

**Introduction of New Stocks into the Quota Management System on 1
October 2005**

SUBMISSION ON BEHALF OF NON-COMMERCIAL FISHERS

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Introduction

1. The Ministry of Fisheries (MFish) has advised of the proposals made to the Minister of Fisheries for the introduction of five new species into the Quota Management System (QMS) on 1 October 2005. The Initial Position Paper (IPP) for cockle, non-QMS dredge oysters, pipi, non-QMS scallops and tuatua was issued on 31 March 2005.
2. In accordance with sections 12, 21 and 75A of the Fisheries Act 1996 (the 1996 Act), the purpose of the IPP is to consult on behalf of the Minister of Fisheries on the Total Allowable Catches (TAC's), Total Allowable Commercial Catches (TACC's), allowances and other management measures proposed for these stocks.
3. MFish requested written comments by 15 April 2005 for changes to the fisheries reporting regulations and deemed values, and no later than 10 May for all other matters outlined in the IPP, including TAC changes and other regulatory changes not relating to reporting regulations.
4. Due to a number of requests the Ministry of Fisheries advised on 21 April the submission deadline had been extended to 24 May 2005.
5. Submissions to be sent to Kristin Philbert, Ministry of Fisheries, P O Box 1020, Wellington, ph (04) 470 2585, fax (04) 470 2669, Kristin.Philbert@fish.govt.nz.
6. This document comprises the submission from CORANZ and option4. The Council of Outdoor Recreation Associations of NZ (CORANZ) is an NGO that promotes the common interests of outdoor recreation participants at a national level. option4 is an NGO which promotes the interests of non-commercial marine fishers in New Zealand.

Background

7. MFish initially proposed to introduce cockle, non-QMS dredge oysters, pipi, non-QMS scallops and tuatua into the QMS in 2004. A consultation document was issued on 8 June 2004. The initial proposal included discussion on the introduction of albacore tuna, skipjack tuna and seaweeds in addition to these shellfish species.
8. option4 objected to the proposal regarding the shellfish species. A submission was sent to the Ministry of Fisheries on August 2, 2004.
9. On October 21, 2004 MFish advised they needed to re-consult on the proposal to introduce these species into the QMS due to the passage of the Fisheries Amendment Act (No.3) 2004. Deadline for submissions was November 26th.
10. option4 did not submit to this re-consultation process due to limited resources and the effort being focussed on other areas of fisheries management.

11. The Minister announced the shellfish species would be introduced into the QMS on 18 February 2005. A decision on the seaweed species was deferred. David Benson-Pope also decided albacore tuna and skipjack tuna would not be introduced into the QMS at this time.

Shellfish Introduction

12. option4 does not accept the introduction of the shellfish species pipi, tuatua, cockles, non-QMS dredge oysters and scallops into the QMS when no resource assessment has been completed.
13. At the time a species is proposed for introduction to the QMS this should highlight a need for some research effort. MFish has been aware that many of our shellfish species have been listed for introduction into the QMS for some time and has made no effort to complete an assessment of current stock to at least set a baseline prior to their introduction.
14. Any shellfish species that has had any recreational bag limit reductions must be considered fully developed as the reductions were allegedly done for “sustainability” reasons. Introducing a commercial component can only increase pressure on those stressed stocks.
15. Areas that have not had bag limit reductions are the only areas that should be considered suitable for commercial exploitation and the size of the QMA must fall within that area only.
16. Consultation on a set commercial tonnage over enormous Quota Management Areas is almost meaningless and another attempt to force species into the QMS framework rather than adapting the framework, where required, to suit the fishery. Intertidal shellfish beds are found in separate discrete areas, with their own characteristics, and are more suited to limited rotational harvest than allocation that can be taken at any time, anywhere within a QMA.
17. If there are specific beds where commercial opportunity exists and development of that fishery would have little or no impact on existing Maori customary or recreational interests then these beds need to be identified individually. In the North Island, these are likely to only occur in remote areas.
18. Any existing areas allocated for commercial harvest should be maintained. The 1991/161 regulations specify the areas suitable for commercial tuatua take and the 1989/291 regulations cover cockles and pipis. These regulations were put in place when it was recognised that commercial harvesting of shellfish would have an adverse impact on non-commercial fishing interests.
19. We strongly object to Ministry of Fisheries proposals to sell off commercial harvesting rights to these species while there is such uncertainty in information. The decline in abundance of some shellfish is a serious resource issue that has not been addressed. Until the Ministry sort this issue out they should not be considering allocating more shellfish species to commercial interests.

