



# Review of Rock Lobster Regulations

Final Advice Paper

17 May 2013



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# 1 FINAL ADVICE PAPER: REVIEW OF CRA 3, CRA 7 AND CRA 8 ROCK LOBSTER REGULATORY CONTROLS

## 1.1 Executive summary

The National Rock Lobster Management Group (**NRLMG**) requests that you make decisions on a review of rock lobster regulatory controls in the CRA 3 (Gisborne), CRA 7 (Otago), and CRA 8 (Southern) rock lobster fisheries.

Commercial fisheries regulations that control the commercial minimum legal size (**MLS**), taking, landing, transport, processing and sale of rock lobsters in CRA 3, CRA 7 and CRA 8 are commonly referred to as Concession Area Regulations (**Concession Area Regulations**). The Concession Area Regulations, in particular, allow commercial fishers to take and land rock lobsters at a different MLS than the MLS that applies in other management areas and for recreational fishers across New Zealand (i.e. 54 mm tail width for males and 60 mm tail width for females).

A review of the Concession Area Regulations was initiated by the NRLMG because the regulations were possibly limiting the ability for the rock lobster industry to maximise benefits from the use of the resource, and the fisheries management benefits for some or all of the regulations was in doubt under the current system. A number of the regulations were introduced prior to rock lobster entering the Quota Management System (**QMS**) and before commercial recordkeeping was required.

The regulations pertaining to the commercial MLS are excluded from this review because your predecessor, the Hon David Carter, decided to retain these in May 2012.

The NRLMG propose amendments to the regulations applying to the CRA 3, CRA 7 and CRA 8 rock lobster fisheries to ensure desired fisheries management outcomes of sustainable utilisation and cost-effective compliance and enforcement are achieved.

The NRLMG requests that you consider 19 final proposals to amend regulations (Table 1.1). This includes proposals to:

- amend the recreational MLS in CRA 3, CRA 7 and CRA 8;
- remove closed seasons for commercial fishing in CRA 3 and CRA 7;
- remove an area closed to commercial fishing in CRA 7;
- remove or amend vessel, landing, exporting, packaging, domestic sale and reporting requirements in CRA 3, CRA 7 and CRA 8.

Table 1.1 below also provides an outline of the potential impacts of each regulatory change proposal on recreational and commercial sector utilisation benefits, and Ministry for Primary Industries (**MPI**) compliance risks and resources. Note the status quo options are not presented in Table 1.1.

**Table 1.1: Summary of NRLMG final regulatory change proposals and outline of impacts on sector benefits and MPI compliance costs**

| Change Proposal <sup>1</sup>  | Recreational benefits   | Commercial benefits  | MPI compliance risks/resources   |
|---|---|--|--|
| <b>Allow</b> recreational fishers to take CRA 3, CRA 7 and CRA 8 rock lobsters at the same MLS that applies to commercial fishers (Options 1B, 2B & 3B)                                 | may increase availability and reduce negative perceptions of inequity in CRA3 & CRA 7 (few negative views are held for CRA 8) | minimal impact on utilisation benefits   | risk of an increase in poaching/black market activities and unjustifiable increase in MPI costs                                  |
| <b>Remove</b> the CRA 3 commercial May closure (Option 4B)  | unlikely change in access   | reduction in operational costs   | medium compliance risk/ some reduction in monitoring effort  |
| <b>Remove</b> the CRA 7 commercial closure from 20 November to 31 May (Option 5B)   | unlikely change in access   | fishing season extension/ increased flexibility  | low compliance risk/ minimal increase in monitoring effort   |
| <b>Remove</b> the commercial fishing prohibition for the 'Otago Concession Buffer Zone' (Option 6B)   | unlikely change in access   | access to previously unavailable fishing grounds   | low compliance risk/ unlikely change in monitoring effort  |
| <b>Remove</b> the CRA 7 vessel requirements for rock lobsters between the CRA 7 commercial MLS and 54/60 mm tail width (Option 7B)  | no impact   | reduction in operational barriers  | low compliance risk/ regulation considered redundant   |
| <b>Amend</b> the CRA 7 and CRA 8 landing requirements for rock lobsters between the commercial MLS and 54/60 mm tail width (Options 8B & 9B)  | no impact   | reduction in operational barriers  | compliance risk low for CRA 7 and medium for CRA 8/ unlikely change in monitoring effort for CRA 7, potential increase for CRA 8 |
| <b>Allow</b> domestic sales of CRA 3 and CRA 8 rock lobsters between the commercial MLS and 54/60 mm tail width without any mandatory product identification (Options 10B & 12B)        | no impact   | increased domestic market opportunities  | medium compliance risk/ unlikely change in monitoring effort (at least in the short-term)  |
| <b>Continue</b> to allow domestic sales of CRA 7 rock lobsters between the commercial MLS and 54/60 mm tail width subject to new product identification requirements (Option 11B)       | no impact   | increased domestic market opportunities/ potential increase in industry product identification costs | low compliance risk/ unlikely change in monitoring effort  |
| <b>Amend</b> the CRA 3, CRA 7 and CRA 8 export container labelling/packaging requirements for rock lobsters between the commercial MLS and 54/60 mm tail width (Options 13B, 14B & 15B) | no impact   | reduction in export processing costs for CRA 7 & CRA 8, minimal change for CRA 3                     | low compliance risk/ regulation considered redundant   |
| <b>Amend</b> the CRA 3 and CRA 7 export requirements for rock lobsters between the commercial MLS and 54/60 mm tail width (Options 16B & 17B)   | no impact   | increased export flexibility for CRA 3 & CRA 7   | low compliance risk/ unlikely change in monitoring effort  |
| <b>Remove</b> the CRA 7 and CRA 8 export notification/record requirements for rock lobsters between the commercial MLS and 54/60 mm tail width (Options 18B & 19B)                      | no impact   | potential decrease in industry compliance costs  | low compliance risk/ unlikely change in monitoring effort  |

<sup>1</sup> The 'winter CRA 3 commercial MLS' allows commercial fishers to take male rock lobsters at or above 52 mm tail width during June, July and August; the 'CRA 7 commercial MLS' allows commercial fishers to take male and female rock lobsters at or above 127 mm tail length from 1 June to 19 November; the 'CRA 8 commercial MLS' allows commercial fishers to take female rock lobsters at or above 57 mm tail width at any time of year.

In summary, the proposed amendments to the regulations:

- 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.
- Are unlikely to have negative impacts on non-commercial fishers for Options 4B to 19B. This is because most of the proposals relate to regulatory controls after rock lobsters have been taken from the water. The recreational MLS proposals (Options 1B to 3B) may provide increased recreational utilisation benefits.
- Have the potential to reduce MPI compliance costs (except for the recreational MLS proposal that will result in significant costs).

The NRLMG reached consensus decisions for many of the proposals that you are being asked to consider in this Final Advice Paper (**FAP**). Exceptions to this are outlined below.

The NRLMG were unable to reach agreement on the proposal to allow recreational fishers access to the different commercial MLS in CRA 3, CRA 7 and CRA 8:

- Customary, recreational and commercial members recommend allowing recreational fishers access to the commercial MLS because it provides an opportunity to restore equity and fairness to the rock lobster MLS in CRA 3, CRA 7 and CRA 8. Recreational members, however, state that they want access to CRA 3 male rock lobsters at or above 52 mm tail width year round instead of during June, July and August as currently applies to CRA 3 commercial fishers.
- MPI members of the NRLMG do not support the recreational MLS proposal for any area because they consider that there will be significant and ongoing compliance costs of education, monitoring and enforcement and that those costs cannot be justified in the current operating environment. The NRLMG sector members disagree with these views.

NRLMG recreational members do not support the proposals to remove the CRA 3 and CRA 7 commercial closures, remove the CRA 7 commercial closed area, or change the CRA 3, CRA 7 and CRA 8 domestic sale provisions until they are granted equal access to the commercial MLS.

The NRLMG note in general that recreational submitters and a CRA 3 customary Maori submitter do not support any change to the CRA 3, CRA 7 and CRA 8 commercial regulations until equal access to the commercial MLS is granted to recreational fishers. Commercial submitters support removal or amendments to those commercial regulations that are limiting their ability to maximise benefits from the rock lobster resource.

## 1.2 Summary of recommendations

### CRA 3 recreational minimum legal size

The NRLMG recommends that you choose either:

**Option 1A (MPI preferred option)**

Agreed / Not Agreed

- i. Agree to retain the recreational minimum legal size of 54 mm tail width for male rock lobsters and 60 mm tail width for female rock lobsters at any time of year in CRA 3;

OR

**Option 1B (NRLMG sector member preferred option)**

Agreed / Not Agreed

- ii. Agree to amend the recreational regulations to allow recreational fishers to take and possess CRA 3 male rock lobsters at or above 52 mm tail width during June, July and August, from 1 June 2014.

### CRA 7 recreational minimum legal size

The NRLMG recommends that you choose either:

**Option 2A (MPI preferred option)**

Agreed / Not Agreed

- i. Agree to retain the recreational minimum legal size of 54 mm tail width for male rock lobsters and 60 mm tail width for female rock lobsters at any time of year in CRA 7;

OR

**Option 2B (NRLMG sector member preferred option)**

Agreed / Not Agreed

- ii. Agree, in principle, to amend the recreational regulations to allow recreational fishers to take and possess CRA 7 male and female rock lobsters at or above a tail width equivalent of the existing commercial minimum legal size of 127 mm tail length at any time of year;

AND

Noted

- iii. Note if you agree to Option 2B, the NRLMG propose to undertake additional consultation and analysis to determine an equivalent tail width measure of the existing commercial tail length measure (this is so that the method of measuring CRA 7 rock lobsters corresponds with all other management areas). This additional work will enable implementation of Option 2B during 2014 (the exact timing is to be determined).

### CRA 8 recreational minimum legal size

The NRLMG recommends that you choose either:

**Option 3A (MPI preferred option)**

Agreed / Not Agreed

- i. Agree to retain the recreational minimum legal size of 54 mm tail width for male rock lobsters and 60 mm tail width for female rock lobsters at any time of year in CRA 8;

OR

**Option 3B (NRLMG sector member preferred option)**

Agreed / Not Agreed

- ii. Agree to amend the recreational regulations to allow recreational fishers to take and possess CRA 8 female rock lobsters at or above 57 mm tail width at any time of year, from 1 October 2013.

### CRA 3 commercial May closure

The NRLMG recommends that you choose either:

**Option 4A** (NRLMG recreational member preferred option unless you agree to Option 1B)

Agreed / Not Agreed

i. Agree to retain the CRA 3 commercial closure during May of each year;

OR

**Option 4B** (NRLMG customary, commercial and MPI member preferred option)

Agreed / Not Agreed

ii. Agree to remove the CRA 3 commercial closure during May of each year, from 2014.

### CRA 7 commercial closure

The NRLMG recommends that you choose either:

**Option 5A** (NRLMG recreational member preferred option unless you agree to Option 2B)

Agreed / Not Agreed

i. Agree to retain the CRA 7 commercial closure during the period 20 November to 31 May;

OR

**Option 5B** (NRLMG customary, commercial and MPI member preferred option)

Agreed / Not Agreed

ii. Agree to remove the CRA 7 commercial closure during the period 20 November to 31 May, from 1 October 2013.

### CRA 7 commercial closed area

The NRLMG recommends that you choose either:

**Option 6A** (NRLMG recreational member preferred option unless you agree to Option 2B)

Agreed / Not Agreed

i. Agree to retain the commercial fishing prohibition for the 'Otago Concession Buffer Zone';

OR

**Option 6B** (NRLMG customary, commercial and MPI member preferred option)

Agreed / Not Agreed

ii. Agree to remove the commercial fishing prohibition for the 'Otago Concession Buffer Zone', from 1 October 2013.

### CRA 7 vessel requirements

The NRLMG recommends that you choose either:

**Option 7A**

Agreed / Not Agreed

i. Agree to retain the requirement for CRA 7 commercial fishers to register their fishing vessel at Dunedin and domicile it at a port or place within the 'Otago Concession Area', when taking CRA 7 male and female rock lobsters between the CRA 7 commercial MLS and 54/60 mm TW;

OR

**Option 7B** (NRLMG preferred option)

Agreed / Not Agreed

ii. Agree to remove the requirement for CRA 7 commercial fishers to register their fishing vessel at Dunedin and domicile it at a port or place within the 'Otago Concession Area', when taking CRA 7 male and female rock lobsters between the CRA 7 commercial MLS and 54/60 mm TW, from 1 October 2013.

### CRA 7 landing requirements

The NRLMG recommends that you choose either:

#### **Option 8A**

Agreed / Not Agreed

- i. Agree to retain the requirement that CRA 7 male and female rock lobsters between the CRA 7 commercial MLS and 54/60 mm tail width must be: 1) landed within the 'Otago Concession Area' at the port or place where the vessel is domiciled; and, 2) delivered to a licensed fish receiver situated in Otago;

OR

#### **Option 8B (NRLMG preferred option)**

Agreed / Not Agreed

- ii. Agree to amend the requirement for CRA 7 male and female rock lobsters between the CRA 7 commercial MLS and 54/60 mm tail width to be: 1) landed at a point lying within quota management area 7; and, 2) delivered and sold to a licensed fish receiver within the 'Otago Region' (or elsewhere subject to prior approval and conditions), from 1 October 2013.

### CRA 8 landing requirements

The NRLMG recommends that you choose either:

#### **Option 9A (NRLMG preferred option)**

Agreed / Not Agreed

- i. Agree to retain the requirement that CRA 8 female rock lobsters between the CRA 8 commercial MLS and 60 mm tail width must be: 1) landed at a point lying within quota management area 8; and, 2) delivered and sold to a licensed fish receiver in the 'Southland Region' (or elsewhere subject to prior approval and conditions);

OR

#### **Option 9B**

Agreed / Not Agreed

- ii. Agree to amend the requirement for CRA 8 female rock lobsters between the CRA 8 commercial MLS and 60 mm tail width to be: 1) landed at a point lying within quota management area 8 (or elsewhere subject to prior approval and conditions); and, 2) delivered and sold to a licensed fish receiver, from 1 October 2013.

### CRA 3 domestic sales

The NRLMG recommends that you choose either:

#### **Option 10A (NRLMG recreational member preferred option unless you agree to Option 1B)**

Agreed / Not Agreed

- i. Agree to retain the prohibition on domestic sales of CRA 3 male rock lobsters between the winter CRA 3 commercial MLS and 54 mm tail width;

OR

#### **Option 10B (NRLMG customary, commercial and MPI member preferred option)**

Agreed / Not Agreed

- ii. Agree to allow domestic sale and purchase of CRA 3 male rock lobsters between the winter CRA 3 commercial MLS and 54 mm tail width during 1 June to 30 September of any year, without any mandatory product identification, from 1 October 2013.

### CRA 7 domestic sales

The NRLMG recommends that you choose either:

**Option 11A** (NRLMG recreational member preferred option unless you agree to Option 2B)

Agreed / Not Agreed

- i. Agree to retain the requirement for every CRA 7 male and female rock lobster between the CRA 7 commercial MLS and 54/60 mm tail width, which is intended for sale in New Zealand, to be packed into a 'consumer pack';

OR

**Option 11B** (NRLMG customary, commercial and MPI member preferred option)

Agreed / Not Agreed

- ii. Agree to remove the 'consumer pack' requirements for the domestic sale of CRA 7 male and female rock lobsters between the CRA 7 commercial MLS and 54/60 mm tail width and introduce new product identification requirements, from 1 October 2013.

