the fishery, and;
- b. s 9(2)(b)(ii)

14. We do not think it is appropriate for these fishers to be eligible to receive Government support as they are no longer significantly impacted by the measures. To ensure consistency across the scheme we propose to adjust the scheme eligibility criteria by requiring that:

- a. The fisher holds a current fishing permit; and
- b. The fisher has not changed to a fishing method or area not impacted by the measures, or in the case of an LFR stopped receiving fish from fishers, using the method/area impacted as at May 2020.

15. If you agree to these additional criteria then the number of significantly impacted permit holders will decrease from s 9(2)(b)(ii). The number of significantly impacted LFRs remains s 9(2) for the measures to be implemented 1 October 2020.

Cap on payments to significantly impacted parties

16. We seek your confirmation that you do not wish to implement a cap on the amount each significantly impacted party can receive via ex gratia payment. In your decisions on B20-0253 you did not indicate a preference for placing a limit on the maximum amount a fisher or LFR could receive under the scheme.
17. Fisheries New Zealand has a preference for implementing an individual cap, and suggest that it be set at \$300k. We acknowledge that the cap amount is arbitrary and increases the risk that fishers would view the amounts allocated as insufficient to support transition in some cases. However, it provides a mechanism for you to determine the maximum amount of financial support you consider reasonable given the intent of the scheme is not to fully cover all impacts.

18. s 9(2)(g)(i) They also provide some

certainty to applicants about fund allocation and helps to ensure a degree of equity in payments between those eligible.

Letter to Minister of Finance

19. We have worked with Treasury officials on the scheme design. Treasury has indicated that it expects that the Minister of Finance's primary focus will be on limiting precedent of the support package to ensure that it does not result in similar expectations of Government support to mitigate impacts of future sustainability measures. Fisheries New Zealand considers the context in which the support is being provided and the scheme design itself will limit future expectation, but it is not possible to completely remove such risk.
20. The letter also notes that operation of the scheme is limited to the 2020/21 financial year. ^{s 9(2)(g)(i)} [REDACTED]
[REDACTED] Funds will not be allocated until immediately after measures become effective on 1 October 2020. If allocation of funds is significantly delayed ^{s 9(2)(g)(i)} [REDACTED] then you will need to seek Cabinet approval to continue operation of the scheme into the following financial year.
21. The attached letter (Appendix One) sets out key points of the scheme design and how we consider risk of future expectation can best be mitigated.

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B20-0347

Hon Grant Robertson
Minister of Finance
Parliament Buildings
Wellington

Dear Grant

Revised Hector's and Māui Dolphin Threat Management Plan: Transitional Support Package

I am seeking your agreement on the means for delivery of a Transitional Support Package of up to \$7.1 million to parties that are significantly affected by the fisheries measures as directed by Cabinet at its meeting of 22 June 2020.

This letter outlines the proposed scheme design, and why I consider future expectation of such support can be mitigated.

I want to announce the details of the Transitional Support Package at the same time, or as soon as possible after, my decisions on fisheries measures are made public. This will ensure impacted fishers are provided some certainty about support from Government as they consider the viability of transitioning to alternative fishing methods, or exiting the fishery. In this context, I respectfully request your urgent attention to this matter.

Background

On 22 June 2020, Cabinet considered the paper titled 'Hector's and Māui Dolphin Threat Management Plan (TMP) Review – Fisheries Measures' [Sub19-0131 refers]. Cabinet agreed to the following recommendations:

- i. Agree to authorise the Minister of Finance and the Minister of Fisheries to agree to the means for delivering transitional support of up to \$7.1 million through ex gratia payments and/or other mechanisms, to parties that are significantly affected by the fisheries measures I (Minister of Fisheries) intend to put in place;
- ii. Agree to authorise the Minister of Finance and the Minister of Fisheries to agree to any individual ex gratia payments in excess of \$75,000, provided they are met from within the \$7.1 million cap; and
- iii. Agree that, subject to agreement to the funding, the announcement of fisheries measures and transition support for fishers occur at the same time.

Delivering transitional support

There are two groups of commercial operators that are potentially impacted by the proposed measures: the fishers who operate in the area that are affected by the method closures (permit holders), and the processing operations called Licensed Fish Receivers (LFRs) who purchase fish from these fishers to on-sell.

My officials estimate that 58 permit holders and 26 LFRs operate in the proposed closure areas and will be impacted to some degree by the new fisheries measures. I do not propose that each of these impacted fishers or operations should receive support. I consider that the support should be focused on those most impacted by measures, and that have the most commitment to and dependence on the methods and areas concerned.

To target support to those fishers most impacted I propose that they must have a current commitment and dependence on the method/area impacted:

- A fisher must hold current fishing permit;
- Have taken over 1 tonne of green-weight fish from the areas impacted within the 2016/17, 2017/18, and 2018/19 October fishing years; and
- Have fished using the method, in the area, impacted within the period October 2018 to May 2020.