20. The risk of over allocating these species could well see the public including Maori customary fishing interests adversely affected. While the Minister has to “allow for” recreational interests he must certainly give priority to Maori customary interests in such important traditional kaimoana.
21. MFish must listen to local knowledge about trends in the size and condition of local shellfish beds. In the absence of hard science, local knowledge is invaluable. It may not identify the cause of a decline in the stock but imposing commercial catch on a declining resource is not in the best interests of the community, the Ministry (who will get the blame for mismanagement), or the commercial operator who may take on an unsustainable business.
22. Commercial shellfish harvesting on any scale is likely to be mechanical, as it has been for years in the South Island. It is offensive to many Maori to use steel implements to gather shellfish. MFish must consider method controls if commercial extraction is permitted.
23. Our initial recommendation that these species should not be introduced into the QMS stands. We need an assessment of current resources so provision can be made for all interests. More certain information on stocks is required to avoid compensation issues in the future.

Cockles (COC)

24. Cockles (tuangi) are an important species for customary and sustenance fishers in many areas. They are generally the most accessible of the main inter-tidal shellfish species as they live above mean low water mark in sheltered bays and harbours. Non-commercial fishers prefer large cockles. These are often found where moderate current flows of clean seawater occur. There can be large beds of small cockles found in the upper reaches of harbours or estuaries that are of limited interest to non-commercial or commercial fishers. Runoff and siltation from land has adversely affected many cockle beds, smothering them or reducing their ability to regenerate.
25. There are large cockle beds in some areas that must be off-limits to commercial fishing because of their importance to local communities or the ecosystem. Commercial cockle harvest in the Firth of Thames on the Ramsar site of international significance for wading birds would bring strong local and international condemnation.

Key Issues to be Considered

26. option4 notes an estimate of total biomass or sustainable yield is not available for any of the cockle stocks under consideration, although some estimates do exist for localised areas. Status of all stocks remains unknown.
27. option4 notes MFish acknowledge that biologically, cockles are susceptible to localised depletion. They are sensitive to environmental factors, are vulnerable to habitat disturbance and degradation, and are extremely easy to harvest.
28. option4 agree that cockle are an extremely important non-commercial resource and are harvested extensively by customary Maori and recreational fishers.
29. We note MFish consider “*the illegal catch of cockle is significant in some areas with recreational fishers far exceeding their bag limits*”.
30. MFish also advise that commercial fishing for the cockle stocks under consideration has only occurred at a small scale in Ohiwa Harbour (COC 1C).
31. We note a permit moratorium has prevented the access of new commercial fishers since 1992.
32. We also note that regulatory measures have previously been put in place for these stocks (eg. closed areas, bag limit reductions) due to sustainability concerns.

Management Options

33. option4 agree with MFish that s13 management arrangements are appropriate for the cockle stocks under consideration in the IPP, notwithstanding our objection to the cockle stocks being part of the QMS.

34. We disagree with the proposed TACC's, other than those set at zero, for areas COC 1C, COC 2, COC 3B, COC 4, COC 5, COC 7C and COC 8.
35. We agree with MFish that for areas COC1B and COC9 the TACC should be set at zero.

Rationale for proposed TAC

36. MFish state there is no stock assessment information, or commercial catch limits for any of the cockle stocks under consideration. MFish therefore proposes to set TAC's that reflect the current catches in each fishery. We agree, as there has been no commercial catches of any of the other stocks being considered apart from COC 1C. There has been no commercial fishing in COC 1C since 1999/2000 so the TAC should reflect this and the TACC be set at zero.
37. In order to "allow for" non-commercial fishing interests (Fisheries Act s21) it would be prudent to set the TACC at zero for COC 1C. The needs of future population growth also need to be taken into account (Fisheries Act s8 (2) (a)) as this area is the fastest growing area, in population terms, in the country.
38. The possibility exists that if a TACC is set at 5 tonne, as suggested in the IPP, that a reallocation may have to occur in the future. In order to avoid compensation issues COC 1C should have a TACC set at zero.
39. MFish cannot determine whether cockle stocks are stable, declining or increasing due to a lack of information. The IPP also states that many beds are reported to be under pressure from existing levels of utilisation. These are two very good reasons to set the TAC's at current utilisation levels and the TACC's at zero for all stocks under consideration.
40. We agree with MFish that "socially and culturally, cockle represent an extremely important species for many New Zealanders" and that "they are very important to Maori as a food source and have been harvested for this purpose consistently through history. Cockle have also become an extremely important recreationally harvested species, with most cockle beds around the country harvested to some extent on a recreational basis". Cockles are harvested for food, they are not considered a sport fish. Sustenance fishers have an absolute priority to this species and therefore the TAC's should be set to current utilisation levels and the TACC's for all stocks under consideration to be set to zero.

Northern Areas

41. Harvesting pressure and concerns for sustainability have resulted in a variety of management interventions to limit both commercial and recreational take in the northern region particularly in FMA's 1 and 9. The bag limits in the Auckland Coromandel area were decreased in 1998 from the national limit of 150 down to 50 per person. It is inconceivable that a TACC other than zero will be allocated in these stocks.