### CRA 8 domestic sales

The NRLMG recommends that you choose either:

**Option 12A** (NRLMG recreational member preferred option unless you agree to Option 3B)

Agreed / Not Agreed

- i. Agree to retain the prohibition on domestic sales of CRA 8 female rock lobsters between the CRA 8 commercial MLS and 60 mm tail width;

OR

**Option 12B** (NRLMG customary, commercial and MPI member preferred option)

Agreed / Not Agreed

- ii. Agree to allow domestic sales of CRA 8 female rock lobsters between the CRA 8 commercial MLS and 60 mm tail width without any mandatory product identification, from 1 October 2013.

### CRA 3 export container labelling requirements

The NRLMG recommends that you choose either:

**Option 13A**

Agreed / Not Agreed

- i. Agree to retain the requirement that CRA 3 male rock lobsters between the winter CRA 3 commercial MLS and 54 mm tail width, that are intended for export, must be held in containers marked 'Gisborne rock lobsters';

OR

**Option 13B** (NRLMG preferred option)

Agreed / Not Agreed

- ii. Agree for CRA 3 male rock lobsters between the winter CRA 3 commercial MLS and 54 mm tail width, from 1 October 2013: 1) to remove the requirement for rock lobsters that are intended for export to be held in containers marked 'Gisborne rock lobsters'; and, 2) conditional on allowing CRA 3 domestic sales (Option 10B), amend the regulations to require rock lobsters that are intended for sale in New Zealand to be held in containers marked 'CRA 3 rock lobsters'.

### CRA 7 export packaging requirements

The NRLMG recommends that you choose either:

#### **Option 14A**

**Agreed / Not Agreed**

- i. Agree to retain the requirement for CRA 7 male and female rock lobsters between the CRA 7 commercial MLS and 54/60 mm tail width, that are intended for export, to be packed in a container that is sealed under the direction of a Fishery Officer;

OR

#### **Option 14B (NRLMG preferred option)**

**Agreed / Not Agreed**

- ii. Agree to remove the requirement for CRA 7 male and female rock lobsters between the CRA 7 commercial MLS and 54/60 mm tail width, that are intended for export, to be packed in a container that is sealed under the direction of a Fishery Officer, from 1 October 2013.

### CRA 8 export labelling and packaging requirements

The NRLMG recommends that you choose either:

#### **Option 15A**

**Agreed / Not Agreed**

- i. Agree to retain the requirement that CRA 8 female rock lobsters between the CRA 8 commercial MLS and 60 mm tail width must be packed in a sealed and marked 'Southland concession pack';

OR

#### **Option 15B (NRLMG preferred option)**

**Agreed / Not Agreed**

- ii. Agree for CRA 8 female rock lobsters between the CRA 8 commercial MLS and 60 mm tail width, from 1 October 2013: 1) to remove the requirement for rock lobsters that are intended for export to be packed in a sealed and marked 'Southland concession pack'; and, 2) conditional on allowing CRA 8 domestic sales (Option 12B), amend the regulations to require rock lobsters that are intended for sale in New Zealand to be held in containers marked 'CRA 8 rock lobsters'.

### CRA 3 export requirements

The NRLMG recommends that you choose either:

#### **Option 16A**

**Agreed / Not Agreed**

- i. Agree to retain the requirement that CRA 3 male rock lobsters between the winter CRA 3 commercial MLS and 54 mm tail width must be exported from a licensed fish receiver only;

OR

#### **Option 16B (NRLMG preferred option)**

**Agreed / Not Agreed**

- ii. Agree to amend the export requirements for CRA 3 male rock lobsters between the winter CRA 3 commercial MLS and 54 mm tail width to either: 1) be exported directly from a licensed fish receiver; or, 2) delivered to an export transhipment point subject to prior approval and conditions, from 1 October 2013.

### CRA 7 export requirements

The NRLMG recommends that you choose either:

#### **Option 17A**

**Agreed / Not Agreed**

- i. Agree to retain the requirement that CRA 7 male and female rock lobsters between the CRA 7 commercial MLS and 54/60 mm tail width must be exported from a CRA 7 licensed fish receiver only;

OR

**Option 17B (NRLMG preferred option)**

**Agreed / Not Agreed**

- ii. Agree to amend the export requirements for CRA 7 male and female rock lobsters between the CRA 7 commercial MLS and 54/60 mm tail width to either: 1) be exported directly from a licensed fish receiver; or, 2) delivered to an export transshipment point subject to prior approval and conditions, from 1 October 2013.

**CRA 7 export notification requirements**

The NRLMG recommends that you choose either:

**Option 18A**

**Agreed / Not Agreed**

- i. Agree to retain the requirement for a licensed fish receiver to notify export particulars to MPI when exporting CRA 7 male and female rock lobsters between the CRA 7 commercial MLS and 54/60 mm tail width;

OR

**Option 18B (NRLMG preferred option)**

**Agreed / Not Agreed**

- ii. Agree to remove the requirement for a licensed fish receiver to notify export particulars to MPI when exporting CRA 7 lobsters between the CRA 7 commercial MLS and 54/60 mm tail width, from 1 October 2013.

**CRA 8 export notification and record requirements**

The NRLMG recommends that you choose either:

**Option 19A**

**Agreed / Not Agreed**

- i. Agree to retain the requirements for a licensed fish receiver: 1) to notify export particulars to MPI; and, 2) maintain specific records when exporting CRA 8 female rock lobsters between the CRA 8 commercial MLS and 60 mm tail width;

OR

**Option 19B (NRLMG preferred option)**

**Agreed / Not Agreed**

- ii. Agree to remove the requirements for a licensed fish receiver to notify export particulars to MPI and maintain specific records for CRA 8 female lobsters between the CRA 8 commercial MLS and 60 mm tail width, from 1 October 2013.



Dr John McKoy  
Chair  
National Rock Lobster Management Group



Hon Nathan Guy  
Minister for Primary Industries

27/5/2013

## 1.3 Background information

In this part, background information is presented on a review of CRA 3, CRA 7 and CRA 8 rock lobster regulations, including review objectives, the current situation and the problem definition.

### 1.3.1 Review objectives

A review of commercial regulations pertaining to the CRA 3, CRA 7 and CRA 8 'Concession Areas' was split into two phases in order to deal with the complex nature of the matter.

In 2011/12, MPI (formerly the Ministry of Fisheries) undertook *Phase 1* of the review which looked at the MLS regulations only. In May 2012 your predecessor, the Hon David Carter, decided to retain the existing commercial MLS regulations in CRA 3, CRA 7 and CRA 8. This decision was made because removal of these regulations would have had a significant negative impact on the commercial industry (an estimated short-term impact of \$15 million).

In 2012, the NRLMG commenced *Phase 2* of the review which looked at regulations associated with the taking, landing, transport, processing and sale of rock lobsters. The objectives of this review were to ensure that each set of regulations enables utilisation whilst ensuring sustainability and cost-effective compliance and enforcement. Associated with this, was an aim to reduce regulatory burden for the industry.

As part of *Phase 2*, the NRLMG also decided to include a review of the CRA 3, CRA 7 and CRA 8 recreational MLS and consideration of a change to the CRA 7 commercial MLS measure from tail length (TL) to tail width (TW).

### 1.3.2 The Current situation

#### *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 in CRA 3, CRA 7 and 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 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 (referred to as the 'winter CRA 3 commercial MLS'). At other times of year the male MLS is 54 mm TW and at all times of year the female MLS is 60 mm TW<sup>2</sup>.
- For **CRA 7** in the mid-1900s in response to new information on the biology and behaviour of rock lobsters in the area. Information suggested that few rock lobsters grew beyond 54/60 mm TW and large numbers of small rock lobsters moved out of the fishery at certain times, emigrating south towards Foveaux Strait (within CRA 8). The CRA 7

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<sup>2</sup> Specified in regulation 14K of the Fisheries (Central Area Commercial Fishing) Regulations 1986.

Concession Area Regulations allow commercial fishers to take and land male and female rock lobsters at or above 127 mm TL from 1 June to 19 November in any year<sup>3</sup> (referred to as the 'CRA 7 commercial MLS'). CRA 7 has retained the TL measure despite a shift to TW in all other spiny rock lobster management areas.

- For **CRA 8** in 1988 in response to new information on the morphology of rock lobsters in the area (i.e. rock lobster tails are narrower for a given length in the south<sup>4</sup>). 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 year<sup>5</sup> (referred to as the 'CRA 8 commercial MLS'). At all times of year the male MLS is 54 mm TW.

### 1.3.3 The Problem definition

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 (**Recordkeeping Regulations**) were introduced. 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 QMS relies heavily on adequate auditing and monitoring of commercial product flow. The Recordkeeping Regulations were introduced to ensure that:

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

The commercial sector has highlighted to the NRLMG that the regulatory framework applying to each set of Concession Area Regulations is additional to industry recordkeeping requirements, and is limiting the ability for the rock lobster industry to maximise benefits from the use of the resource. Some current limitations on industry include:

- Regulations that no longer reflect the practices of industry (e.g. packaging requirements that were developed before the trade in live 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 and the CRA 7 closure is limiting access to markets at critical times.

## 1.4 Consultation and submissions

MPI, on behalf of the NRLMG, consulted on the NRLMG's Initial Position Paper (**IPP**) on proposals to review various CRA 3, CRA 7 and CRA 8 regulations between 8 November and 13 December 2012.

The IPP proposed over 30 different management options for CRA 3, CRA 7 and CRA 8 rock lobsters between the commercial MLS and 54/60 mm TW (Table 1.2). It also sought feedback on other management measures to allow recreational fisher access to the

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<sup>3</sup> Specified in regulation 6 of the Fisheries (South-East Area Commercial Fishing) Regulations 1986.

<sup>4</sup> 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.

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

commercial MLS in CRA 3, CRA 7 and CRA 8, and to change the CRA 7 MLS from TL to TW to correspond with the measuring method for all other rock lobster areas.

Table 1.2: Options proposed for CRA 3, CRA 7 and CRA 8 in the IPP

| Regulation type  | The Status Quo   | Proposed Change   |
|--|--|---|
| A. CRA 3 and CRA 7 closed seasons                        | CRA 3 is closed to commercial fishing during May<br>CRA 7 is closed to commercial fishing from 20 November to 31 May   | Remove the CRA 3 May closure<br>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 requirements  |
| D. Landing requirements                                  | CRA 3 lobsters 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)<br>CRA 7 lobsters must be landed within the area at port of domicile for the vessel and to a LFR in CRA 7 only<br>CRA 8 lobster 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 | <i>No change</i><br>Amend the CRA 7 landing requirements to equate with the existing CRA 3 requirements.<br>Amend the CRA 8 landing requirements to equate with the existing CRA 3 requirements   |
| E. Domestic sales  | CRA 7 domestic sales allowed subject to 'consumer pack' packaging requirements<br>CRA 3 & CRA 8 domestic sales are prohibited  | Allow CRA 7 domestic sales outside of a 'consumer pack'<br>Allow CRA 3 & CRA 8 domestic sales   |
| F. Export container labelling and packaging requirements | CRA 3 lobsters must be held in containers marked 'Gisborne rock lobsters'<br>CRA 7 lobsters must be packed in a sealed container under the direction of a Fishery Officer<br>CRA 8 lobsters must be packed in a sealed and marked 'Southland concession pack'  | Amend container labelling requirements to 'CRA 3 rock lobsters'<br>Amend CRA 7 requirements to: must be held in containers marked 'CRA 7 rock lobsters'<br>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<br>CRA 7 export must be direct from CRA 7 LFR<br><br>CRA 8 export must be direct from LFR, or through export transshipment point subject to prior approval and conditions   | Amend the CRA 3 & CRA 7 export requirements to equate with the existing CRA 8 requirements<br><br><i>No change</i>  |
| H. Export notification & records                         | CRA 3, no export notification or records required<br>CRA 7 & CRA 8, LFR must notify export particulars to MPI prior to shipping. In addition for CRA 8, specific LFR records are required  | <i>No change</i><br>Remove export notification and record requirements for CRA 7 & CRA 8  |

15 written submissions were received from the following organisations or groups on the IPP options:

- Brent Rolston, recreational fisher (Rolston);
- CRA 8 Management Committee (CRAMAC 8);
- David and Denise Anderson, commercial fisher (Anderson);
- FMA2&8 Regional Recreational Forum (FMA2&8 Forum);
- FMA3&5 Regional Recreational Forum (FMA3&5 Forum);
- Gisborne Tatapouri Sports Fishing Club (GTSFC);
- New Zealand Recreational Fishing Council (NZRFC);
- New Zealand Rock Lobster Industry Council (NZ RLIC);
- New Zealand Sport Fishing Council (NZSFC);

- Ngati Oneone Hapu Kaumatua (Ngati Oneone);
- Ngati Porou Seafoods Limited (NPSL);
- Ngai Tahu Seafoods (NTS) and Toitu Te Whenua (TTW);
- Otago Rock Lobster Industry Association (CRAMAC 7);
- Spearfishing New Zealand (SNZ);
- Tairāwhiti Rock Lobster Industry Association (CRAMAC 3).

In summary:

- Recreational and customary submitters (FMA2&8 Forum, FMA3&5 Forum, GTSFC, NZRFC, NZSFC, Ngati Oneone and SNZ) do not support any change to the CRA 3, CRA 7 and/or CRA 8 commercial regulations until equal access to the commercial MLS is granted to recreational fishers.
- Commercial submitters (Anderson, CRAMAC 3, CRAMAC 7, CRAMAC 8, NZ RLIC, NTS (and TTW)) support amendments or removal to commercial regulations in CRA 3, CRA 7 and CRA 8. These submitter views are captured by a quote from the NZ RLIC “...the Concession Area Regulations represent a mind-set of a different time but now the regulatory requirements impede the efficiency and cost-effectiveness of catch receipt, processing, transportation and export routines”.

Full copies of the submissions are provided in Appendix 3 of this FAP. Each submission is also discussed further below for each proposal as relevant.

The NRLMG notes that some submitters commented on or proposed other matters outside the scope of those relating to the regulatory proposals. Some of these matters are discussed further in part 1.17 of this FAP.

## 1.5 Key costs and benefits of the proposals

This part discusses the key costs and benefits of amending the CRA 3, CRA 7 and CRA 8 regulations on stock sustainability, non-commercial and commercial utilisation benefits and MPI compliance costs.

### 1.5.1 Stock sustainability

Stock sustainability is unlikely to be negatively impacted by the proposed regulatory changes. 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. 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). These processes will not be impacted by any of the proposed changes to the regulations.

#### *Impacts on rock lobster recruitment*

While the regulatory change proposals are unlikely to impact on stock sustainability, a key objective of fisheries management is to maintain reproductive output (egg production) and to secure recruitment into the fishery.

