



P O Box 1876 Wellington
Tel&Fax +64 4 934 2244
hugh@infosmart.co.nz

5 February 2010

“More fish in the water/Kia maha atu nga ika ki roto i te wai”

Tracey Steel
Ministry of Fisheries
PO Box 1020
Wellington
tracey.steel@fish.govt.nz

5 February 2010

Submission on behalf of non-commercial interests

Contact person: Hugh Barr
Organisation: Council of Outdoor Recreation Associations of NZ
Address: PO Box 1876, Wellington 6040
Email: hugh@infosmart.co.nz

Submission in response to the review of management measures for CRA3 (Gisborne), CRA4 (Wellington/Hawke Bay) and CRA7 (Otago) and CRA 8 (Southland) rock lobster fisheries for 1 April 2010

1 CORANZ:

This submission is made by the Council of Outdoor Recreation Associations (CORANZ), on behalf of its members.

CORANZ is the national association of seven major national outdoor recreation associations – New Zealand Deerstalkers' Association, New Zealand Federation of Freshwater Anglers, New Zealand Four Wheel Drive Association, Option4 – Recreational Sea Fishers' Trust, Public Access New Zealand, New Zealand Bowhunters Society, New Zealand Salmon Anglers Association; Jet Boating New Zealand, and the regional Marlborough Recreational Fishers Association.

2 Present Government policy suppresses the non-commercial take of crayfish:

CORANZ member associations have approximately 20,000 recreational members in total, and represent one of the larger membership alliances of outdoor recreation associations in New Zealand. Many of our members use the foreshore and seabed for recreational fishing, and aspire to catch legal size crayfish along the coast.

However this is an increasingly rare occurrence, as commercial fishing pressure has greatly reduced the crayfish in the sea in most accessible places. Consequently the non-commercial fishing take of crayfish is being unfairly suppressed.

3 CORANZ supports and endorses the Submission of option4:

CORANZ has read the submission made by option4 to the Ministry, and supports and endorses this very thorough and well argued case. We summarise its arguments and main conclusions, which we support, below:

- 1 *the rock lobster fishery is being mismanaged, and the Minister of Fisheries must apply the Principles and purpose of the Fisheries Act 1996 to provide sufficient crayfish abundance to enable people to provide for their social and cultural wellbeing through fishing, and that:***
- 2 *Based on the Purpose and Principles of the Fisheries Act the proposition of a 199.5 tonne increase in the total allowable commercial catch (TACC) for Crayfish 4 is illogical, highly objectionable in social and cultural terms, and is certainly illegal It should not happen***
- 3 *The National Rock Lobster Management Group cannot masquerade as multi-stakeholder body and then exist only for the benefit of crayfish quota owners***
- 4 *The National Rock Lobster Management Group Report recommendations, particularly for Crayfish 4, if confirmed by the Minister, are ultra vires (beyond one's legal power or authority) and should not happen***
- 5 *Changes in the total allowable catch (TAC) ought to reflect abundance or lack of it***
- 6 *The Minister must ensure there is sufficient abundance in the water for current and future use The Minister must 'allow for' all New Zealanders broad non-commercial environmental and fishing interests in having both a healthy marine environment and abundant crayfish stocks to enable people to provide for their social, economic and cultural well-being through fishing***
- 7 *The Minister must 'allow for' all New Zealanders broad non-commercial environmental and fishing interests in having both a healthy marine environment and abundant crayfish stocks to enable people to provide for their social, economic and cultural well-being through fishing***
- 8 *The Minister must ensure the crayfish stocks are not driven down to such a low level that only small, recently recruited animals are available***
- 9 *Neither the Minister nor the National Rock Lobster Management Group can confidently assert that sustainability is being ensured as prescribed by the Fisheries Act; and***
- 10 *In social and cultural terms, a total allowable catch (TAC) needs to be set for depleted crayfish stocks that provides for "more fish in the water/kia maha atu nga ika ki roto i te wai".***
- 11 *It is not sufficient for crayfish managers to simply ask for submissions on the matter of setting new total allowable catch (TAC) and total allowable commercial catch (TACC) limits without proper application of the statutory obligations. This flawed approach fails the Wednesbury reasonableness test, as it does not take account of matters it should; and***

- 12 The National Rock Lobster Management Group, the Minister and Ministry of Fisheries must acknowledge that non-commercial catch estimates are a necessary requirement to ensure compliance with the TACC-setting process as prescribed by s21 of the Fisheries Act**
- 13 To comply with the legislation the Minister of Fisheries must analyse, estimate and 'allow for' non-commercial fishing interests in the crayfish stocks before setting the total allowable commercial catch (TACC);**
- 14 The National Rock Lobster Management Group advice proposes almost doubling the TACC in Crayfish 4 without altering the non-commercial allowances or analysing what those interests might be**
- 15 The total allowable commercial catch (TACC) limits are not free to be chosen by commercial quota shareholders, or behind the veil of a multi-stakeholder group such as the National Rock Lobster Management Group; and**
- 16 Total allowable commercial catch (TACC) limits are set by the Minister of Fisheries using the process prescribed in the Fisheries Act 1996 and after other mortality and non-commercial fishing interests have been 'allowed for'**
- 17 Releasing a complex consultation document a week prior to the annual Christmas holiday break and expecting a response by 5th February to be unrealistic. The seven-week window minus the four-week holiday period only allows three working weeks for interested parties to respond**
- 18 While the truncated consultation format may have been signalled in the Fisheries 2030 project outcome it does not in any way legitimise this consultation process for crayfish stocks, nor does it excuse the Minister from his statutory obligations; and**
- 19 There are statutory obligations associated with s12 that must be fulfilled in order to satisfy the Fisheries Act 1996 and ensure sustainability decisions are lawful.**
- 20 Any Minister would be foolish to believe "management procedures" are well-crafted and considered science when they are more akin to experimental guesswork**
- 21 A more precautionary management approach is required to ensure sustainability of the rock lobster fisheries, which have such high social, economic and cultural value**
- 22 The Minister must be aware of the ease to which Catch Per Unit of Effort (CPUE) data can be manipulated, especially if this data is going to be used as the basis for higher total allowable commercial catch (TACC) limits.**
- 23 We have serious concerns about the use of management procedures and CPUE indices to promote a doubling of the TACC in Crayfish 4, because that would mean there are an extra 250,000 animals in this fishery (at 0.8kg per fish)**
- 24 There is little evidence that abundance in CRA 4 has increased so much in the past year that an extra 250,000 animals exist in this fishery and that this level of extraction is sustainable. It seems more like the relationship that occurs when observers are aboard vessels that increase their bycatch of seabirds and mammals; and**
- 25 On the evidence provided it appears these management procedures are nothing more than a mechanism to rationalise maximum commercial catch regardless of the public's rights and expectations as prescribed by the Principles and Purpose of the Fisheries Act 1996**