COC 1B and 9

42. We note the proposal has a TAC based on current utilisation and suggests a TACC of zero for COC 1B and COC 9. We are pleased to agree with this suggestion and note that MFish have taken into consideration the expected growth in population and likely increase in harvest.

COC 1C

43. option4 notes the IPP gives two different proposals for COC 1C.

- TAC set at 67 t with a TACC set at zero – based on current utilisation.
- TAC set at 72 t with a TACC set at 5 tonne – based on recent catch.

44. We strongly agree that there is a need for caution in setting catch limits for this stock. The higher TAC has been suggested due to past catches in Ohiwa Harbour. MFish suggest this may be sustainable even though no harvesting has occurred in this harbour since 1999/2000. No new information is available to support this option.

45. It is reasonable to expect that non-commercial fishers have increased their harvesting effort in this area and therefore would not want to be competing with commercial fishers in order to gather food. Increases in population over the past five years and also the likelihood that the harbour (and water quality) has suffered to some extent due to land development needs to be taken into consideration.

46. The TAC should be set at a level based on current utilisation, 67t, and the TACC set at zero in order to allow for non-commercial interests in this stock.

COC 2, 3B, 4, 5, 7C and 8

47. A TAC based on current utilisation of these stocks is the most sensible option. To increase the TAC to allow for a 2 tonne TACC in all of these stocks is unreasonable due considering the explanations provided in the IPP. MFish are advising caution in setting catch limits for these stocks. To then suggest a small increase to provide for development of the resource does not make sense. If there is no guarantee that non-commercial interests can be allowed for in these fisheries then the Minister is best to set a zero TACC.

COC 3B

48. Sustainability concerns have led to a prohibition of cockle harvesting in Koukourarata Bay (Banks Peninsula) and the cockle bag limit has been reduced to 50 in Rapaki Bay (Lyttelton). No commercial fishing of the 3B stock should be permitted until these stocks have recovered sufficiently to allow the resumption of harvesting in Koukourarata Bay and the restoration of the original bag limit in Rapaki Bay. Non-commercial fishing interests must be allowed for in this fishery.

COC 4

49. MFish advise the COC4 stock is not significant and may not support higher harvest levels. With this in mind we disagree with any TAC increase to accommodate a TACC of 2 tonne. In the absence of any new information there is no guarantee the concerns regarding localised depletion can be disregarded. The TACC should be set at zero for this stock.

Allocation of TAC

50. The IPP states, *“The 1996 Act stipulates a process by which the TAC is to be allocated. No explicit statutory mechanism provides guidance as to the apportionment of the TAC between sector groups either in terms of a quantitative measure or prioritisation of allocation.”*

There may not be an explicit mechanism regarding apportionment but section 21 of the Fisheries Act 1996 is clear -

21 (1) In setting or varying any total allowable commercial catch for any quota management stock, the Minister shall have regard to the total allowable catch for that stock and shall allow for—

- (a) The following non-commercial fishing interests in that stock, namely-
 - (i) Maori customary non-commercial fishing interests; and
 - (ii) Recreational interests; and
- (b) All other mortality to that stock caused by fishing.

The Minister has to allow for our non-commercial interests in these cockle stocks. In order to achieve this he should be setting the TACC's at zero for these stocks.

51. The IPP goes on to say, *“The Minister has the discretion to re-allocate from one sector to another, based on available information.”*

The Minister may have this discretion but unfortunately it used mostly to reallocate to the commercial sector. We have yet to see him exercise his discretion in favour of the non-commercial sector particularly in regards to our inshore shared fisheries.

52. The IPP continues, *“In shared fisheries MFish has a policy preference in favour of the catch history allocation model in the absence of clear information to the contrary. No information exists to support a re-allocation decision for cockle stocks considered in this paper. However, where development opportunities exist, it is considered appropriate to allow for a TACC increase, recognising that the permit moratorium has prevented commercial access since 1992.”*

So, we are now allowing for a TACC because commercial fishers have been denied access since 1992? If this is Ministry policy or preference on how they want to allocate between sectors then this same philosophy should be applied to our other inshore shared fisheries, the majority of which are below Bmsy. The public have been denied reasonable access to many of our fisheries through reduced biomass levels for many years. If this were MFish policy then option 4 would like to discuss this in more detail.

53. The Minister does not “allow for” a TACC. According to s21 of the Fisheries Act 1996 a TACC is set or varied. Non-commercial interests have to be allowed for, both Maori customary and recreational.

Recreational allowance

54. The proposed allowances are based on the best information from the recreational harvest surveys. MFish refer to this as current utilisation. MFish also accept that *“the surveys are likely to significantly underestimate recreational harvest”*. Taking this into account and MFish’s previous statement regarding development opportunity, where has the development opportunity for recreational harvest been factored into this equation? Ministry cannot apply the development principle to a TACC and not to non-commercial harvest.
55. We would also like to point out that the recreational harvest surveys did not include harvest by tourists or those less than 15 years old. We consider the harvest estimate is well under what is actually taken by the recreational sector.