To determine the significance of impact (i.e. percent impact) and the level of support received:

- An assessment of catch from areas to be closed to the specified catch methods (trawl and set-net), and weighted based on the relative value of species in comparison to total catch across all methods and areas (during the best 12 consecutive months of the 2016/17, 2017/18, and 2018/19 October fishing years).

The criteria to determine eligibility of LFRs are the same as for fishers but relates to fish received rather than catch.

Thresholds for eligibility

To be eligible permit holders and LFRs must meet or exceed one of two percent impact thresholds. The thresholds are:

- 10% or greater to be deemed “impacted”; and
- 20% or greater to be deemed “significantly impacted”.

Those that meet the 10% threshold criteria would each be eligible to receive up to \$5000 worth of business advice services (based on actual and reasonable costs). This advice is intended to help the fisher determine the impact of the measures on their overall business and how best to mitigate that impact. The total cost of this business advice support if taken up by all fishers impacted by more than 10% would be \$125,000.

Those that meet the 20% threshold or higher are considered significantly impacted under the scheme design, and would be eligible for additional financial support in the

form of a one-off ex gratia payment. The size of the payment will be scaled relative to the extent of impact on them, regardless of whether they choose to transition to a new dolphin-safe method or exit the industry. I do not propose restrictions on how fishers use the funds provided.

The thresholds were chosen after analysis of a variety of alternatives from 10 to 50%. The higher the thresholds, the fewer the number of parties eligible and vice versa. I consider the proposed thresholds adequately define and limit those significantly impacted while also reducing the number of fishers at the margin between thresholds that would be incentivized to seek review.

Treatment of LFRs

I recommend that any payment made to LFRs is made at a reduced level as would be calculated for a permit holder, to reflect the difference in cost structure between operations. LFRs do not pay for fish that is not caught, typically have less sunk capital than fishers, and they can (in principle) source fish from other permit holders. LFRs, in general, have a greater ability to adapt to changes resulting from sustainability measures compared to permit holders. The reduction factor I recommend is 30% to any LFR payment.

Second round of Transitional Support

I am planning to consult on further measures to manage the remaining fisheries risk to Hector's dolphin in the South Island, which if supported would likely come into effect in 2021. Parties significantly impacted by these further measures will also be eligible for Transitional Support, and this should be provided on the same criteria. I have decided that \$1 million of the total \$7.1 transition support package should be set aside for these future payments. If the impact of any future measures is more extensive than currently assumed, we may need to adjust the eligibility criteria to stay within the total package, or seek additional funding.

Operation of the scheme

The amount of money each fisher would receive is scaled by the cost of impact as calculated under the threshold criteria rather than cost of transition or exit.

The maximum a significantly impacted permit holder or LFR would receive under the proposed criteria is approximately s 9(2)(b)(ii) and the minimum would be approximately s 9(2)(b)(iii). An outline of the scheme design operation is provided in Appendix One.

The scheme design will be publically available to increase transparency around its operation. The right of review under the scheme is limited to whether Fisheries New Zealand calculation of catch taken from the impacted area is correct. Valid catch returns are the only information a fisher may use as part of the review. Outside of this review process, no negotiation will be entered into on the amount of money received as a result of operation of the scheme.

The operation of the scheme is limited to the 2020/21 financial year. s 9(2)(g)(i)



Managing future expectation

There is no obligation for the Crown to provide financial support or compensation when making fisheries sustainability decisions. There is a risk in doing so that future expectations are created when these types of measures (which are a key fisheries management tool) are implemented in future. I believe this risk is mitigated by the special circumstances we are operating in and the scheme design.

The current context is unique. The need to reduce the risk of fishing-related mortality of Māui dolphin to effectively zero to meet the Threat Management Plan fisheries objectives is unprecedented.

The precedent risk is more difficult to manage for Hector's dolphin. The measures needed to achieve the desired outcomes for Hector's dolphins in the South Island are less extensive than for Māui dolphins, but some necessary measures, such as prohibiting the use of set-nets, are likely to have similarly severe consequences for the livelihoods of some fishers. Therefore I recommend the transition scheme apply to those significantly impacted by measures to protect both Māui dolphins and Hector's dolphins.

In addition these measures are necessary at a time when the country is facing broader economic challenges due to COVID 19. In combination, these circumstances place unique pressures on fishers and processors and the local communities that they support and support them.

The tight criteria (summarised above) mean that only a small subset s 9(2)(b)(ii) of the 58 permit holders and 26 LFRs that operate in the affected areas (and will be impacted to some degree) are eligible for ex gratia payments. An additional s 9(2)(b)(ii) are eligible for business advice only.

Limiting the time period for operation of the scheme to the 2020/21 financial year, and the use of ex gratia payments as the means of support for those significantly impacted also limits precedent.

Ex gratia payments in excess of \$75,000

I plan to complete the assessment and payment of financial support on or shortly after 2 October 2020, as the new measures are to come into force on 1 October 2020.

For individual ex gratia payments to individuals in excess of \$75,000 I will be seeking your agreement, as per the Cabinet paper decision.

Yours sincerely

Hon Stuart Nash
Minister for Fisheries

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Appendix One: Scheme design outline