This is a challenge for management because rock lobsters have a complex life cycle. Rock lobster larvae can spend 10-20 months free floating in the ocean hundreds of kilometres

offshore, which means extensive mixing of larvae occurs from different management areas around New Zealand. The strengths of larval recruitment into specific areas are thought to relate to dynamics of the ocean currents (i.e. temperature, speed and distance from shore).

Of the proposals discussed in this FAP, the CRA 7 closed season and the 12-month closure of the CRA 7 'Buffer Zone' are the only management measures that were originally implemented (in 1994) to address a perceived lack of egg production. The management approach for maintaining egg production in rock lobsters fisheries has now changed.

Due to the characteristics of the rock lobster larval life stage, removal of the CRA 7 closure and the 'Buffer Zone' is unlikely to negatively impact future CRA 7 egg production and recruitment. We know that the CRA 7 fishery is not biologically isolated from the rest of New Zealand rock lobster fishery and larvae settling in CRA 7 are likely to have originated from outside the area.

### 1.5.2 Utilisation benefits

The regulatory change proposals are unlikely to have a negative impact on non-commercial utilisation benefits. There is some uncertainty on the extent of any potential impact on recreational fishers in relation to the removal of the CRA 3 and CRA 7 commercial closed seasons and CRA 7 area closure. Information on recreational fishing is limited and this affects the NRLMG's ability to assess the impact. However, anecdotal information suggests there will be minimal impact because of the temporal/spatial separation of commercial and recreational fishing activities.

The regulatory change proposals will provide the commercial sector with various benefits, including reductions in compliance costs and operational costs and barriers, increased flexibility, and increased domestic market opportunities. Information is not available to quantify the extent of the economic benefits in dollar terms.

### 1.5.3 MPI compliance costs

In general, MPI members of the NRLMG consider that there is low compliance risk associated with many of the regulatory change proposals discussed in this FAP. There is also likely to be minimal change in current compliance monitoring effort for rock lobster. Exceptions to this are the proposal to allow recreational fishers access to the commercial MLS in CRA 3, CRA 7 and CRA 8.

MPI members of the NRLMG consider that the proposed change to the recreational MLS regime will create an opportunity for fish thieves to trade illegal undersized rock lobster from any management area where a larger size limit applies. These members also consider that this proposal will result in ongoing compliance costs that are greater than the status quo. The NRLMG sector members disagree with these views.

## 1.6 Review of the CRA 3, CRA 7 and CRA 8 recreational MLS

### 1.6.1 Final proposals

The NRLMG proposes that you consider two options each for the CRA 3, CRA 7 and CRA 8 recreational MLS (Table 1.3). In the IPP, these options were presented as other management measures for stakeholders to comment on.

**Table 1.3: Final proposed recreational MLS options for CRA 3, CRA 7 and CRA 8**

| Stock | Option | Description  |
|-------|--------|--|
| CRA 3 | 1A     | Retain the recreational MLS of 54 mm TW for male rock lobsters and 60 mm TW for female rock lobsters at any time of year in CRA 3  |
|       | 1B     | Amend the recreational regulations to allow recreational fishers to take and possess CRA 3 male rock lobsters at or above 52 mm TW during June, July and August, from 1 June 2014  |
| CRA 7 | 2A     | Retain the recreational MLS of 54 mm TW for male rock lobsters and 60 mm TW for female rock lobsters at any time of year in CRA 7  |
|       | 2B     | Amend the recreational regulations to allow recreational fishers to take and possess CRA 7 male and female lobsters at or above a TW equivalent of the existing commercial MLS of 127 mm TL at any time of year, during 2014 |
| CRA 8 | 3A     | Retain the recreational MLS of 54 mm TW for male rock lobsters and 60 mm TW for female rock lobsters at any time of year in CRA 8  |
|       | 3B     | Amend the recreational regulations to allow recreational fishers to take and possess CRA 8 female rock lobsters at or above 57 mm TW at any time of year, from 1 October 2013  |

It is anticipated that the:

- CRA 3 amendments (Option 1B) would come into effect from 1 June 2014 to match when the winter CRA 3 commercial MLS applies from;
- CRA 7 amendments (Option 2B) would come into effect during 2014. This timing would enable the NRLMG to undertake additional consultation and further research and commercial landing analysis to determine an equivalent TW measure of the existing commercial TL measure (refer part 1.6.4);
- CRA 8 amendments (Option 3B) would come into effect from 1 October 2013.

Under Options 1B, 2B and 3B, it is also proposed that land boundary restrictions will be introduced to prohibit the movement of rock lobsters to an adjacent management area where a different MLS applies.

If you decide to change the CRA 7 recreational MLS (Option 2B), the NRLMG propose to consider a review of the escape aperture dimensions that are required in rock lobster pots for CRA 7 recreational fishers. If the current pot apertures requirements were retained, CRA 7 recreational fishers would find it very difficult to catch rock lobsters at the new MLS (they would effectively escape through the pot apertures).

### 1.6.2 Submitter comments and NRLMG response

#### *Support for Options 1A, 2A and 3A*

Recreational submitters (NZRFC and NZSFC) did not explicitly express a view for the recreational MLS proposals in their submissions.

NZRFC submits that recreational fishers must be given equal access rights in terms of the size, but they did not comment on whether the recreational MLS should be reduced or the commercial MLS increased. NZSFC subsequently confirmed that they did not support any amendment to the recreational MLS because they consider “it at nothing less than an offer to share the spoils of crime with a view to building acceptance of the crime”.

### *Support for Options 1B, 2B and/or 3B*

A number of customary, recreational and commercial submitters supported some or all of the options to amend the recreational MLS:

- CRAMAC 3 and NPSL support Option 1B;
- FMA3&5 Forum support Options 1B and 2B;
- TTW support Options 2B and 3B;
- CRAMAC 8, FMA2&8 Forum, NTS and NZ RLIC support Options 1B, 2B and 3B;
- Rolston supports Option 1B in part, but considers that recreational fishers should be allowed to take male rock lobsters at or above 52 mm TW at any time of year.

Commercial submitters (CRAMAC 3 and NPSL) consider that allowing recreational fisher access to the winter CRA 3 commercial MLS will help to alleviate the perceived inequity issue between commercial and recreational fishers. NPSL note if this MLS change was to occur CRA 3 commercial fishers have stated they would drop the voluntary closed season from 1 September to 15 January, and problems like illegal catch and spatial conflict could arise again.

Commercial submitters (CRAMAC 8 and NZ RLIC) submit that the stock assessment model already assumes recreational fishers are taking the commercial MLS in CRA 3, CRA 7 and CRA 8, and there is no sustainability concern unless aggregate catches exceed allowances made for them. NPSL express concerns that the recreational allowance in CRA 3 could potentially be exceeded due to an increase in fishing success, and therefore pose stock sustainability issues.

CRAMAC 8 and NZ RLIC also consider that research to investigate the negative impact of the different commercial MLS on recreational benefits is unnecessary. CRAMAC 8 note that anecdotal evidence from recreational fishers in CRA 8 is to the contrary; good rock lobster fishing is being experienced and recreational fishers have sole access to many areas in CRA 8 where commercial fishing is prohibited (including the inner waters of Fiordland and Paterson Inlet, Stewart Island).

Rolston submits if recreational fishers are given access to the winter CRA 3 commercial MLS, male rock lobsters between 52 and 54 mm TW should be consumed in the greater CRA 3 area in a similar manner to the situation with paua in Taranaki (i.e. CRA 3 rock lobster should not be transported outside a defined area).

### *NRLMG response*

The NRLMG agree that allowing recreational access to the commercial MLS would reduce negative perceptions of inequity held by some recreational fishers in CRA 3 and CRA 7. There should be no change in recreational fisher perceptions for the CRA 8 fishery because few negative views are currently held due to CRA 8 recreational fishers experiencing high-quality utilisation benefits.

If the CRA 3 voluntary commercial closed season was no longer implemented, the NRLMG considers that this could result in increased:

- Competition for fishing space in popular recreational fishing areas over summer (i.e. the reefs close to Gisborne city);
- Illegal take through fish thieves having greater opportunities to steal fish from commercial pots.

The NRLMG confirms that the stock assessment approach for CRA 3, CRA 7 and CRA 8 already assumes recreational fishers are taking rock lobster at the commercial MLS. While there is considerable uncertainty around model assumptions of recreational catch, the NRLMG considers that the CRA 3, CRA 7 and CRA 8 assumptions<sup>6</sup> are adequate at this time to cover some increase in recreational catch under a new recreational MLS regime. As long as actual recreational catch remains at or below stock assessment assumptions of recreational catch, there should be no risks posed to stock sustainability.

With respect to investigative research on potential negative impacts of the commercial MLS on recreational benefits, the NRLMG note that detailed quantitative information on recreational catch, that is crucial to any such research, is not currently available. The NRLMG are committed to improving information on rock lobster recreational harvest estimates to better inform management of rock lobster fisheries.

### 1.6.3 NRLMG analysis

#### *Non-commercial utilisation*

The options to amend the recreational MLSs (Options 1B, 2B and 3B):

- May increase the availability of rock lobsters to recreational fishers through access to previously unavailable size classes;
- Should reduce perceptions of inequity held by some recreational fishers in CRA 3 and CRA 7 (few negative views are held for CRA 8).

The NRLMG note Option 3B for CRA 8 is included for consistency reasons, and not because recreational fishery participants consider there is a need to ensure equal access in this fishery.

For CRA 3 and CRA 7, anecdotal information from recreational fishery participants is conflicting. Some recreational fishers support the options to reduce their MLS and take rock lobsters at the CRA 3 and CRA 7 commercial MLS, whereas other recreational fishers support increasing the commercial MLS to 54/60 mm TW. The NRLMG note proposals to amend the commercial MLS regulations are not being considered at this time because your predecessor decided to retain these in May 2012.

In relation to CRA 3, the recreational members of the NRLMG state that they want access to male rock lobsters at or above 52 mm TW year round. They consider that the combination of 'slow growth' in CRA 3 and the winter CRA 3 commercial MLS is negatively affecting recreational fishing success and the only way to restore equity in the CRA 3 fishery is for recreational fishers to have access to 52 mm TW males year round. Commercial members of the NRLMG do not support this proposal.

Customary Maori fishers are unlikely to be impacted by the options to amend the recreational MLS. This is because regulated MLSs do not apply to Maori customary fishing, instead size limits are determined by Tangata Tiaki/Kaitiaki or authorised customary permit issuers. However, some CRA 3 customary Maori fishery participants may have concerns with the proposal for CRA 3 recreational fishers to take smaller male rock lobsters because this may impact on the size of fish available for their harvest.

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<sup>6</sup> The 2008 model assumptions of CRA 3 recreational catch was a constant 20 tonnes, and 2011 model assumptions of recreational catch were estimated at 8.7 tonnes for CRA 7 and 87.5 tonnes for CRA 8.

### Commercial utilisation

The options to amend the recreational MLS are expected to have minimal impact on commercial economic benefits.

### Compliance risks

MPI members of the NRLMG consider the options to amend the recreational MLSs will pose an unacceptable compliance risk and increase opportunities for poaching and black market activities. NRLMG sector members do not agree that the MLS change will pose an unacceptable compliance risk. Sector members consider that poaching and black market activities occur independently of the MLS and are driven by incentives like available abundance, accessibility and monetary gain.

MPI indicates the types of illegal activity that provide an indication of the compliance risk include take or possession of undersized rock lobster by recreational fishers and poaching and black market activities<sup>7</sup>.

Table 1.4 provides a summary of the number of recorded offences involving rock lobster from 1 January 2010 to 31 December 2012. CRA 3 has the highest level of detected offences in comparison to CRA 7 and CRA 8.

Table 1.4: MPI recorded rock lobster offences from 2010 to 2012<sup>8</sup>

| Detected offence   | CRA 1 | CRA 2 | CRA 3 | CRA 4 | CRA 5 | CRA 6 | CRA 7 | CRA 8 | CRA 9 |
|--|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Take or possession of undersize rock lobster by recreational fishers | 38    | 47    | 258   | 137   | 126   | 0     | 0     | 2     | 8     |
| Poaching and black market activity                                   | 8     | 8     | 20    | 40    | 37    | 1     | 0     | 7     | 10    |

Although Table 1.4 shows there were no detected offences for CRA 7, MPI members of the NRLMG consider that allowing recreational fisher access to the CRA 7 commercial MLS poses a greater risk to other rock lobster fisheries than the CRA 7 fishery itself. The CRA 7 commercial MLS is substantially smaller than the MLS that applies in other areas throughout New Zealand. This can create incentives to disguise lobsters from other areas as CRA 7 rock lobsters, particularly at the end of the supply chain (e.g. at dealers in fish and restaurants). MPI have particular concerns that smaller grade illegally harvested CRA 7 rock lobsters may end up destined for the Queenstown tourist market if the CRA 7 recreational MLS is amended.

MPI members of the NRLMG note that the majority of recreational inspections of rock lobster catch occur at the beach or boat ramp. It is resource intensive for compliance to monitor the movements of lobsters once they have left the coastline, particularly if there are a number of access roads. This makes it very difficult for compliance to determine the area a particular rock lobster came from once it has left the beach.

<sup>7</sup> This includes taking more than three times the daily bag limit, using or possessing more than two times the prescribed limit of pots, taking possession or trading fish in contravention of the Act to obtain benefit.

<sup>8</sup> This information is not all inclusive because not all detected offences are recorded in the MPI database for various reasons. Detected offences are also only a fraction of actual offences. Detection rates are dependent on monitoring effort and the ability to detect particular offences, which can be difficult given that much of New Zealand's coastline is easily accessible.

NRLMG MPI members recognise the NRLMG sector member proposal to prohibit recreational fishers from possessing CRA 3, CRA 7 and CRA 8 rock lobsters below 54/60 mm TW outside defined land boundaries (e.g. District Council boundaries). This prohibition mitigates some of the compliance risk relating to transportation of smaller rock lobsters to an area where a different MLS applies.

However, MPI members note that the government is focused on creating better regulation and less regulation. These members consider that the proposal to introduce land boundary regulations for the movement of rock lobsters below 54/60 mm TW will result in less effective regulations that will be difficult for recreational fishers to understand and will be difficult for MPI to enforce.

#### *Compliance resources*

MPI members of the NRLMG consider the establishment of a different recreational MLS regime will result in significant and ongoing compliance costs for MPI that are greater than the status quo.

MPI compliance staff would be required to spend considerable extra time and resources on educating, promoting and advertising the recreational MLS changes. This would represent a major strategy to implement and would include replacing existing signs, brochures, website updates and education campaigns through each area.

MPI does not have information to quantify additional costs associated with monitoring, enforcement and education of a new MLS regime for recreational fishers. Although experience from other fisheries (e.g. Marlborough Sounds recreational blue cod fishery) suggests these costs always increase when there is a difference in rules between areas.

In addition, NRLMG MPI members note the expected increase in compliance effort under the recreational MLS proposal does not align with MPI compliance priorities which are many and varied across several sectors including fisheries, animal welfare and biosecurity. The allocation of compliance resources to activities that align to MPI's Strategy 2030 to grow and protect New Zealand and double primary export goals by 2025 have a higher priority than the recreational MLS proposal at this time.