Customary Maori allowance

56. MFish state in the IPP, “Tuangi (cockle) are an extremely important customary resource for all coastal communities and information indicates that most beds around New Zealand are utilised by local iwi. In some areas, tuangi are taonga species (treasured species).”
We totally agree.
57. MFish continue, *“It is considered that customary harvest would be at least as extensive as recreational harvest and MFish proposes that the customary allowance for tuangi in each QMA be equal to that of the recreational allowance. This is a notional figure only and may need to be revised when information becomes available.”*
Considering the statement by MFish that the recreational harvest estimate is likely to be significantly underestimated we question why more allowance is not being made available to Maori customary fishers. The significance of tuangi to customary and sustenance fishers cannot be underestimated. The Minister has a statutory obligation to allow for Maori customary interests. To simply “allow for” a tonnage equal to the recreational allowance does not mean that Maori customary fishers will actually be able to harvest their allowance. The tonnage is irrelevant, the tuangi have to be there for Maori customary fishers to harvest.
58. It is concerning MFish are making these allowance recommendations when they admit in para 19 that *“many beds are reported to be under pressure from existing levels of utilisation”*. Apart from COC 1B and COC 9 MFish go on to recommend a TACC of 2 or 5 tonne. This does not adequately address the needs of Maori customary non-commercial fishers.

Other Mortality

59. We agree with the allowances made for other sources of mortality. MFish attribute a significant mortality rate to illegal harvesting by recreational fishers exceeding the daily bag limit. No quantifiable information is available to support this assertion.

60. It would seem to us that a significant source of mortality would be those lost to degradation of the water. Localised depletion has seen a number of bed closures and bag limit reductions in the Auckland Coromandel area.

61. While we acknowledge the Ministry of Fisheries has to work within the Fisheries Act we strongly recommend MFish work with tangata whenua, locals, other stakeholders and agencies to improve the quality of the marine environment.

TACC

COC 1B and COC 9

62. Agree with a zero TACC for these areas.

COC 1C

63. Agree to a zero TACC for COC 1C in the interests of allowing for non-commercial fishing interests. Object to the alternative proposal for a TACC of 5 tonne.

COC 2, 3, 4, 5, 7C and 8

64. Agree to a zero TACC for these stocks in the interests of allowing for non-commercial fishing interests. Object to the alternative proposal for a TACC of 2 tonne.

Other Management Measures

Return of cockles to the water

65. Agree that all cockles stocks should be added to the Sixth Schedule of the Fisheries Act to allow them to be returned to the water should they be landed inadvertently.

Consequential amendment to regulations

66. Agree with suggested amendments to fishing regulations as specified in the IPP para 54 – 57.

Deemed Value and Overfishing Threshold

67. Agree with deemed values as proposed in para 58 – 61 of the IPP.

Current and potential research

68. MFish makes the following statement in para 110,
“Given the paucity of information on this extremely important coastal resource, it is imperative that, as a first step, distribution and abundance information be collected in a coordinated way throughout New Zealand. All literature sources could be examined including university research and regional council reports,

and all local knowledge utilized such as tangata whenua, the Honorary Fisheries Officer network and community groups.”

option4 would support such a move to collect more information on this species. We would encourage MFish to begin meaningful dialogue with tangata whenua as they have a wealth of knowledge, often passed from generation to generation, which is generally untapped and considered anecdotal. We agree that HFO's and community groups would also be a good source of information.

Statutory Considerations

69. Section 8 of the Fisheries Act 1996 provides for utilisation while ensuring sustainability including the reasonably foreseeable needs of future generations. It also requires that people are able to provide for their social, economic and cultural well-being.
70. We are concerned for this species as cockles are a traditional food source for many people. Tuangi are harvested for customary Maori purposes and the priority accorded to this activity should remain. The ability to manaaki manuhiri (provide kai for visitors) cannot be underestimated.
71. Until the QMS adequately recognises the rights of future generations of non-commercial fishers to access fisheries of traditional and cultural importance this species should not be given away in perpetuity via quota rights. Cockles are not a sport fishery; they are gathered for the purposes of eating. The public has an outright priority to gather cockles for sustenance purposes.
72. We submit that cockles be managed according to s13 (2) of the Fisheries Act 1996. The cultural and social significance of this species demands that these stocks are managed above a level that can produce MSY. This is to take into account the rate at which fisheries management changes occur. As we have seen in so many other fisheries, if these stocks are managed at MSY there are likely to be adverse effects on non-commercial fishers before any management decisions are made. Also taking into account the reality that there is no estimate of total biomass or sustainable yield therefore caution needs to be applied to managing these important stocks.
73. Agree with the statements in para 62 c) i – iii

Preliminary Recommendations

74. As referred to in previous comments.

Conclusion

75. option4 does not support the introduction of cockles (other than those already in the QMS) into the QMS. The QMS on its own is not an adequate management

regime for discrete shellfish beds. A more comprehensive management strategy is required.

