

5 May 2010

Dear Stakeholder

## **REVIEW OF REGULATORY MEASURES FOR DECEMBER 2010**

### ***Introduction***

- 1 The Ministry of Fisheries (MFish) is currently consulting on four proposals that could result in changes to regulation. If approved, these regulations would take effect in December 2010. The Initial Position Paper (IPP) provides you with MFish's initial position on each issue being reviewed. The IPP includes the rationale to support each proposal and a preliminary recommendation.
- 2 The purpose of this letter is to provide you with a short summary of each IPP, so that you can choose which issues you would like to examine further, and potentially provide comment on.
- 3 A copy of the full IPP can be found in the "Consultations" section of the MFish website, [www.fish.govt.nz](http://www.fish.govt.nz), or alternatively, you can request a hard copy from Trudie Macfarlane, ph: (04) 819 4739 or e-mail [trudie.macfarlane@fish.govt.nz](mailto:trudie.macfarlane@fish.govt.nz)

### ***Customary Regulations for the Southern Titi/Muttonbird Islands***

- 4 This paper proposes new customary regulations that would restrict commercial fishing in 31 locations around the Southern Titi/Muttonbird Islands.
- 5 Titi (mutton bird) harvesters are reliant on shellfish whilst on the Southern Titi/Muttonbird Islands. Because of this, tangata whenua wish to ensure titi harvesters can continue to gather kaimoana, particularly shellfish, around the islands.
- 6 Te Rūnanga o Ngāi Tahu (Ngāi Tahu), on behalf of the Titi/Muttonbird Island birding community as tangata whenua, has asked that the Minister of Fisheries (the Minister) consider creating new customary regulations under s 186(1) of the Fisheries Act 1996 (the Fisheries Act).
- 7 The Ministry of Fisheries' (MFish) initial position is that the proposed regulations better provide for Maori non-commercial traditional and customary rights and interests than the status quo. MFish also considers the proposed regulations are consistent with the Crown's obligation under s 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (the Settlement Act).
- 8 MFish is seeking submissions from tangata whenua and stakeholders on the impact of commercial fishing on customary fishing around the Southern Titi/Muttonbird Islands, the economic impacts on commercial fishers of the proposed closures, the boundaries of the proposed closures, and the likely impact on adjacent areas of displaced commercial effort under the proposals.

### ***Review of Challenger Area Commercial Fishing Regulation 11***

- 9 This paper presents options to either retain or revoke regulation 11 of the Fisheries (Challenger Area Commercial Fishing) Regulations 1986 (regulation 11).
- 10 Regulation 11 stipulates that the Chief Executive of the Ministry of Fisheries (MFish) is required to close the inner Tasman Bay to certain commercial fishing methods if the commercial catch of snapper in Tasman and Golden Bays (an area known as statistical area 038) exceeds 100 tonnes between October and the end of February in any fishing year. These method restrictions prohibit any commercial fishing using pair trawling or Danish seining and also prohibit snapper fishing using any surrounding net that is not a drag net. These restrictions apply to a defined area of Tasman Bay, and remain effective until 30 September.
- 11 The primary issue is whether regulation 11 is now relevant or provides outcomes of sufficient value to warrant retaining the regulation.
- 12 This paper considers this issue and the implications of retaining or revoking regulation 11. MFish outlines two options in this IPP. Option One is to retain the status quo. Option Two is to revoke the regulation.
- 13 MFish has an initial preference for adopting Option Two as the intent of the regulation is no longer relevant or is better met by alternative management measures.

### ***Management Options for Basking Sharks to Give Effect to New Zealand's International Obligations***

- 14 Both the Ministry of Fisheries (MFish) and the Department of Conservation (DoC) propose to provide protection for basking sharks (*Cetorhinus maximus*), both in New Zealand fisheries waters and from New Zealand vessels fishing on the high seas. Specifically, this proposal is considering the following regulatory changes:
  - a) amendment to Schedule 7A of the Wildlife Act, to include basking shark;
  - b) drafting of new Fisheries (Basking Shark – High Seas Protection) Regulations 2010; and
  - c) amendment to Part 2C of Schedule 3 to the Fisheries (Reporting) Regulations 2001, to include basking shark.
- 15 New Zealand is a member state of the Convention on the Conservation of Migratory Species of Wild Animals (CMS). By ratifying this Convention New Zealand acknowledged the importance of conserving migratory species, and agreed to take action to protect such species wherever appropriate and possible.
- 16 New Zealand subsequently made a commitment to establishing protection measures for the basking shark in 2008, through publication of the National Plan of Action-Sharks (NPOA-Sharks).
- 17 New Zealand currently manages basking sharks through the Fisheries Act 1996, although the species is not within the quota management system (QMS). Fishers can legally utilise incidental captures of basking sharks, but targeting this species is not

permitted. By continuing to allow such utilisation of basking sharks, New Zealand will not fulfil its obligations to the CMS.

### ***Return to Sea of Kina***

- 18 This paper proposes kina be added to the Sixth Schedule of the Fisheries Act 1996 to allow kina, when handgathered and likely to survive, to be returned to the sea.
- 19 Fisheries 2030 states that fishery resources are to be used in a manner that provides the greatest overall economic, social, and cultural benefit. Fisheries laws and regulations are to reduce compliance costs and improve management effectiveness.
- 20 Commercial kina fishers are currently unable to legally return small, low roe-recovery kina to sea, thereby facing significant costs in freighting these kina to processing facilities. Ultimately, small kina with low roe-recovery may be uneconomic to process and may be dumped in landfills.
- 21 By reducing industry compliance costs, this change is expected to increase economic benefit from kina fisheries. The proposal aligns management of kina with other shellfish fisheries such as oysters, mussels, rock lobster, scallops, pipi and cockles, and is believed to be neutral in terms of sustainability or environmental impact as only kina gathered by hand and likely to survive will be returned to sea.
- 22 Further information on the costs of the current regime and on any sustainability or environmental impacts arising from the proposed change is sought from tangata whenua and stakeholders through the submission process.

### ***Submissions***

- 23 MFish welcomes written submissions on the proposals contained within the IPPs. Written submissions are due by **Wednesday 16 June 2010** and should be posted to Trudie Macfarlane, Ministry of Fisheries, P O Box 1020, Wellington. Alternatively, electronic submissions can be emailed to [trudie.macfarlane@fish.govt.nz](mailto:trudie.macfarlane@fish.govt.nz).

24 Finally, please note that all submissions that are received for the purposes of the regulatory measures process are publicly available under the Official Information Act 1982. Should any person or organisation wish for any information contained in their submission to be withheld under the Official Information Act 1982, the grounds for withholding the information must be provided in the submission.

Yours sincerely

Robert Johnston  
Senior Policy Analyst