#### **1.6.4 Discussion of an associated proposal to change the CRA 7 MLS measure from tail length to tail width**

The MLS measure for the rest of New Zealand changed from TL to TW in 1988 based on 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. CRA 7 did not change to the TW measure in 1988 because the MLS was under review at the time.

It is not proposed that the CRA 7 MLS measure changes at this time, however, stakeholder views on the proposal were requested in the IPP. Some submitters (FMA3&5 Forum, NTS and TTW) expressed support for the measure change, while NZ RLIC considered there was no immediate advantage in changing the current measure.

If you decide to change the CRA 7 recreational MLS the NRLMG considers it appropriate to move to a TW measure for both recreational and commercial fishers because of 'stretching' and mortality concerns with the TL measure. But before this can occur, further research and commercial landing analysis is required on an equivalent TW measure. A CRA 7 proposed measure change will also require additional public consultation before it could be implemented. The NRLMG considers that the earliest implementation date for any change is expected to be during 2014.

## 1.7 Review of the CRA 3 commercial closure

### 1.7.1 Final proposals

The NRLMG proposes that you consider two options for the CRA 3 commercial closure (Table 1.5). These options are the same as the IPP.

Table 1.5: Final proposed CRA 3 commercial closure options

| Stock | Option | Description  |
|-------|--------|--|
| CRA 3 | 4A     | Retain the CRA 3 commercial closure during May of each year            |
|       | 4B     | Remove the CRA 3 commercial closure during May of each year, from 2014 |

### 1.7.2 Submitter comments and NRLMG response

#### *Support for Option 4A*

Recreational and customary submitters (FMA2&8 Forum, GTSFC, Ngati Oneone, NZRFC and NZSFC) support Option 4A to retain the CRA 3 commercial closure.

The NZRFC considers that the May closure stops accumulation of male lobsters between 52 and 54 mm TW leading up to the winter period. They also suggest that holding pots are being abused by commercial fishers resulting in poor quality rock lobsters and increased mortality.

#### *Support for Option 4B*

Commercial submitters (CRAMAC 3, NPSL, NTS and NZ RLIC) support Option 4B to remove the CRA 3 commercial closure.

Both CRAMAC 3 and NPSL consider that the May closure is no longer required and its removal is justifiable from an operational perspective. CRAMAC 3 add that the use of holding pots for more than a few days in this area is risky and can reduce the quality of lobster for live export.

#### *NRLMG response*

In response to the NZRFC, the NRLMG note there is a risk that commercial fishers could start to hold CRA 3 male lobsters between 52 and 54 mm TW in holding pots at sea before 1 June. This risk is mitigated, however, by the inability for commercial fishers to land these male lobsters to a licensed fish receiver (**LFR**) before 1 June. Also, as CRAMAC 3 noted, holding pots are generally not used for any length of time in the CRA 3 fishery (i.e. because there are adequate facilities on land to hold rock lobsters, rock lobsters can lose condition when held for periods at sea, and there is a risk of fish thieves stealing rock lobsters from commercial pots).

Holding pot mortality is unlikely to increase by a significant amount with removal of the CRA 3 May closure. Any holding pot mortality that could occur during May should not be any different than any other month when fishing currently occurs. In the CRA 3 stock assessment model and TAC setting processes an estimate of 89 tonnes is assumed for other sources of fishing-related mortality (including illegal take). This estimate is considered sufficient to cover some increase in mortality from holding pots during May at this time. There are no risks posed to stock sustainability as long as actual other mortality levels remain at or below the stock assessment assumptions.

MPI members of the NRLMG note that the May closure results in some benefits for the CRA 3 fishery, including: some protection of rock lobsters over the breeding period; and less opportunities for fish thieves to steal fish from commercial pots.

### 1.7.3 NRLMG analysis

#### *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. It is understood that recreational access to the CRA 3 fishery is limited in May (e.g. due to weather conditions and the risk of losing gear). 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.

The NRLMG note that the proposal will not result in commercial fishers taking more rock lobsters over the fishing year because the Total Allowable Commercial Catch (**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 members of the NRLMG expect compliance effort to increase initially with the removal of the closure, but this effort should revert to routine monitoring after 1 year. Also compliance effort that is currently required during May to ensure fishers are complying with the closure and that pots are out of the water, will be removed.

NRLMG recreational members consider that MPI will be required to undertake extra monitoring effort of holding pots if the closure was removed. NRLMG MPI members note that they do not currently have the ability to actively monitor commercial holding pots at sea, mainly because the locations of these pots are largely unknown to Compliance. MPI will undertake routine monitoring of rock lobster landings during May to ensure commercial fishers or LFRs are not in possession of male rock lobsters between 52 and 54 mm TW before 1 June.

## 1.8 Review of the CRA 7 commercial closed season

### 1.8.1 Final proposals

The NRLMG proposes that you consider two options for the CRA 7 closed season (Table 1.6). These options are the same as the IPP.

Table 1.6: Final proposed CRA 7 commercial closed season options

| Stock | Option | Description  |
|-------|--------|--|
| CRA7  | 5A     | Retain the CRA 7 commercial closure during the period 20 November to 31 May                      |
|       | 5B     | Remove the CRA 7 commercial closure during the period 20 November to 31 May, from 1 October 2013 |

### 1.8.2 Submitter comments and NRLMG response

#### *Support for Option 5A*

Recreational submitters (FMA2&8 Forum, FMA3&5 Forum, NZRFC and NZSFC) support Option 5A to retain the CRA 7 commercial closure.

The NZRFC and FMA3&5 Forum consider that the closure provides recreational fishers with access benefits during calmer summer weather and that removal would reduce access.

#### *Support for Option 5B*

Commercial and customary submitters (Anderson, CRAMAC 7, NTS, NZ RLIC and TTW) support Option 5B to remove the CRA 7 commercial closure.

In summary, these submitters consider that the CRA 7 closure has significant impacts for the fishery on the water and in the market place. For example it can: impact on the ability for commercial fishers to catch their Annual Catch Entitlement (**ACE**), particularly during poor weather conditions; and, place limitations on the ability to secure domestic and export markets because most purchasers are after a 12 month supply of affordable CRA 7 lobsters. These submitters consider that removal of the CRA 7 closure would allow industry to take advantage of key markets at the right time.

#### *NRLMG response*

The NRLMG note responses to comments made by submitters on the CRA7 closure are discussed further below.

### 1.8.3 NRLMG analysis

#### *Non-commercial utilisation*

Assessment of any negative impact removal of the CRA 7 closure could have on recreational benefits is restricted. This is because there is limited research information on recreational catch, catch rates and timing of fishing in CRA 7. However, it is understood that summer and autumn are popular CRA 7 recreational fishing periods due to calmer weather conditions.

If the closure was removed this could result in recreational and commercial fishers sharing the same fishing grounds at the same time. This is not a problem as such because fishing overlap commonly occurs in other shared rock lobster fisheries without any significant

negative impact on recreational utilisation benefits. It is considered that fishing overlap is likely to be limited with removal of the CRA 7 closure because recreational fishers: are generally restricted to potting close to shore in CRA 7 because of the bathymetry of the seafloor (i.e. the water gets deep quickly in most places); and, have a general inability to hand-haul rock lobster pots from deepwater like commercial fishers who have pot haulers.

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*

Removal of the CRA 7 closure will provide the commercial sector with increased opportunities to increase benefits from the fishery, including the ability to take advantage of key markets at the right time through being able to fish year round.

#### *Compliance risks and resources*

Routine compliance effort is currently directed at inshore finfish vessels and auditing of LFRs during the time of the existing CRA 7 closure. There will be a minimal increase in compliance effort to check rock lobster vessels and landings (in addition to finfish) if the closure was removed.

## 1.9 Review of the CRA 7 commercial closed area

### 1.9.1 Final proposals

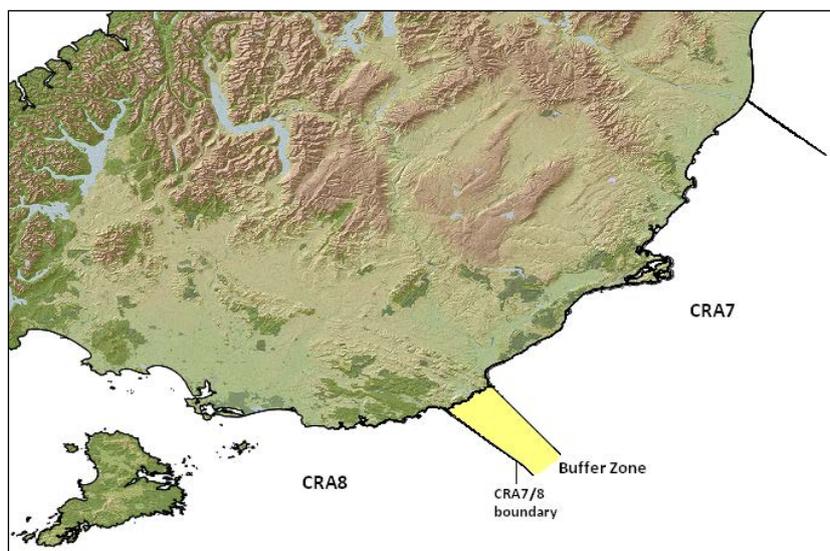
The NRLMG proposes that you consider two options for the CRA 7 commercial closed area or 'Buffer Zone' (refer Table 1.7). These options are the same as the IPP.

Table 1.7: Final proposed CRA 7 commercial closed area options

| Stock | Option | Description   |
|-------|--------|---|
| CRA7  | 6A     | Retain the commercial fishing prohibition for the 'Otago Concession Buffer Zone'                      |
|       | 6B     | Remove the commercial fishing prohibition for the 'Otago Concession Buffer Zone', from 1 October 2013 |

The CRA 7 'Buffer Zone' currently separates (by way of a no fishing area) the CRA 7 and CRA 8 rock lobster fisheries where different MLSs apply to commercial fishers (refer Figure 1.1). There is no equivalent closed area on the CRA 7 northern boundary with CRA 5 (Marlborough/ Canterbury).

Figure 1.1: Map showing the 'Otago Concession Buffer Zone'



### 1.9.2 Submitter comments and NRLMG response

#### *Support for Option 6A*

Recreational submitters (FMA2&8 Forum, FMA3&5 Forum, NZRFC and NZSFC) support Option 6A to retain the CRA 7 'Buffer Zone'.

FMA3&5 Forum and NZRFC express concerns that removal of the 'Buffer Zone' will result in a greater chance of trucking (or area-misreporting) of rock lobsters between CRA 7 and CRA 8, particularly given recent prosecutions of trucking for other species. The NZRFC also suggests that commercial vessels must carry real time position reporting before any consideration is given to the removal of the 'Buffer Zone'.

#### *Support for Option 6B*

Commercial and customary submitters (Anderson, CRAMAC 7, CRAMAC 8, NTS, NZ RLIC and TTW) support Option 6B to remove the CRA 7 'Buffer Zone'.

Anderson considers that removal of the 'Buffer Zone' will increase his utilisation benefits, including extension of his fishing season by being able to fish the area in poor weather (less risk of gear loss), and enable him to launch at the Catlins (instead of Taieri Mouth) which is easier and could reduce travel costs.

CRAMAC 8 and NZ RLIC do not support the additional requirements MPI specified in the IPP to restrict movements of rock lobsters from one management area to another. They consider that: 1) the risk of trucking is mitigated by the requirement to hold 3 tonnes minimum ACE for a management before fishing can commence; 2) movement of rock lobsters outside the Quota Management Area (**QMA**) is subject to prior approval; and, 3) there are adequate opportunities to audit and monitor product flow through existing recordkeeping and reporting regulations. CRAMAC 7 also considers there is little incentive for CRA 8 fishers to truck smaller grade rock lobsters into CRA 7 when they return half the money.

### *NRLMG response*

The NRLMG note recent prosecutions of ‘trucking’ in the South Island relate to finfish species. There are no requirements to hold minimum ACE holdings for any finfish species before fishing can commence, and a single finfish species from any management can be held on board a vessel at the same time. In contrast, commercial rock lobster fishers must hold 3 tonnes of ACE before they can start fishing in a management area, and it is proposed that CRA 7 and CRA 8 rock lobsters cannot be held on board a vessel at the same time.

The NRLMG acknowledges the comment from the NZRFC on the proposal to introduce a vessel monitoring system on CRA 7 and CRA 8 commercial vessels. MPI or industry are not proposing to introduce any such requirements on rock lobster vessels at this time. The restrictions discussed in the paragraph above for rock lobster are considered sufficient to mitigate against the trucking risk.

The NRLMG have discussed the objections CRAMAC 7, CRAMAC 8 and NZ RLIC had with the IPP proposals to introduce additional landing requirements, and as a result have amended the final landing requirement proposals (refer part 1.11).

### 1.9.3 NRLMG analysis

#### *Non-commercial utilisation*

As per removal of the CRA 7 commercial closure, research information on recreational fishing is limited and this restricts the ability to undertake an accurate assessment of any negative impact removal of the ‘Buffer Zone’ could have on recreational benefits. It is understood that few recreational fishers harvest rock lobster from the ‘Buffer Zone’ due to the remoteness and low population base in the area. Given this, it is considered that removal of the ‘Buffer Zone’ will result in minimal negative impacts on recreational fishers.

#### *Commercial utilisation*

Removal of the ‘Buffer Zone’ would give CRA 7 commercial fishers access to fishing grounds unavailable since 1994. It is uncertain what the extent of the utilisation benefits will be because there is limited information on the abundance of rock lobster within the ‘Buffer Zone’. However, it is estimated that the ‘Buffer Zone’ comprises about 12% of the suitable rock lobster habitat in CRA 7.

#### *Compliance risks and resources*

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. This includes:

- Prohibiting any person from being in possession of any CRA 7 or CRA 8 rock lobster at the same time (e.g. on board any vessel or vehicle);
- Retaining the requirement for CRA 7 and CRA 8 rock lobsters between the commercial MLS and 54/60 mm TW to be landed at a point lying within their respective QMAs (refer part 1.11 below).

## 1.10 Review of the CRA 7 vessel requirements

### 1.10.1 Final proposals

The NRLMG proposes that you consider two options for the CRA 7 vessel requirements (Table 1.8). These options are the same as the IPP.

Table 1.8: Final proposed CRA 7 vessel requirement options

| Stock | Option | Description  |
|-------|--------|--|
| CRA7  | 7A     | Retain the requirement for CRA 7 commercial fishers to register their fishing vessel at Dunedin and domicile it at a port or place within the 'Otago Concession Area', when taking CRA 7 male and female rock lobsters between the CRA 7 commercial MLS and 54/60 mm TW                      |
|       | 7B     | Remove the requirement for CRA 7 commercial fishers to register their fishing vessel at Dunedin and domicile it at a port or place within the 'Otago Concession Area', when taking CRA 7 male and female rock lobsters between the CRA 7 commercial MLS and 54/60 mm TW, from 1 October 2013 |

### 1.10.2 Submitter comments and NRLMG response

#### *Support for Option 7A*

Recreational submitters (FMA2&8 Forum, FMA3&5 Forum, NZRFC and NZSFC) support Option 7A to retain the CRA 7 vessel requirements.

FMA3&5 Forum and the NZRFC support the status quo because of concerns with trucking if the vessel requirements were removed (as per removal of the 'Buffer Zone').