76. We are very concerned the Ministry are proposing to set TACC's for stocks when there has been no scientific assessment of the Maximum Sustainable Yield.
77. Commercial harvesting must not be allowed in the most accessible areas for the public, or sites of significance for wading birds.
78. The Ministry acknowledge that conflict may arise due to increasing pressure on existing shellfish beds. MFish make a particular reference to the situation in Ohiwa Harbour by saying, "*there is a strong likelihood that commercial harvesting would cause significant tension in the local community*". We would suggest that this statement would apply to any shellfish bed currently being fully utilised by the non-commercial sector.
79. Where there is development opportunity, for example where a resource is plentiful, best fisheries management outcome may be to "allow for" the non-commercial harvest as required under section 21, within sustainable limits, rather than increase compliance with the current arbitrary daily limits.
80. Population increase is inevitable and provision needs to be made for the needs of future generations. It is pointless allocating TACC's at this time due in part to the lack of information on stock sizes and also considering the reallocation that will be required as the population grows. Once the commercial allocations are made they are very difficult to adjust in order to allow for the non-commercial sector, even when it is clear that increasing population has resulted in increased fishing effort.
81. Where a development opportunity is identified, for example where a resource is plentiful, MFish must also consider that the best fisheries management outcome may be to allow for an increase the non-commercial harvest, within sustainable limits. This could mean an increase in bag limits for that area rather than increasing compliance with the current arbitrary daily limits, which are not linked to sustainability.
82. The rights of non-commercial fishers, Maori customary and recreational must come first in a fishery of such social, cultural, environmental and ecological value.

Non-QMS Dredge Oyster (OYS)

83. option4 does not support non-QMS dredge oysters being managed under the QMS. The QMS on its own is not an adequate management regime for discrete shellfish beds. A more comprehensive management strategy is required and would require regulations that prohibit the taking of dredge oysters, or the use of dredges, in certain times and places.
84. We are very concerned the Ministry is setting TAC's and TACC's for this species when there are existing concerns about the sustainability of dredge oyster stocks.
85. The QMS does not adequately recognise the rights of future generations of non-commercial fishers to access fisheries of traditional and cultural importance. Until it does, this species should not be given away in perpetuity in the form of quota rights.
86. option4 object to this species being introduced into the QMS until there is a shift in policy and provisions are made to accommodate increases in population and fishing effort. The rights of non-commercial fishers, including Maori customary, must come first in a fishery of such environmental and ecological value.
87. The accessibility of non-QMS dredge oysters in coastal and harbour environments allows them to be taken by non-commercial users for food and therefore the commercialisation of this species should only be considered after adequate information is available on the status of the stock size.

Key Issues to be Considered

88. option4 notes an estimate of total biomass or sustainable yield is not available for any of the non-QMS dredge oyster stocks. Status of all stocks remains unknown.
89. option4 notes MFish acknowledge that outside of OYU5, dredge oysters are landed as a by-catch of other fisheries, principally scallop and mussel dredging.
90. option4 agree that small, discrete patches of dredge oysters exist throughout New Zealand's inshore waters, harbours and estuaries.
91. We note MFish consider dredge oysters are susceptible to localised overfishing.
92. MFish also acknowledge dredging for oysters can destroy benthic habitat and reduce biodiversity.

Management Options

93. option4 agree with MFish that s13 management arrangements are appropriate for the dredge oyster stocks under consideration in the IPP, notwithstanding our objection to the non-QMS dredge oyster stocks being part of the QMS.

94. We disagree with the proposed TACC's for areas OYS3, OYS4, OYS5A and OYS7C in order to allow for the non-commercial interests in these stocks.
95. We agree with MFish that for areas OYS1, OYS2A, OYS7A, OYS7B, OYS8A and OYS9 the TACC should be set at the nominal level specified in the IPP.
96. We agree to MFish's proposal to add these dredge oyster stocks to the Sixth Schedule of the Act to allow oysters caught incidentally to be returned to the water.
97. Absolutely disagree with removing the regulation that restricts fishing to certain times of the day, on the grounds of safety.
98. Agree to a deemed value being set for these stocks.