- 26 Shelving permits catching rights to exist for fish that do not exist**
- 27 The Fisheries Act 1996 has the tools and mechanisms available to deal with sustainability risks. Often it is the inaction of managers or the inappropriate application of those tools and mechanisms that, in the CRA 4 scenario, has failed to deliver positive outcomes for stakeholders**
- 28 Fisheries managers need to respond promptly to address sustainability concerns from local fishers, both commercial and non-commercial**
- 29 Shelving is a management strategy vulnerable to manipulation and it should only be used as a short-term, formal measure to address sustainability issues**
- 30 Any short-term shelving arrangements would need to have the formal agreement of all quota owners and be capable of being enforced, typically by civil contract with penalty clauses; and**
- 31 Informal shelving arrangements over the long-term are unacceptable. That is because a word-of-mouth shelving agreement cannot be enforced, it is not a formal mechanism to reduce catch and is not a lawful process available to the Minister to address overfishing**
- 32 Any short-term shelving arrangements would need to have the formal agreement of all quota owners and be capable of being enforced, typically by civil contract with penalty clauses; and**

Crayfish 3 (CRA 3) – Gisborne

- 33 Crayfish are a vitally important food fishery for social and cultural reasons**
- 34 Foremost priority ought to be the annulment of the concession by the Ministry of Fisheries to enable commercial fishers to harvest crayfish below the minimum legal size. That concession was originally a three-year temporary measure, which MFish have failed to revoke. Sustainability of the rock lobster fishery must come first**
- 35 The historic and ongoing issues relating to low abundance levels that prevents people from providing for their social, economic and cultural well-being must be addressed before any management procedures are implemented**
- 36 Managing harvest levels within CRA 3 has proved problematic. Subdivision of the Quota Management Area would assist those with aspirations to manage their local fisheries, but this will only work if the harvest levels for each sub-area is reflective of local abundance**
- 37 Until the Minister of Fisheries carries out the statutory functions required of him, to assess whether the proposed management options for CRA 3 will comply with ss 8, 9, 10, 12, 13, 20 and 21 of the Fisheries Act 1996, we cannot give support to either of the proposed options**
- 38 The implementation of any management procedures does not abrogate the Minister from his statutory duty to manage fisheries sustainability to enable people to provide for their social, economic and cultural well-being, as per the Purpose of the Fisheries Act 1996; and**
- 39 The Minister cannot take comfort from a contrived formula intended to perpetuate the depleted state of the CRA 3 stock, regardless of who promotes it**

Crayfish 4 (CRA 4) – Wellington/Hawke Bay

- 40 Until the Minister of Fisheries carries out the statutory functions required of him, to assess whether the proposed management options will comply with ss 8, 9, 10, 12, 13, 20 and 21 of the Fisheries Act 1996, we cannot give support to either of the proposed management options for CRA 4**
- 41 The Minister must make further enquiries as to the nature and extent of the non-commercial fishing interests in the Crayfish 4 stock so that those broad interests are ‘allowed for’, the s21 obligations are met, and to avoid making flawed total allowable commercial catch (TACC) decisions**
- 42 The huge variations in Catch Per Unit of Effort (CPUE) between stocks and the excessive total allowable catch (TAC) changes thrown up by applying these self-designed decision rules reveal this notion of management procedures to be a nonsense**
- 43 The Minister is strongly advised to ask for decision rules that are not so obviously flawed**
- 44 Managing harvest levels within CRA 4 has proved problematic. Subdivision of the Quota Management Area would assist those with aspirations to manage their local fisheries, but this will only work if the harvest levels for each sub-area is reflective of local abundance**
- 45 The use of s13(2)(A) of the Fisheries Act to justify setting the maximum limits for both the total allowable catch (TAC) and total allowable commercial catch (TACC) is highly objectionable. This can only be described as an extreme example of a “pin the tail on the donkey” activity purporting to be science**
- 46 It is outrageous that maximum total allowable commercial catch (TACC) limits have been, and will continue to be, used to suppress the public’s interest and those of non-commercial fishers in the CRA 4 fishery; and**
- 47 The management proposals for CRA 4 are highly contentious and pose an unacceptable risk to the marine environment and to the abundance level required to provide for people’s social, economic and cultural well-being**

Future developments

CORANZ appreciates the opportunity to make a submission on the crayfish proposals. We wish to be kept informed of future developments.

Dr Hugh Barr,
Secretary
Council of Outdoor Recreation Associations of New Zealand.