#### *Support for Option 7B*

Commercial and customary submitters (Anderson, CRAMAC 7, NTS, NZ RLIC and TTW) support Option 7B to remove the CRA 7 vessel requirements.

#### *NRLMG response*

The NRLMG considers the risk of 'trucking' between the CRA 7 and CRA 8 areas is mitigated by the requirement to hold 3 tonnes minimum ACE and to land rock lobsters below 54/60 mm TW to their respective QMAs.

### 1.10.3 NRLMG analysis

#### *Non-commercial utilisation*

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

#### *Commercial utilisation*

Removal of the CRA 7 vessel requirement would provide the commercial sector with increased flexibility for operators from outside Otago to fish for CRA 7 rock lobsters (subject to minimum ACE requirements). This change will align CRA 7 vessel requirements with all other QMAs.

## Compliance risks and resources

The CRA 7 vessel restrictions were implemented in 1964. These requirements are now considered redundant because of the 3 tonne minimum ACE holding requirement and the proposal that CRA 7 fish must be landed to a LFR in the area.

### 1.11 Review of the CRA 7 and CRA 8 landing requirements

#### 1.11.1 Final proposals

The NRLMG proposes that you consider two options each for the CRA 7 and CRA 8 landing requirements (Table 1.9). Based on feedback from the NRLMG and an analysis of submissions, Option 8B has been altered from the IPP and is designed to ensure consistency with the existing CRA 8 regulations. No change is proposed to the CRA 3 landing requirements.

Table 1.9: Final proposed CRA 7 and CRA 8 landing requirement options

| Stock | Option | Description  |
|-------|--------|--|
| CRA 7 | 8A     | Retain the requirement that CRA 7 male and female rock lobsters between the CRA 7 commercial MLS and 54/60 mm TW must be: 1) landed within the 'Otago Concession Area' at the port or place where the vessel is domiciled; and, 2) delivered to a LFR situated in Otago  |
|       | 8B     | Amend the requirement for CRA 7 male and female rock lobsters between the CRA 7 commercial MLS and 54/60 mm TW to be: 1) landed at a point lying within quota management area 7; and, 2) delivered and sold to a LFR within the 'Otago Region' <sup>9</sup> (or elsewhere subject to prior approval and conditions), from 1 October 2013 |
| CRA 8 | 9A     | Retain the requirement that CRA 8 female rock lobsters between the commercial MLS and 60 mm TW must be: 1) landed at a point lying within quota management area 8; and, 2) delivered and sold to a LFR in the 'Southland Region' <sup>10</sup> (or elsewhere subject to prior approval and conditions)                                   |
|       | 9B     | Amend the requirement for CRA 8 female rock lobsters between the CRA 8 commercial MLS and 60 mm TW to be: 1) landed at a point lying within quota management area 8 (or elsewhere subject to prior approval and conditions); and, 2) delivered and sold to a LFR, from 1 October 2013  |

#### 1.11.2 Submitter comments and NRLMG response

##### *Support for Option 8A*

Recreational and customary submitters (FMA2&8 Forum, FMA3&5 Forum, NZRFC and NZSFC) support Option 8A to retain the CRA 7 landing requirements.

The NZRFC express concerns that combined with the removal of the CRA 7 'Buffer Zone', any change to the landing requirements could result in 'abuse' (i.e. trucking).

##### *Support for an amendment to the CRA 7 landing requirements*

Based on the IPP options, commercial and customary submitters (Anderson, CRAMAC 7, NTS, NZ RLIC and TTW) supported a proposal to amend the CRA 7 landing requirements so that

<sup>9</sup> The Otago Region means the region as constituted by the Local Government (Otago Region) Reorganisation Order 1989, *Gazette* 1989, p 2408

<sup>10</sup> The Southland Region means the region as constituted by the Local Government (Southland Region) Reorganisation Order 1989 (*Gazette* 1989, p 2430)

CRA 7 male and female rock lobsters below 54/60 mm TW must be: 1) landed within CRA 7 (or elsewhere subject to prior approval and conditions); and, 2) be delivered and sold to a LFR anywhere.

#### *Support for Option 9A*

Recreational submitters (FMA2&8 Forum, NZRFC and NZSFC) support Option 9A to retain the CRA 8 landing requirements.

As per Option 9A, the NZRFC express concerns about trucking if the status quo was changed.

#### *Support for Option 9B*

Commercial and customary submitters (CRAMAC 8, NTS, NZ RLIC and TTW) support Option 9B to amend the CRA 8 landing requirements.

CRAMAC 8 comments that not all CRA 8 landings need to be to an LFR because 'wharf sales' are a legitimate option for the disposal of fish. They consider that the recordkeeping requirements provide sufficient documentary evidence of any such sales.

#### *Other support*

Recreational submitters (FMA2&8 Forum, GTSFC, Ngati Oneone, NZRFC and NZSFC) and commercial submitters (CRAMAC 3 and NZ RLIC) also noted support for retention of the CRA 3 landing requirements for male rock lobsters below 54 mm TW.

#### *NRLMG response*

In response to the NZRFC's trucking concerns, it is considered that there are sufficient restrictions to limit the risk of trucking in these fisheries (i.e. 3 tonne minimum ACE holding requirement and the requirement to land rock lobsters below 54/60 mm TW to the QMA they were taken from).

The NRLMG agrees with CRAMAC 8 that wharf sales are a legitimate option for the disposal of rock lobster. Section 191 of the Fisheries Act 1996 (**Act**) currently enables commercial fishers to dispose of not more than 3kg of shellfish as long as the transaction takes place on, or in the vicinity of, the vessel used by the commercial fisher. Conditional on a decision to allow domestic sales of CRA 8 female rock lobsters between the commercial MLS and 54/60 mm TW (Option 12B), wharf sales of these rock lobsters will be allowed subject to the same domestic sale conditions.

The NRLMG recognises the final proposals for CRA 7 are different from those discussed in the IPP, and that commercial and customary submitters expressed support for options that were less restrictive. After considerable discussion, the NRLMG considers that it is appropriate to impose greater controls on the landing and selling of CRA 7 rock lobsters between the commercial MLS and 54/60 mm TW (as per discussion below).

### 1.11.3 NRLMG analysis

#### *Non-commercial utilisation*

Non-commercial fishing will not be negatively impacted by the CRA 7 and CRA 8 landing amendments (Options 8B and 9B). The regulations apply after rock lobsters are taken from the water.

### *Commercial utilisation*

The CRA 7 and CRA 8 landing amendments will provide industry with greater flexibility to deliver and sell rock lobsters between the commercial MLS and 54/60 mm TW to LFRs outside of the QMA. The existing CRA 7 landing requirements are the most restrictive of the three areas and the proposed amendments will increase export opportunities for some CRA 7 operators.

### *Compliance risks and resources*

It is considered that industry recordkeeping and reporting requirements provide adequate means to track movements of all lobsters from vessel landing to the LFR.

The proposed CRA 7 landing amendments are unlikely to result in greater compliance risk. This is because movements of rock lobsters between the CRA 7 commercial MLS and 54/60 mm TW to an LFR outside of the area will be subject to prior approval and conditions (i.e. as currently applies in CRA 8).

MPI members of the NRLMG consider that the proposed CRA 8 landing amendment may increase compliance risks of area misreporting (or 'trucking'). Because of this risk, MPI support no change to the current CRA 8 landing requirements (Option 9A). The current additional landing requirements for CRA 8 rock lobsters between the commercial MLS and 54/60 mm TW are expected to provide MPI with increased opportunities to audit and monitor landings, and consequently mitigate against any compliance risk of 'trucking'.

## 1.12 Review of CRA 3, CRA 7 and CRA 8 domestic sales

### 1.12.1 Final proposals

The NRLMG proposes that you consider two options each for CRA 3, CRA 7 and CRA 8 domestic sales (Table 1.10). These options are the same as the IPP, except that they include whether specific product identification is required for domestic sales and also propose a restricted time period for CRA 3 domestic sale and purchase.

Table 1.10: Final proposed CRA 3, CRA 7 and CRA 8 domestic sales options

| Stock | Option | Description  |
|-------|--------|--|
| CRA3  | 10A    | Retain the prohibition on domestic sales of CRA 3 male rock lobsters between the winter CRA 3 commercial MLS and 54 mm TW  |
|       | 10B    | Allow domestic sales and purchases of CRA 3 male rock lobsters between the winter CRA 3 commercial MLS and 54 mm TW during 1 June to 30 September of any year, without any mandatory product identification, from 1 October 2013 |
| CRA 7 | 11A    | Retain the requirement for every CRA 7 male and female rock lobster between the CRA 7 commercial MLS and 54/60 mm TW, that is intended for sale in New Zealand, to be packed into a 'consumer pack'                              |
|       | 11B    | Remove the 'consumer pack' requirements for the domestic sale of CRA 7 male and female rock lobsters between the CRA 7 commercial MLS and 54/60 mm TW and introduce new product identification requirements, from 1 October 2013 |

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|       |     |  |
|-------|-----|--|
|       | 12A | Retain the prohibition on domestic sales of CRA 8 female rock lobsters between the CRA 8 commercial MLS and 60 mm TW   |
| CRA 8 | 12B | Allow domestic sales of CRA 8 female rock lobsters between the CRA 8 commercial MLS and 60 mm TW at any time of year without any mandatory product identification, from 1 October 2013 |

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### 1.12.2 Submitter comments and NRLMG response

#### *Support for Option 10A*

Recreational and customary submitters (FMA2&8 Forum, GTSFC, Ngati Oneone, NZRFC, NZSFC and SNZ) support Option 10A to retain the prohibition on the domestic sale of CRA 3 male rock lobsters between the winter CRA 3 commercial MLS and 54 mm TW.

GTSFC, NZRFC and SNZ express concerns that CRA 3 domestic sales will only increase illegal catch and trucking risks.

#### *Support for CRA 3 domestic sales*

Recreational submitter, Rolston supports domestic sales of CRA 3 male rock lobsters between the winter CRA 3 commercial MLS and 54 mm TW subject to 'consumer pack' and tagging/clipping requirements.

Commercial submitters (CRAMAC 3, NPSL, NTS and NZ RLIC) also support CRA 3 domestic sales. However, CRAMAC 3 and NZ RLIC indicate that there are unlikely to be any major business opportunities arising from the CRA 3 domestic sale proposal.

Both CRAMAC 3 and NPSL indicate support for a voluntary industry initiative to take appropriate steps to identify male rock lobsters below 54 mm TW as legitimate product. These submitters also consider that the current recordkeeping and reporting requirements provide MPI with sufficient means to track lobster movements.

#### *Support for Option 11A*

Recreational submitters (FMA2&8 Forum, NZRFC and NZSFC) indicated support for Option 11A to retain the domestic sale of CRA 7 rock lobsters between the CRA 7 commercial MLS and 54/60 mm TW subject to 'consumer pack' requirements.

Contrary to their support for Option 11A, the FMA2&8 Forum and NZRFC state that they oppose any domestic sales of any rock lobster below 54/60 mm TW in New Zealand.

#### *Support for an amendment to the CRA 7 domestic sale requirements*

Commercial and customary submitters (Anderson, CRAMAC 7, NTS, NZ RLIC and TTW) support the domestic sale of CRA 7 rock lobsters between the CRA 7 commercial MLS and 54/60 mm TW outside of a 'consumer pack'.

CRAMAC 7 and NZ RLIC do not support mandatory product identification of CRA 7 rock lobsters for domestic sale. The industry instead propose to establish a voluntary identification programme (e.g. horn tagging) to clearly show the public that they are legitimate CRA 7 rock lobsters. Both NTS and TTW support a labelling proposal but did not suggest whether this proposal should be mandatory or voluntary.

### *Support for Option 12A*

Recreational submitters (FMA2&8 Forum, NZRFC and NZSFC) support Option 12A to retain the prohibition on the domestic sale of CRA 8 female rock lobsters between the CRA 8 commercial MLS and 60 mm TW. NZRFC also note concerns about an increase in illegal catches under this option.

### *Support for CRA 8 domestic sales*

Commercial and customary submitters (CRAMAC 8, NTS, NZ RLIC and TTW) support the domestic sale of CRA 8 female rock lobsters between the CRA 8 commercial MLS and 60 mm TW. CRAMAC 8 has pursued this proposal for more than six years.

CRAMAC 8 suggests domestic sales of CRA 8 female rock lobsters below 60 mm TW will provide CRA 8 exporters with opportunities to achieve best prices on either the domestic or export markets. At times better rock lobster prices may be achieved on the domestic market, particularly when supply outweighs the demand on the export market.

CRAMAC 8 considers that the compliance risk of CRA 8 domestic sales has never been substantiated. There is unlikely to be a significant increase in the number of outlets that would sell female rock lobsters below 60 mm TW if domestic sales were allowed.

CRAMAC 8 and NZ RLIC do not support mandatory product identification of CRA 8 rock lobsters for domestic sale. These submitters consider that adequate compliance monitoring is provided through current recordkeeping and reporting requirements. NZ RLIC adds that female rock lobsters between 57 and 60mm TW would be undetectable to domestic consumers and requiring mandatory product identification of these lobsters would be excessive.

### *NRLMG response*

Allowing CRA 3 and CRA 8 domestic sales and CRA 7 domestic sales outside of a 'consumer pack' will provide industry with additional opportunities to maximise utilisation benefits from the rock lobster fishery.

The NRLMG have discussed the objections industry has had with the mandatory product identification requirements for domestic sales of rock lobsters below 54/60 mm TW. As a result, the NRLMG have amended the final proposals. It is now proposed that product identification will be mandatory for CRA 7 domestic sales, but voluntary for CRA 3 and CRA 8 domestic sales.

In response to recreational submitter concerns about the potential increase in illegal catch and 'trucking' if domestic sales are allowed, the NRLMG considers that mandatory product identification of CRA 7 rock lobsters and voluntary identification of CRA 3 and CRA 8 rock lobsters mitigates against the compliance risk. It is proposed that industry and MPI will work together to develop a product identification scheme that benefits both parties.

In response to CRAMAC 8's comment about the risk of CRA 8 domestic sales, MPI members of the NRLMG note that the level of compliance risk associated with any proposal is considered in relation to detected offences, observed activities, intelligence and intangible anecdotal knowledge. Based on this information, MPI considers the compliance risk of CRA 8 domestic sales to be low at this time.

Recreational submitter Roslton suggested that CRA 3 domestic sales should be conditional on rock lobsters being sealed in 'consumer packs'. The NRLMG considers that this requirement is inconsistent with current domestic market preferences for a live product.

### 1.12.3 NRLMG analysis

#### *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*

The industry will be provided with additional benefits under the proposal to allow domestic sales of CRA 3 and CRA 8 rock lobsters between the commercial MLS and 54/60 mm TW (currently these rock lobsters cannot be sold on the New Zealand domestic market). This includes the ability for sellers of rock lobsters to target the best price between the domestic and export market, and for processors to sell rock lobsters that are unsuitable for export on the domestic market.