Rationale for proposed TAC

99. MFish state there is no stock assessment information, or commercial catch limits for any of the oyster stocks under consideration. MFish therefore proposes to set TAC's that reflect the current catch, or use, from each fishery. We agree but would acknowledge the paucity of information on catches by the non-commercial sector.
100. Having these stocks added to the Sixth Schedule will allow incidental by-catch of oysters to be returned to the water therefore there is no need to set TAC's that reflect anything other than nominal TACC tonnages.
101. Nominal tonnages of TACC should be set in order to "allow for" non-commercial fishing interests (Fisheries Act s21) and the needs of future generations (Fisheries Act s8(2) (a)).
102. MFish acknowledge that "repeated dredging of localised patches may cause significant incidental mortality and may alter habitat required for recruitment. Dredging may also exacerbate and spread disease, especially the parasite *B. exitiosus*, which is thought to be present in populations throughout New Zealand. All these traits indicate that repeated dredging of localised beds is likely to lead to localised depletion."
Taking this into account the commercialisation of the non-QMS oysters stocks should not occur until these effects can be avoided, remedied or mitigated as per the Fisheries Act s8 (2) (b).
103. We note MFish acknowledge there is the potential for conflict between commercial and non-commercial users so we recommend nominal TACC tonnage for all of the oyster stocks under consideration.
104. We agree with MFish that due to the lack of information there is uncertain capacity for development of any of the non-QMS oyster stocks.

105. Agree with MFish's statement in regards to the lack of information about recreational harvest levels and support the estimated allowances for each of the non-QMS oyster stocks.
106. It is concerning that MFish acknowledge on the one hand the importance of oysters as a customary resource then continue to say that due to a lack of information the allowance for customary usage will be based on a level similar to the known recreational catch. If ever there were a species of significance to Maori then oysters would have to be one of them. When are MFish going to acknowledge that shellfish are of significant importance for customary purposes and allow for that usage above the recreational level?
107. Having the criteria for determining catch levels in Table 3 (p.16) of the IPP then not allowing for customary usage because there is no data on recreational harvest or customary catch is offensive.
108. We suggest the Ministry is obliged to determine catch levels for shellfish species on the basis of their importance to tangata whenua.
109. Agree with levels set for other sources of mortality although it is acknowledged that this is only an estimate and not based on any hard data.
110. We agree with MFish's statements, "if dredging effort increases, there may be adverse effects on settlement and recruitment" and "bottom dredging does have adverse effects on the aquatic environment and affect biological diversity".
111. In light of the previous Ministry statements we wholeheartedly agree with the next comment in the IPP, "MFish considers there is a risk that dredging for new QMS oyster stocks could expand to new areas and cause adverse effects on previously undredged areas".
Limiting TACC's to nominal by-catch levels only will help in preserving the biodiversity of our coastline.
112. MFish cannot determine whether the non-QMS dredge oysters stocks are stable, declining or increasing due to a lack of information. Caution is required in these circumstances and nominal TACC's set at by-catch levels.
113. Ministry acknowledge that these stocks are already considered to be "all under significant pressure from recreational and customary users and are unlikely to withstand further pressure from an additional sector. It is unlikely that many oyster beds could support an increase in harvest levels."
We strongly object to any allocation being made to the commercial sector other than allocating to cover by-catch.
114. Agree with all of para 28 in the IPP.
115. MFish state in para 29, "provision should be provided for the possibility for development." The first priority should be to "allow for" non-commercial fishing

interests including the needs of future generations. Commercial development should not come at the expense of non-commercial fishers future interests.

116. Agree that caution should be applied when setting catch limits for these stocks.

OYS1

117. Agree with catch levels set for this fish stock.

OYS2A

118. Agree with catch levels set for this fish stock.

OYS3

119. Disagree with the suggested TACC of 2 tonne for this stock. Until adequate information is available in relation to customary Maori and recreational harvest no provision should be made for increasing commercial catch. Considering special provision was made for recreational fishers to harvest “rock oysters” in the area suggests there is insufficient dredge oysters available for harvest. Until there is, caution should apply and the TACC be set at 1 tonne for this stock and the TAC at 6 tonne.

OYS4

120. MFish have suggested a TACC of 15 tonne in this fishery. There are no estimates of customary Maori or recreational harvest. Until the local Chatham Islanders are consulted on the best use of the resource a nominal TACC of 1 tonne should be allocated. Having this stock added to the Sixth Schedule will give commercial fishers, catching oysters as by-catch, the opportunity to return them to the water. TAC should be set to 6 tonne until consultation has been completed.

OYS5A

121. There is known recreational and customary catch in this fishery but no reliable estimates of the amount harvested. We do not support the proposed TACC of 3 tonne until there is adequate information on which to base this decision. The TACC should be set to 1 tonne and TAC at 6 tonne.

OYS7A and 7B

122. Agree with catch levels set for this fish stock.

OYS7C

123. MFish do not think the size of this stock is large or commercially sustainable. We therefore disagree with Ministry’s recommendation for TAC and TACC in the absence of adequate non-commercial harvest data. The TAC should be set at a precautionary level of 4 tonne and the TACC at a nominal rate of 1 tonne.

OYS8A and 9

124. Agree with catch levels set for these fish stocks.

Allocation of TAC

125. The IPP states, *“The 1996 Act stipulates a process by which the TAC is to be allocated. No explicit statutory mechanism provides guidance as to the apportionment of the TAC between sector groups either in terms of a quantitative measure or prioritisation of allocation.”*

There may not be an explicit mechanism regarding apportionment but section 21 of the Fisheries Act 1996 is clear -

21 (1) In setting or varying any total allowable commercial catch for any quota management stock, the Minister shall have regard to the total allowable catch for that stock and shall allow for—

- (a) The following non-commercial fishing interests in that stock, namely-
 - (i) Maori customary non-commercial fishing interests; and
 - (ii) Recreational interests; and
- (b) All other mortality to that stock caused by fishing.

The Minister has to allow for our non-commercial interests in these oyster stocks. In order to achieve this he should be setting the TACC's at the recommended levels specified above.

The IPP continues, *“In shared fisheries MFish has a policy preference in favour of the catch history allocation model in the absence of clear information to the contrary.”*

We would prefer the Ministry had a policy preference in accordance with what was promised at the introduction of the QMS and also in Moyle's Promise¹ - *Government's position is clear, where a species of fish is not sufficiently abundant to support both commercial and non-commercial fishing, preference will be given to non-commercial fishing. This position reflects Government's resolve to ensure all New Zealanders can enjoy and benefit from our fisheries.*

Recreational allowance

126. We agree with MFish that dredge oysters are highly prized and believe that the public have a priority to access these oyster stocks to feed their whanau. To not “allow for” the non-commercial interests in these stocks would be in breach of section 21 of the Fisheries Act 1996.

Customary Maori allowance

127. MFish state in the IPP, “Oysters are known to be very important to Maori as a food source and have been harvested for this purpose consistently through history. Therefore, MFish proposes that the customary Maori allowances of oysters be the same as those provided for recreational harvest”. Our response is contained in points 39 – 41 above.
128. Would the Ministry please detail other circumstances where the criteria “No estimates but known to be of significant importance to Maori above the level of

¹ Colin Moyle, Minister of Fisheries June 1989

recreational take” has been applied? It seems strange that this criteria is available but rarely applied.

Other Mortality

129. We agree with the allowances made for other sources of mortality if the TACC's are set at nominal levels. MFish consider there is a degree of poaching and also some mortality associated with the use of dredges to gather these oysters.

TACC

130. Ministry state, “With the availability of only unreliable catch information, it is not possible to stipulate whether the proposed TACC's are above or below the level of current commercial catch”. An interesting statement considering there is no certainty regarding non-commercial harvest either. So we have a very important food fishery with very little data to base informed decisions on, and the Ministry are proposing anything other than nominal catch levels as the TACC in OYS3, 4 (depending on local input), 5A and 7C. Unacceptable.

OYS1, 2A

131. Agree with a nominal TACC of 1 tonne for these areas.

OYS3

132. Disagree to the proposed TACC of 2 tonne. A nominal tonnage of 1 tonne should be allocated in the interests of allowing for non-commercial fishing interests. The TAC should be adjusted down accordingly to 6 tonne.

OYS4

133. Object to the proposed TACC of 15 tonne in the absence of adequate information on non-commercial harvest, unless the local Chatham Islanders agree and are consulted on the best use of the resource. The TACC should be set at a nominal level of 1 tonne recognising the Sixth Schedule status of this stock. The TAC should be set to 6 tonne and adjusted as required when more information is available.

OYS5A

134. MFish state it is likely that commercial access to oysters will be restricted in Fiordland due to the Fiordland Marine Conservation Strategy and recommend a TACC of 3 tonne. We reject this tonnage and advise that the nominal allocation of 1 tonne be made as the TACC to accommodate the smaller area that will be accessible to commercial fishers and also due to the poor information on non-commercial harvest.

OYS7A and 7B

135. Agree with a nominal TACC of 1 tonne for these areas.

OYS8A and 9

136. Agree with a nominal TACC of 1 tonne for these areas.

Other Management Measures

Return of oysters to the water

137. Agree that these oyster stocks should be added to the Sixth Schedule of the Fisheries Act to allow them to be returned to the water should they be landed inadvertently.

Redundant fisheries regulations

138. We disagree with the proposal to revoke regulation 12(1)(b) of the Fisheries (Challenger Area Commercial Fishing) Regulations 1986 that restricts fishing for dredge oysters in the Challenger management area to the hours of daylight, on the grounds of safety.
139. We would be interested in the rationale that was used as a basis for introducing this measure and suggest it was due to safety concerns.
140. There are now less crew on board many boats compared to previous years and there is a real possibility that less time is spent watching out for other vessels due to the increased workload of those still onboard.
141. We object to this regulation being revoked and would like to know what measures are planned to compensate for the loss of watch being kept onboard these vessels.
142. Our evidence suggests that problems arise even during daylight hours due to the number of vessels using this area. Stories of dredges becoming entangled with others are not uncommon in the regularly dredged areas.