The mandatory product identification proposal for CRA 7 rock lobsters between the commercial MLS and 54/60 mm TW will provide industry with greater flexibility than the current 'consumer pack' requirements. The present 'consumer pack' requirements require rock lobsters to be held in these packs until the final point of sale and to have a content weight of no greater than 1 kg. These requirements have proven to be inconsistent with seller and consumer preferences (i.e. for live lobsters) and have resulted in packs being split for display and purchase reasons.

Removal of the 'consumer pack' requirements may reduce industry compliance costs and remove current marketing constraints and compliance challenges. However, additional costs for industry may result with the introduction of mandatory product identification for CRA 7 rock lobsters below 54/60 mm TW. The costs of product identification will depend on the type of identification that is chosen and the quantity of CRA 7 rock lobsters that are sold on the domestic market. For example, if industry pursues the horn tagging initiative this could result in a marginal increase in the cost of rock lobsters to domestic consumer so that industry can cover any additional costs.

#### *Compliance risks and resources*

MPI members of the NRLMG consider that the current recordkeeping and reporting requirements provide adequate means to track movements of domestically sold rock lobsters up to the final destination/point of sale. Once rock lobsters reach this point there are opportunities for retailers to run a top up system and disguise illegally harvested undersized lobsters as legitimately caught lobsters that are between the commercial MLS and 54/60 mm TW.

NRLMG MPI members consider that the risk of poaching and black market activities and the concealment of illegally harvested rock lobsters as legitimate product, is the greatest for CRA 7 rock lobsters. The CRA 7 commercial MLS is substantially smaller than 54/60mm TW and as a result this can create incentives to disguise lobsters from other areas as CRA 7 rock lobster.

While information from MPI indicates that there is evidence of high levels of illegal removals from the CRA 3 fishery, NRLMG sector members do not consider that this is driven by the winter CRA 3 commercial MLS (poaching and black market activities are occurring regardless). To mitigate against any potential risk of allowing CRA 3 domestic sales of male rock lobsters below 54 mm TW, the NRLMG proposes to restrict the period that these rock lobsters can be sold and purchased on the domestic market to 1 June to 30 September.

MPI members consider the level of compliance risk associated with allowing CRA 8 domestic sales of female rock lobsters below 60 mm TW is low given the current dynamics of the commercial fishery (i.e. high levels of investment and low numbers of purchasers of rock lobster).

#### *Product identification requirements*

MPI members consider that tighter controls are required for CRA 7 rock lobsters in order to uphold the reputation of the fishery and to protect its biological vulnerability.

Mandatory production identification of CRA 7 rock lobster below 54/60 mm TW is expected to mitigate against the risk of domestic sales and help to identify poaching and black market activities. NRLMG commercial members add that mandatory identification of CRA 7 rock lobsters will clearly show that they are legitimately sourced rock lobsters and will help to address negative consumer comments about their sale.

Based on the compliance risks discussed above, it is proposed that mandatory product identification applies to the domestic sales of CRA 7 rock lobsters between the commercial MLS and 54/60 mm TW, and voluntary identification applies to CRA 3 and CRA 8 domestic sales. If information suggests illegal activities have increased in relation to CRA 3 and CRA 8 domestic sales, industry and MPI propose to implement a voluntary identification programme.

MPI members note that a regulatory framework for mandatory product identification of CRA 7 rock lobsters below 54/60 mm TW will be designed to minimise the regulatory burden on industry. MPI propose to introduce a framework that has some flexibility for the industry to develop/introduce different tagging/labelling methods over time. For instance, there will be a minimum requirement for each tag or label to: be secure and unable to be re-used; record the number of the LFR that the rock lobster was purchased from; and have a unique identifier. LFRs involved in the domestic sales of CRA 7 rock lobsters below 54/60 mm TW will also be required to maintain records of each tag that is used.

### **1.13 Review of CRA 3, CRA 7 and CRA 8 export container labelling and packaging requirements**

#### **1.13.1 Final proposals**

The NRLMG proposes that you consider two options each for the CRA 3, CRA 7 and CRA 8 export container and packaging requirements (Table 1.11). Based on feedback from the NRLMG and an analysis of submissions, the final proposals for Options 'B' for each stock have been amended from the IPP.

Table 1.11: Final proposed CRA 3, CRA 7 and CRA 8 export container/packaging options

| Stock | Option | Description  |
|-------|--------|--|
| CRA 3 | 13A    | Retain the requirement that CRA 3 male rock lobsters between the winter CRA 3 commercial MLS and 54 mm TW, that are intended for export, must be held in containers marked 'Gisborne rock lobsters'  |
|       | 13B    | For CRA 3 male rock lobsters between the winter CRA 3 commercial MLS and 54 mm TW, from 1 October 2013: 1) remove the requirement for rock lobsters that are intended for export to be held in containers marked 'Gisborne rock lobsters'; and, 2) conditional on allowing CRA 3 domestic sales (Option 10B), amend the regulations to require rock lobsters that are intended for sale in New Zealand to be held in containers marked 'CRA 3 rock lobsters' |
| CRA 7 | 14A    | Retain the requirement for CRA 7 male and female rock lobsters between the CRA 7 commercial MLS and 54/60 mm TW, that are intended for export, to be packed in a container that is sealed under the direction of a Fishery Officer   |
|       | 14B    | Remove the requirement for CRA 7 male and female rock lobsters between the CRA 7 commercial MLS and 54/60 mm TW, that are intended for export, to be packed in a container that is sealed under the direction of a Fishery Officer, from 1 October 2013  |
| CRA 8 | 15A    | Retain the requirement that CRA 8 female rock lobsters between the CRA 8 commercial MLS and 60 mm TW must be packed in a sealed and marked 'Southland concession pack'   |
|       | 15B    | For CRA 8 female rock lobsters between the CRA 8 commercial MLS and 60 mm TW, from 1 October 2013: 1) remove the requirement for rock lobsters intended for export to be packed in a sealed and marked 'Southland concession pack'; and, 2) conditional on allowing CRA 8 domestic sales (Option 12B), amend the regulations to require rock lobsters that are intended for sale in New Zealand to be held in containers marked 'CRA 8 rock lobsters'        |

### 1.13.2 Submitter comments and NRLMG response

#### *Support for Option 13A*

Recreational and customary submitters (FMA2&8 Forum, GTSFC, Ngati Oneone, NZRFC and NZSFC) support Option 13A to retain the CRA 3 export container labelling requirements.

#### *Support for an amendment to the CRA 3 export container labelling requirements*

Based on the IPP options, commercial and customary submitters (CRAMAC 3, NPSL, NTS and NZ RLIC) supported a proposal to amend the CRA 3 export container labelling requirements for male rock lobsters below 54 mm TW to 'CRA 3 rock lobsters'.

#### *Support for Option 14A*

Recreational submitters (FMA2&8 Forum, NZRFC and NZSFC) support Option 14A to retain the CRA 7 export container requirements.

#### *Support for a amendment to the CRA 7 export container labelling requirements*

Based on the IPP options, commercial and customary submitters (Anderson, CRAMAC 7, NTS, NZ RLIC and TTW) supported a proposal to amend the CRA 7 export container labelling requirements for rock lobsters below 54/60 mm TW to 'CRA 7 rock lobsters'.

#### *Support for Option 15A*

Recreational submitters (FMA2&8 Forum, NZRFC and NZSFC) support Option 15A to retain the CRA 8 packaging requirements.

### *Support for a amendment to the CRA 7 export container labelling requirements*

Based on the IPP options, commercial and customary submitters (CRAMAC 8, NTS, NZ RLIC and TTW) supported a proposal to amend the CRA 8 export packaging requirements for female rock lobsters below 60 mm TW to 'CRA 8 rock lobsters'.

CRAMAC 8 noted support for the IPP proposal in part. This submitter does not support any additional labelling or packaging requirements because they consider that the current recordkeeping and reporting is sufficient for audit purposes.

### *Other comments*

In addition to supporting the status quo options for CRA 3, CRA 7 and CRA 8, the NZRFC considers that export containers/packaging should be marked as 'concession fish' and have the tail width displayed.

### *NRLMG response*

After discussion, the NRLMG now considers that any export container labelling/packaging requirements for rock lobsters below 54/60 mm TW to be surplus for compliance purposes. Information provided under the recordkeeping regulations is considered sufficient for compliance auditing and monitoring of export rock lobsters.

## 1.13.3 NRLMG analysis

### *Non-commercial utilisation*

Non-commercial fishing will not be negatively impacted by amendments to the export container labelling and packaging requirements.

### *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*

The existing export labelling and packaging requirements for rock lobsters below 54/60 mm TW are considered redundant.

It is considered that information provided under the recordkeeping regulations is sufficient for MPI compliance purposes for export rock lobster. Under these regulations every container packed at a LFR is to be marked with both the common and scientific name of the fish, date of packaging, and either the name of the LFR or the name of the person the fish was packed for. These requirements provide compliance with an additional tool to identify the source of rock lobster through the supply chain.

If you agree to allow domestic sales of CRA 3 and CRA 8 rock lobsters without mandatory product identification, it is proposed that every container that holds rock lobsters between the commercial MLS and 54/60 mm TW for domestic sale must be marked with 'CRA 3 rock lobsters' or 'CRA 8 rock lobsters'. This requirement is proposed for compliance auditing and monitoring purposes (i.e. it quickly alerts Fishery Officers that rock lobsters below 54/60 mm TW could be present in the container).

## 1.14 Review of CRA 3 and CRA 7 export requirements

### 1.14.1 Final proposals

The NRLMG proposes that you consider two options each for the CRA 3 and CRA 7 export requirements (Table 1.12). These options are the same as the IPP.

Table 1.13: Final proposed CRA 3 and CRA 7 export requirement options

| Stock | Option | Description   |
|-------|--------|---|
| CRA 3 | 16A    | Retain the requirement that CRA 3 male rock lobsters between the winter CRA 3 commercial MLS and 54 mm TW must be exported from a LFR only  |
|       | 16B    | Amend the export requirements for CRA 3 male rock lobsters between the winter CRA 3 commercial MLS and 54 mm TW to either: 1) be exported directly from a LFR; or, 2) delivered to an export transshipment point subject to prior approval and conditions, from 1 October 2013        |
| CRA 7 | 17A    | Retain the requirement that CRA 7 male and female rock lobsters between CRA 7 the commercial MLS and 54/60 mm TW must be exported from a CRA 7 LFR only   |
|       | 17B    | Amend the export requirements for CRA 7 male and female rock lobsters between the CRA 7 commercial MLS and 54/60 mm TW to either: 1) be exported directly from a LFR; or, 2) delivered to an export transshipment point subject to prior approval and conditions, from 1 October 2013 |

### 1.14.2 Submitter comments and NRLMG response

#### *Support for Option 16A*

Recreational and customary submitters (FMA2&8 Forum, GTSFC, Ngati Oneone, NZRFC and NZSFC) support Option 16A to retain the CRA 3 export requirements.

#### *Support for Option 16B*

Commercial submitters (CRAMAC 3, NPSL, NTS and NZ RLIC) support Option 16B to amend the existing CRA 3 export requirements.

NPSL note the change could provide greater flexibility to operators who run multiple depots, LFRs and export facilities, and could reduce operational constraints.

#### *Support for Option 17A*

Recreational submitters (FMA2&8 Forum, NZRFC and NZSFC) support Option 17A to retain the CRA 7 export requirements.

#### *Support for Option 17B*

Commercial and customary submitters (Anderson, CRAMAC 7, NTS, NZ RLIC and TTW) support Option 17B to amend the existing CRA 7 export requirements.

CRAMAC 7 and NTS both indicate that allowing the transport of CRA 7 rock lobsters, between the commercial MLS and 54/60 mm TW, outside of the Otago area will likely result in an increase in economic benefits for the industry.

### *Other support*

Recreational submitters (FMA2&8 Forum, NZRFC and NZSFC) and commercial submitters (CRAMAC 8 and NZ RLIC) also noted support for retention of the existing CRA 8 export requirements for female rock lobsters below 60 mm TW.

CRAMAC 8 considers that continuation of the current requirement provides an additional audit trail for compliance purposes.

### *NRLMG response*

The NRLMG agree with commercial submitters that the proposals to change the export requirements for CRA 3 and CRA 7 rock lobsters will provide the industry with greater opportunities to increase their utilisation benefits.

## 1.14.3 NRLMG analysis

### *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 below 54/60 mm TW.

### *Commercial utilisation*

Amendment of the export specifications will remove current operational constraints and provide the CRA 3 and CRA 7 industries with increased flexibility to export through different transshipment points (subject to MPI approval).

### *Compliance risks and resources*

There are minimal compliance risks associated with amending the CRA 3 and CRA 7 export requirement. The compliance risk of allowing fish to be delivered to an export transshipment point is mitigated by existing industry reporting and recordkeeping that track lobster movements.

## 1.15 Review of CRA 7 and CRA 8 export notification and record requirements

### 1.15.1 Final proposals

The NRLMG proposes that you consider two options each for the CRA 7 and CRA 8 export notification and record requirements (Table 1.14). These options are the same as the IPP. No changes are proposed for CRA 3 because no export notification or record requirements are currently required.

Table 1.14: Final proposed CRA 7 and CRA 8 export notification and record options

| Stock | Option | Description   |
|-------|--------|---|
| CRA7  | 18A    | Retain the requirement for a LFR to notify export particulars to MPI when exporting CRA 7 male and female rock lobsters, between the CRA 7 commercial MLS and 54/60 mm TW |
|       | 18B    | Remove the requirement for a LFR to notify export particulars to MPI when exporting CRA 7 rock lobsters below 54/60 mm TW, from 1 October 2013                            |

|       |     |   |
|-------|-----|---|
| CRA 8 | 19A | Retain the requirement for a LFR: 1) to notify export particulars to MPI; and, 2) maintain specific records, when exporting CRA 8 female rock lobsters between the CRA 8 commercial MLS and 54/60 mm TW |
|       | 19B | Remove the requirement for a LFR to notify export particulars to MPI and maintain specific records for CRA 8 female lobsters below 60 mm TW, from 1 October 2013  |

### 1.15.2 Submitter comments and NRLMG response

#### *Support for Option 18A*

Recreational submitters (FMA2&8 Forum, NZRFC and NZSFC) indicated support for Option 18A to retain the existing CRA 7 export notification requirements.

#### *Support for Option 18B*

Commercial and customary submitters (Anderson, CRAMAC 7, NTS, NZ RLIC and TTW) support Option 18B to remove the existing CRA 7 export notification requirements.

#### *Support for Option 19A*

Recreational submitters (FMA2&8 Forum, NZRFC and NZSFC) indicated support for Option 19A to retain the existing CRA 8 export notification and record requirements.

#### *Support for Option 19B*

Commercial and customary submitters (CRAMAC 8, NTS, NZ RLIC and TTW) support Option 19B to remove the existing CRA 8 export notification and record requirements for female rock lobsters below 60 mm TW.

#### *Other support*

Although recreational submitter the NZRFC expresses support for the CRA 7 and CRA 8 status quo options, they consider that all 'concession fish' should be notified to MPI prior to shipping.

Recreational submitter GTSFC would like to see the same mandatory export requirements for CRA 3 as is presently required for CRA 7 and CRA 8 rock lobsters below 54/60 mm TW (this includes a breakdown of the amount of 'concession fish' versus those above 54/60 mm TW).

#### *NRLMG response*

The additional requirements proposed by recreational submitters are unnecessary because current recordkeeping and reporting regulations are considered sufficient.

### 1.15.3 NRLMG analysis

#### *Non-commercial utilisation*

Non-commercial fishing will not be negatively impacted by removal of the export notification and record requirements for rock lobsters between the commercial MLS and 54/60 mm TW.

#### *Commercial utilisation*

Removal of the CRA 7 and CRA 8 export notification/record requirements will minimise the documentation LFRs are required to provide to comply with the rules for rock lobsters below 54/60 mm TW.

### Compliance risks and resources

The compliance risk of removing the export notification requirements is mitigated by existing industry recordkeeping and reporting requirements that track lobster movements along the supply chain.

## 1.16 NRLMG conclusion

The NRLMG have reached consensus decisions for most of the proposals that you are asked to consider in this FAP. Table 1.15 below provides a summary of the regulatory change options that NRLMG members support.

Table 1.15: Summary of regulatory change options that NRLMG members support

| Proposal  | NRLMG members |              |            |     |
|---|---------------|--------------|------------|-----|
|   | Customary     | Recreational | Commercial | MPI |
| Allow recreational fishers to take and possess CRA 3, CRA 7 and CRA 8 rock lobsters at the same MLS that applies to commercial fishers (Options 1B, 2B and 3B)              | ✓             | ✓            | ✓          | ✗   |
| Remove the CRA 3 commercial closure during May (Option 4B)  | ✓             | ✗            | ✓          | ✓   |
| Remove the CRA 7 seasonal commercial closure (Option 5B)  | ✓             | ✗            | ✓          | ✓   |
| Remove the commercial fishing prohibition for the 'Otago Concession Buffer Zone' (Option 6B)  | ✓             | ✗            | ✓          | ✓   |
| Remove the CRA 7 vessel requirements for rock lobsters between the CRA 7 commercial MLS and 54/60 mm TW (Option 7B)   | ✓             | ✓            | ✓          | ✓   |
| Amend the CRA 7 landing requirements for rock lobsters between the CRA 7 commercial MLS and 54/60 mm TW (Option 8B)   | ✓             | ✓            | ✓          | ✓   |
| Amend the CRA 8 landing requirements for female rock lobsters between the CRA 8 commercial MLS and 60 mm TW (Option 9B)   | ✗             | ✗            | ✗          | ✗   |
| Allow domestic sales of CRA 3 and CRA 8 rock lobsters between the commercial MLS and 54/60 mm TW without any mandatory product identification (Options 10B and 12B)         | ✓             | ✗            | ✓          | ✓   |
| Continue to allow domestic sales of CRA 7 rock lobsters between the commercial MLS and 54/60 mm TW, but subject to new product identification requirements (Option 11B)     | ✓             | ✗            | ✓          | ✓   |
| Remove the CRA 3, CRA 7 and CRA 8 export container labelling/packaging requirements for rock lobsters between the commercial MLS and 54/60 mm TW (Options 13B, 14B and 15B) | ✓             | ✓            | ✓          | ✓   |
| Amend the CRA 3 and CRA 7 export requirements for rock lobsters between the commercial MLS and 54/60 mm TW (Options 16B and 17B).   | ✓             | ✓            | ✓          | ✓   |
| Remove the CRA 7 and CRA 8 export notification/record requirements for rock lobsters between the commercial MLS and 54/60 mm TW (Options 18B and 19B)                       | ✓             | ✓            | ✓          | ✓   |

The NRLMG has varying views on the proposal to allow recreational fishers to take and possess CRA 3, CRA 7 and CRA 8 rock lobsters at the same MLS that applies to commercial fishers:

- *Customary, recreational and commercial NRLMG members* recommend allowing recreational fishers access to the commercial MLS. These members consider it an opportunity to restore equity and fairness to the rock lobster MLS across the country and reduce negative perceptions held about rock lobster management by some non-commercial fishers in CRA 3 and CRA 7. Recreational members, however, state that they want access to CRA 3 male rock lobsters at or above 52 mm TW year round instead of during June, July and August as currently proposed. These members consider that year round access is the only way to properly restore equity in the CRA 3 fishery.
- *MPI members of the NRLMG* do not support the recreational MLS proposal for any area. Even though the proposal is unlikely to negatively impact on stock sustainability and commercial benefits and may provide recreational fishers with increased utilisation benefits, these members consider that there will be significant and ongoing compliance costs for MPI that are greater than the status quo. This includes ongoing costs of education, monitoring and enforcement, and new costs of advertising, updating of brochures and boat ramp/beach signs.

Recreational NRLMG members do not support removal of the CRA 3 commercial May closure, the CRA 7 commercial seasonal closure, the CRA 7 commercial closed area and changes to the CRA 3, CRA 7 and CRA 8 domestic sale provisions until recreational fishers are allowed to take and possess, at any time of year:

1. CRA 3 male rock lobsters at or above 52 mm TW;
2. CRA 7 male and female rock lobsters at or above a TW equivalent of the current commercial MLS of 127 mm TL;
3. CRA 8 female rock lobsters at or above 57 mm TW.

## 1.17 Other matters

### *CRA 3 Illegal take*

Some recreational submitters (Rolston and SNZ) expressed concerns about the high level of illegal take that is estimated for the CRA 3 fishery. The NRLMG sector members are also concerned about this and recommend that every effort is taken to reduce it.

MPI members of the NRLMG note that there is little confidence in the 89 tonne illegal take estimate that is used for the CRA 3 fishery because it cannot be verified. MPI compliance continues to invest significant monitoring and enforcement effort to reduce illegal activities in the CRA 3 fishery. This is shown by recent prosecutions for the take of undersize and excessive numbers of rock lobsters.

### *Reporting of fish landed below 54/60 mm TW*

Several recreational submitters (FMA2&8 Forum, GTSFC, NZRFC and NZSFC) request that there is a mandatory requirement for the industry to separately report the quantity (in weight or numbers) of rock lobsters between the commercial MLS and 54/60 mm TW, and those above 54/60 mm TW.

The NRLMG advises that there is a long-time series of information available on the length frequency (or the proportions of rock lobsters at a given size) of many rock lobster fisheries.

Through the observer catch sampling and industry voluntary logbook programmes, over 2.5 million rock lobsters have been measured since 1987. Analysis of this information provides an indication of the proportions of male, immature female and mature female rock lobsters at a given size in a fishery.

Given the availability of this valuable information source, it is not considered necessary to require commercial fishers to separate their catch and report the weight of a rock lobster that may only have a size difference of 2mm TW. There is often little difference in the weight of rock lobsters with a 2-3 mm TW size difference.

#### *Management approach for rock lobster*

The NZSFC state that rock lobster MLSs must be set to achieve specific biological targets and ensure that 90% of recruits breed at least once before becoming available for catch. The FMA3&5 Forum also express concerns about the harvesting of immature CRA 7 rock lobsters and the detrimental effect it could have on surrounding areas (i.e. CRA 8, where CRA 7 rock lobsters immigrate to).

The NRLMG advises that the current MLS regime for rock lobster fisheries enables each stock to be managed in way that is consistent with MPI's Harvest Strategy Standard. This standard specifies performance standards for QMS species and also provides guidance for TAC setting under the Act.

It is not necessary to set a MLS that ensures that the 90% of recruits breed at least once before they become available to a fishery. Observations have shown that there is no lack of breeding success in most of our rock lobster fisheries under the current MLS regime. This is despite the fact that in some areas (i.e. CRA 7 and eastern parts of CRA 5 and CRA 8) the average size that a female rock lobster matures is close to or above a MLS of 60 mm TW. This is not a concern for management of the fishery, however, because rock lobsters have an extremely long larval life of up to two years which results in extensive mixing of larvae around New Zealand.

With respect to concerns raised about the taking of immature CRA 7 rock lobsters, observation suggests this does not have a significant impact on the abundance of the nearby CRA 8 fishery. The CRA 8 rock lobster fishery has sustained high levels of abundance, despite CRA 7 going through periods of low abundance in recent years.

## 2 FINAL ADVICE PAPER: REVIEW OF AMATEUR REGULATIONS RELATING TO ROCK LOBSTER IN THE FIORDLAND (TE MOANA O ATAWHENUA) MARINE AREA

### 2.1 Executive summary

The National Rock Lobster Management Group (**NRLMG**) requests that you make decisions on a review of amateur regulations relating to rock lobster in the Fiordland (Te Moana o Atawhenua) Marine Area (**FMA**)<sup>11</sup>.

In 2011/12 the Fiordland Marine Guardians (**FMG**)<sup>12</sup> requested that the NRLMG and the Ministry for Primary Industries (**MPI**) endorse their recommendations to amend the Fisheries (Southland and Sub-Antarctic Areas Amateur Fishing) Regulations 1991 (**Amateur Regulations**) for the FMA.

The NRLMG proposes that you consider four final proposals to amend the Amateur Regulations from 1 October 2013 (Table 2.1). Note the status quo options are not presented in Table 2.1.

Table 2.1: Summary of NRLMG final regulatory change proposals for the FMA

| Regulation          | Proposal   |
|---------------------|--|
| Daily bag limit     | <i>Increase</i> the maximum daily number of rock lobster that may be taken or possessed by recreational fishers from 3 to 6 per day in the internal waters of Fiordland, except for Milford Sound, which is to remain at 3 (Option F1B)                |
| Accumulation limit  | <i>Amend</i> 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 (Option F2B) |
| Written records     | <i>Amend</i> the rock lobster accumulation defence provision conditions by requiring recreational fishers to maintain a written record of all live rock lobsters stored in and removed from holding pots in the FMA (Option F3B)                       |
| Potting prohibition | <i>Prohibit</i> the use of recreational rock lobster pots in the internal waters of Fiordland adjacent to Seymour Island, in Pendulo Reach, Doubtful Sound (Option F4B)  |

In summary, amendments to the Amateur Regulations are intended to:

- Allow for greater recreational utilisation of the rock lobsters in the internal waters of Fiordland, except for Milford Sound (Options F1B and F2B);
- Address a compliance issue in relation to the identification of an individual recreational fishers rock lobster catch when holding pots are used by multiple fishers at sea in the FMA (Option F3B);
- Prohibit recreational rock lobster potting in a small area of the internal waters to protect significant bottom sill<sup>13</sup> species and habitat biodiversity (Option F4B).

<sup>11</sup> Refer to Appendix 1 for a map of the Fiordland Marine Area.

<sup>12</sup> 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.

<sup>13</sup> 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.

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 recreational rock lobster fishing is unlikely to increase in the outer fiords, where commercial fishing takes place, as a result of the proposals.

The NRLMG have reached consensus decisions for three of the four proposals that you are being asked to consider in this Final Advice Paper (**FAP**). These were Options F1B, F2B and F4B.

The NRLMG were unable to reach agreement on the proposal to require recreational fishers to maintain written records for rock lobsters stored in holding pots:

- Recreational members support no change to the current regulations (Option F3A) because they consider that written records should be a voluntary measure that recreational fishers choose to do to identify their individual catch;
- Customary, commercial and MPI members support a change to the regulations (Option F3B) because they consider that written records is sensible way to address a compliance issue in relation to identification of an individual fishers catch.

The NRLMG note in general that most submitters (commercial and recreational) supported amendments to the regulations, except with respect to the written record proposal where recreational submitters supported the status quo.

## 2.2 Summary of recommendations

### Maximum daily bag limit

The NRLMG recommends that you choose either:

**Option F1A**

Agreed / ~~Not Agreed~~

- i. Agree to retain the current maximum daily limit of 3 rock lobsters per recreational fisher in the internal waters of Fiordland;

OR

**Option F1B (NRLMG preferred option)**

Agreed / ~~Not Agreed~~

- ii. Agree to increase the maximum daily number of rock lobsters that may be taken or possessed by recreational fishers from 3 to 6 per day in the internal waters of Fiordland from 1 October 2013, except for Milford Sound which is to remain at 3.

### Accumulation limit

The NRLMG recommends that you choose either:

**Option F2A**

Agreed / ~~Not Agreed~~

- i. Agree to retain the current rock lobster accumulation defence provisions that allow for accumulation of up to 3 rock lobsters in the internal waters of Fiordland;

OR

**Option F2B (NRLMG preferred option)**

Agreed / ~~Not Agreed~~

- ii. Agree to 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 from 1 October 2013.

### Written records

The NRLMG recommends that you choose either:

**Option F3A (NRLMG recreational member preferred option)**

Agreed / ~~Not Agreed~~

- i. Agree to retain the current recreational rock lobster accumulation defence provision conditions for the FMA;

OR

**Option F3B (NRLMG customary, commercial and MPI preferred option)**

Agreed / ~~Not Agreed~~

- ii. Agree to amend the rock lobster accumulation defence provision conditions by requiring recreational fishers to maintain a written record of all live rock lobsters stored in and removed from holding pots in the FMA, from 1 October 2013.

**Recreational potting prohibition**

The NRLMG recommends that you choose either:

**Option F4A**

**Agreed / ~~Not Agreed~~**

- i. Agree to retain the current use of recreational rock lobster pots in the internal waters of Fiordland;

OR

**Option F4B (NRLMG preferred option)**

**Agreed, / Not Agreed**

- ii. Agree to prohibit the use of recreational rock lobsters pots in the internal waters of Fiordland adjacent to Seymour Island, in Pendulo Reach, Doubtful Sound, from 1 October 2013.



Dr John McKoy  
Chair  
National Rock Lobster Management Group



Hon Nathan Guy  
Minister for Primary Industries

27 / 5 / 2013

## 2.3 Background information

In this part, background information is presented on a review of the Amateur Regulations, including review objectives, the current situation and the problem definition.

### 2.3.1 Objectives for the FMA

The FMG have adopted a number of key fisheries objectives to ensure that Fiordland's marine environment and fisheries are maintained and improved for future generations to use and enjoy. 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.

### 2.3.2 The Current situation and problem definition

#### *Background to the FMA*

Rock Lobster is the most important recreational target fishery in the FMA. The FMA lies within the Southern (CRA 8) rock lobster fishery.

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

#### *Maximum daily limit and limits on accumulation in the internal waters*

Rock lobster recreational 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 provisions:

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

The Amateur Regulations for the rock lobster in the FMA 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 Amateur Regulations limited recreational 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 2005.

#### *Recreational defence provisions in the Amateur Regulations*

In 2005, recreational defence provisions in the Amateur were amended for the FMA to allow recreational 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 lobsters from the internal waters). To satisfy this defence, recreational fishers must comply with the following 'bag and tag' conditions.

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.

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 Amateur 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.

#### *Recreational potting in the internal waters adjacent to Seymour Island, in Pendulo Reach, Doubtful Sound*

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 considers that the highest risks to the fragile species and habitats in the Pendulo Reach area are from recreational rock lobster pots (including holding pots), vessel anchors and heavy anchor chains.

Commercial potting for rock lobster is already prohibited within the area. 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.

## 2.4 Consultation and submissions

MPI, on behalf of the NRLMG, consulted on the NRLMG's Initial Position Paper (IPP) on proposals to review the Amateur Regulations for the FMA between 8 November and 13 December 2012.

Five written submissions were received from the following organisations or groups on the IPP options:

- FMA3&5 Regional Recreational Forum (FMA3&5 Forum);
- New Zealand Recreational Fishing Council (NZRFC);
- New Zealand Rock Lobster Industry Council (NZ RLIC);
- New Zealand Sport Fishing Council (NZSFC);
- Ngai Tahu Seafoods (NTS) and Toitu Te Whenua (TTW).

Full copies of the submissions are provided in Appendix 3 of this FAP. Each submission is discussed further below for each proposal as relevant.

## 2.5 Review of maximum daily and accumulation limits in the internal waters

### 2.5.1 Final proposals

The NRLMG proposes that you consider four options for the maximum daily and accumulation limits in the internal waters (Table 2.2). These options are the same as the IPP.

Table 2.2: Final proposed maximum daily and accumulation limits options

| Regulation         | Option | Description   |
|--------------------|--------|---|
| Daily bag limit    | F1A    | Retain the current maximum daily limit of 3 rock lobsters per recreational fisher in the internal waters of Fiordland   |
|                    | F1B    | Increase the maximum daily number of rock lobster that may be taken or possessed by recreational fishers from 3 to 6 per day in the internal waters of Fiordland, except for Milford Sound (which is to remain at 3), from 1 October 2013               |
| Accumulation limit | F2A    | Retain the current rock lobster accumulation defence provisions that allow for accumulation of up to 3 rock lobsters in the internal waters of Fiordland  |
|                    | F2B    | 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, from 1 October 2013 |

### 2.5.2 Submitter comments

Submitters (NZRFC, NZ RLIC, NTS, NZRFC, NZSFC and TTW) support Options F1B and F2B to increase the maximum daily limit and amend the accumulation provisions in the internal waters, except Milford Sound.

No submissions were received on Options F1A and F2A.

### 2.5.3 NRLMG analysis

#### *Options F1A and F2A (status quo)*

##### Options F1A and F2A:

- Could result in a larger stock size in the internal waters than Options F2A and F2B (this conclusion, however, assumes rock lobster recreational participation and harvest in the internal waters will not significantly change from current levels);
- Would continue to limit utilisation opportunities in the recreational fishery;
- Would not change existing compliance and enforcement resources.

#### *Options F1B and F2B (change proposals)*

##### Sustainability and the environment

The NRLMG considers that Options F1B and F2B 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 environment<sup>14</sup>.

While 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 and could sustain higher levels of recreational catch.

Milford Sound is excluded from Options F1B and F2B because there is limited rock lobster habitat in this area<sup>15</sup>. The FMG advises that any increase in recreational rock lobster take from within the available internal waters of Milford Sound could result in localised depletion of rock lobsters.

##### Utilisation benefits

Options F1B and F2B will provide non-commercial fishers with increased utilisation benefits.

A survey of recreational fisheries in the FMA between 2006 and 2008<sup>16</sup> showed that when rock lobster was targeted and harvested with pots, there was an overall catch rate of 0.9 fish per hour by charter vessels and 0.3 fish per hour by private/syndicate vessels<sup>17</sup>. Rock lobster targeted and harvested by diving had 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 recreational rock lobster harvest for the FMA because it was designed only to provide a snapshot.

Anecdotal information from the FMG and MPI suggests most recreational 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 recreational fishers and charter boat operators (particularly on longer duration fishing trips over 3-days or more).

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<sup>14</sup> 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.

<sup>15</sup> The northern side of Milford Sound is encompassed within the Piopiotahi Marine Reserve, where all fishing is prohibited.

<sup>16</sup> 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.

<sup>17</sup> Syndicate vessels are vessels owned by groups of people.

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, recreational 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).

#### Compliance and enforcement

Enforcement of Options F1B and F2B poses no significant compliance costs other than 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 Review of accumulation defence provisions for rock lobster

### 2.6.1 Final proposals

The NRLMG proposes that you consider two options for the recreational accumulation defence provisions (Table 2.3). These options are the same as the IPP.

Table 2.4: Final proposed recreational accumulation defence options

| Regulation      | Option | Description   |
|-----------------|--------|---|
| Written records | F3A    | Retain the current recreational rock lobster accumulation defence provision conditions for the FMA (including specific 'bag and tag' conditions)  |
|                 | F3B    | Amend the rock lobster accumulation defence provision conditions by requiring recreational fishers to maintain a written record of all live rock lobsters stored in and removed from holding pots in the FMA, from 1 October 2013 |

### 2.6.2 Submitter comments

Recreational submitters (FMA3&5 Forum, NZRFC and NZSFC) support Option F3A to retain the current recreational accumulation defence provisions. The FMA3&5 Forum and NZRFC instead support the use of coloured plastic cable ties to identify their catch.

Commercial and customary submitters (NTS, NZ RLIC and TTW) support Option F3B to amend the accumulation defence provisions to require written records.

### 2.6.3 NRLMG analysis

#### *Option F3A (status quo)*

Option F3A does not negatively impact on stock sustainability, the environment or recreational harvest.

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 fisher's 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 fishers catch in holding pots when used by multiple fishers at sea.

In the future if a written record or declaration is not provided by recreational fishers to satisfy the accumulation defence provisions, there will be an expectation for recreational fishers to comply with the existing 'bag and tag' conditions. If MPI compliance find accumulated rock lobster catch that is not in separate containers and is unlabelled, this would result in the following measures: (i) the seizure and return to the water of any rock lobsters in excess of each fisher's maximum daily entitlement of six; and (ii) issue either a warning notice or an infringement notice to any fisher in excess of the maximum six rock lobster daily limit. This is necessary to deter and curb parties of recreational fishers from unlawfully exceeding their individual rock lobster daily limit entitlement.

#### *Option F3B (change proposal)*

#### Sustainability and the environment

Option F3B does not impact stock sustainability or the environment.

#### Utilisation benefits

Individual recreational fishers would benefit the most from Option F3B. Requiring recreational fishers to maintain written records of rock lobster stored in holding pots would provide parties of recreational 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

The NRLMG (except for recreational members) considers that the written record requirement is a sensible way to address a compliance issue in relation to catch identification when holding pots are used by multiple fishers at sea in the FMA. The proposed amendment to the Amateur Regulations would ensure the defence provisions are practical to comply with and are able to be enforced. Written records also have the potential to reduce catch inspection time for compliance, particularly when there are large numbers of people on a single vessel.

It is proposed that recreational fishers would be required to complete an approved form. Instead, recreational fishers would be encouraged to follow the format of an 'example' record template (refer Appendix 2) where a certain level of information will be required. This includes:

- 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.

The FMG propose that the record template could be promoted and circulated to their database of recreational fishers to demonstrate the level of information required.

When rock lobsters that have been stored in holding pots are removed from the water, recreational 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.

Use of coloured cable ties

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 also assist MPI if possession of an unlawful state (e.g. berried or soft shell) or undersized rock lobster was detected. It is proposed that this measure is adopted by recreational fishers on a voluntary basis.

**2.7 Review of potting in the internal waters adjacent to Seymour Island, in Pendulo Reach, Doubtful Sound**

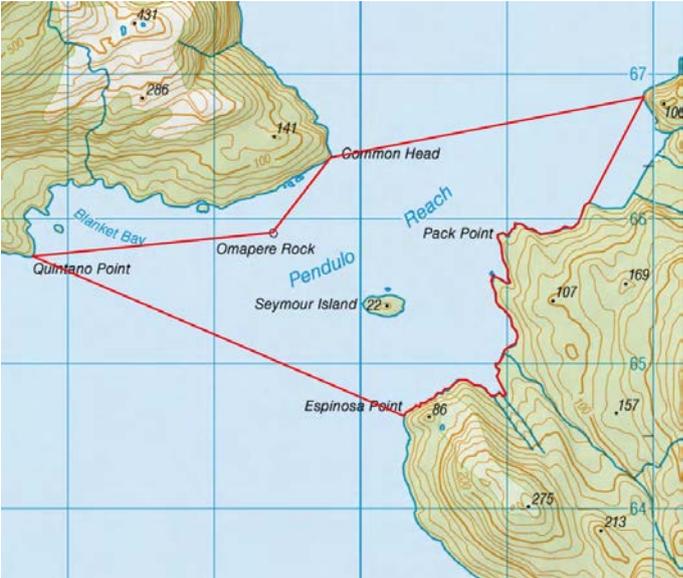
**2.7.1 Final proposals**

The NRLMG proposes that you consider two options for the recreational potting in the internal waters (Table 2.5 and Figure 2.1). These options are the same as the IPP.

Table 2.5: Final proposed recreational potting options

| Regulation           | Option | Description   |
|----------------------|--------|---|
| Recreational potting | F4A    | Retain the current use of recreational rock lobster pots in the internal waters of Fiordland  |
|                      | F4B    | Prohibit the use of recreational rock lobsters pots in the internal waters of Fiordland adjacent to Seymour Island, in Pendulo Reach, Doubtful Sound, from 1 October 2013 |

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



## 2.7.2 Submitter comments

Recreational submitter NZSFC supports Option F4A to retain the current recreational use of rock lobster pots in the internal waters.

Other submitters (NTS, NZRFC, NZ RLIC and TTW) support Option F4B to prohibit the use of recreational rock lobster pots in waters adjacent to Seymour Island.

## 2.7.3 NRLMG analysis

### *Option F4A (status quo)*

Option F4A will not impact current recreational 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 F4B (change proposal)*

#### Sustainability and the environment

Option F4B 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 recreational potting prohibition proposal in the vicinity of Seymour Island is unlikely to negatively impact recreational fishers.

A survey of recreational 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 prohibition<sup>18</sup>. 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

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<sup>18</sup> 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.

Seymour Island vicinity is wider known, that potting will increase and have a negative impact on the fragile sill bottom species.

#### Compliance and enforcement

Enforcement of Option F4B 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 recreational 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.

## 2.8 NRLMG conclusion

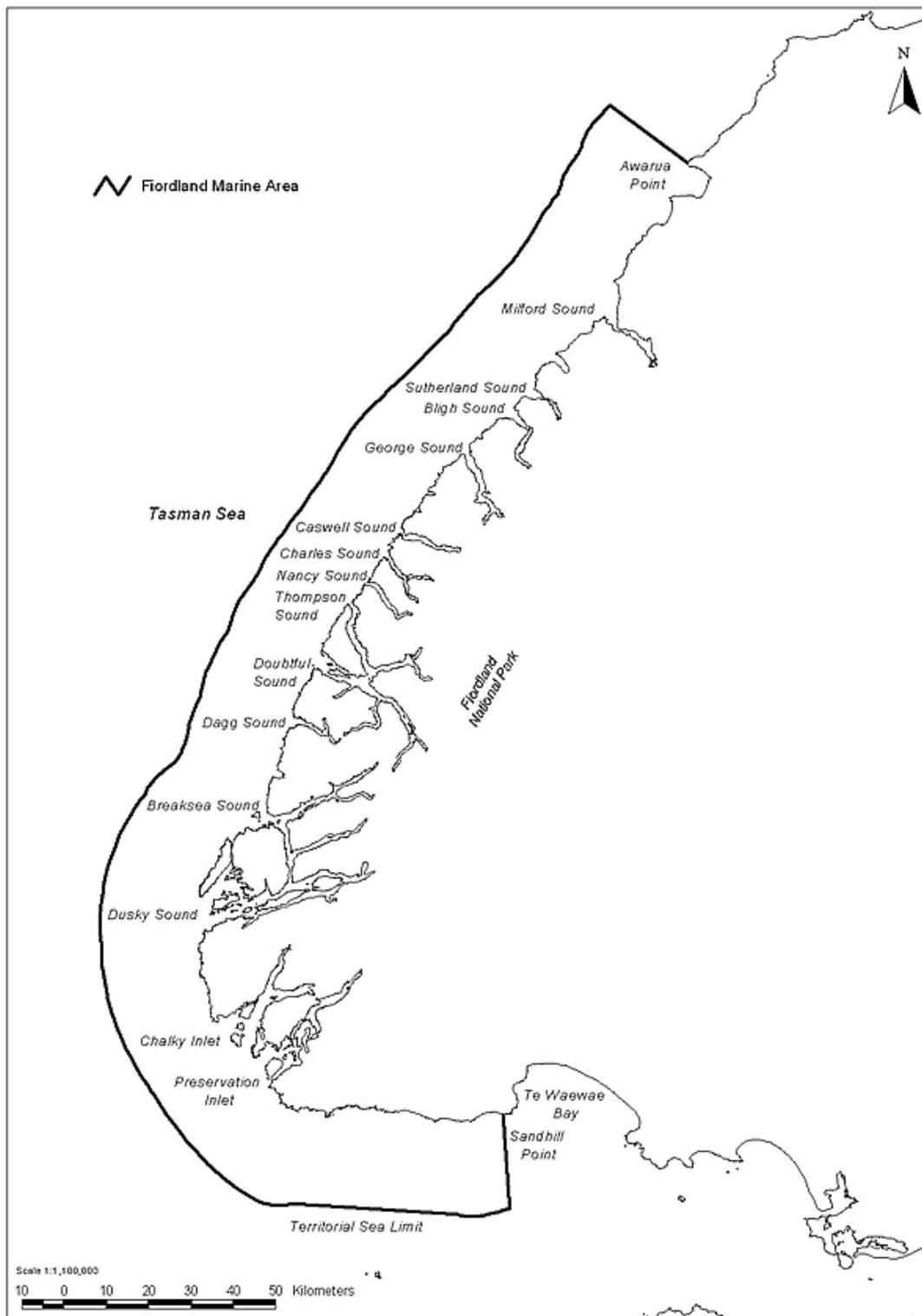
Based on best available information and the analysis set out above, the NRLMG recommends from 1 October 2013 that you:

- Increase the maximum daily limit of rock lobster from 3 to 6 per recreational fisher per day in the internal waters except Milford Sound (Option F1B);
- Amend the lobster accumulation defence provisions to allow for an accumulation of up to 15 lobsters, except for Milford Sound (Option F2B);
- Prohibit the use of recreational rock lobster pots in the internal waters adjacent to Seymour Island, in Pendulo Reach, Doubtful Sound (Option F4B).

The NRLMG were unable to reach consensus agreement for Options F3A and F3B. NRLMG recreational members recommend that you choose Option F3A to retain the current recreational rock lobster accumulation defence provision conditions for the FMA, and NRLMG customary, commercial and MPI members recommend that you choose Option F3B to amend the rock lobster accumulation defence provisions to require recreational fishers to maintain written record of all live lobsters stored and removed from holding pots in the FMA.

# Appendix 1

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



## Appendix 2

### Example Fiordland Marine Area recreational rock lobster written record template

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

| HOLDING POT 1          |                              |                              |  |  |             |   |  |
|------------------------|------------------------------|------------------------------|--|--|-------------|---|--|
| Date                   | Fishers 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                   | Fishers 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 |
| / /                    |                              |                              |  |  |             |   |  |
| / /                    |                              |                              |  |  |             |   |  |
| / /                    |                              |                              |  |  |             |   |  |
| / /                    |                              |                              |  |  |             |   |  |
| Name of Vessel Skipper |                              | Signature                    |  |  | Date Signed |   |  |
|                        |                              |                              |  |  | / /         |   |  |

## Appendix 3

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Submissions received on initial advice