Consequential amendment to regulations

143. Agree that amendments are required to the Fisheries (Reporting) Regulations 2001 as a consequence of introducing these oyster fisheries into the QMS.

Deemed Value and Overfishing Threshold

144. Agree with deemed values as proposed in para 74 – 76 of the IPP.

Current and potential research

145. MFish makes the following statement in para 132,
“...Given the paucity of information on this extremely important coastal resource, it is imperative that, as a first step, abundance and distribution information be collected in a coordinated way throughout New Zealand. It is recommended that all literature sources be examined including university research and regional council reports, and all local knowledge utilized such as tangata whenua, the HFO network and community groups.”

option4 would support such a move to collect more information on these oyster stocks. We would encourage MFish to begin meaningful dialogue with tangata whenua as they have a wealth of knowledge, often passed from generation to generation, which is generally untapped and considered anecdotal. We agree that HFO's and community groups would also be a good source of information.

Statutory Considerations

146. Section 8 of the Fisheries Act 1996 provides for utilisation while ensuring sustainability including the reasonably foreseeable needs of future generations. It also requires that people are able to provide for their social, economic and cultural well-being.
147. MFish acknowledge the potential for these oyster stocks to become depleted on a localised basis and that it is unlikely that many oyster beds can support an increase in harvest levels.
148. MFish also acknowledge that the Minister needs to consider the impact any increase in harvest effort will have on the environment and recommend a cautious approach to management decisions be made according to sections 8 and 9 of the Fisheries Act 1996.
149. Ministry state, "there is no information available that indicates whether oyster stocks are at, above or below a level that can produce MSY. Despite this, there are concerns about the sustainability of dredge oyster stocks." With this in mind we strongly object to TACC's being allocated other than a nominal level to cover incidental by-catch. There is no room for development of these stocks with such poor information available.
150. Until the QMS adequately recognises the rights of future generations of non-commercial fishers to access fisheries of traditional and cultural importance this species should not be given away in perpetuity via quota rights. Non-commercial fishers have an outright priority to gather oysters for sustenance purposes.
151. We submit that these oyster stocks be managed according to s13 (2) of the Fisheries Act 1996. The cultural and social significance of this species demands that these stocks are managed above a level that can produce MSY. Ministry need to initiate a stock assessment and gather more harvest estimates so the MSY can be determined.
152. We recommend a cautious approach needs to be taken when managing these important stocks as MFish already acknowledge that increasing dredging effort may have adverse effects on settlement and recruitment of oysters.

Preliminary Recommendations

153. As referred to in previous comments.

Conclusion

154. option4 does not support the introduction of non-QMS dredge oysters into the QMS.
155. We are very concerned the Ministry are proposing to set TACC's for stocks when there has been no scientific assessment of the Maximum Sustainable Yield.
156. The Ministry acknowledge that conflict may arise due to increasing pressure on existing shellfish beds.
157. Population increase is inevitable and provision needs to be made for the needs of future generations. Once TACC's are set they are very hard to adjust even when the evidence supports a reduced take is necessary to ensure the sustainability of our fisheries resources. We recommend, considering the lack of information, to set the TACC as a nominal level. As MFish allude to in the IPP, the TACC can be adjusted at any time in the future if more information becomes available.
158. The interests of non-commercial fishers, both Maori customary and recreational must come first in a fishery of such social, cultural, environmental and ecological value.

PIPI (PPI)

159. Pipi are the most popular non-commercial intertidal shellfish harvested in the north. They are an important species for customary and sustenance fishers. Sustenance fishing includes people of all races whose primary objective is to collect food for the table, rather than recreation or enjoyment of the coastal environment.
160. Pipi are also an important link in the coastal ecology, providing food for a range of invertebrates, fishes and wading birds. They form dense beds that stabilise the sand banks, as does the dead shell.

Key Issues to be Considered

161. option4 notes there are no estimates of biomass or sustainable yields of pipi in any of the QMA's proposed. There is no detailed and consistent information to provide an overview of the resource either nationwide or at the QMA scale.
162. option4 notes MFish acknowledge that biologically, pipi are susceptible to localised depletion. They are sedentary, sensitive to environmental factors, vulnerable to habitat disturbance and degradation, and can be readily harvested.
163. option4 agree that pipi are an extremely important non-commercial resource and are harvested extensively by customary Maori and recreational fishers.
164. We note MFish consider that illegal catch of pipi is significant in some areas such as northern New Zealand and also that recreational fishers may greatly exceed their bag limits.
165. We understand that commercial fishing for stocks considered in this paper has only ever occurred at a small scale in Ohiwa Harbour (within PPI 1C), and as by-catch in the commercial cockle fishery in PPI 7 in two fishing years. A commercial stock in Mair Bank, Whangarei Harbour (PPI 1A) has already been introduced into the QMS.
166. A permit moratorium has prevented the access of new commercial fishers since 1992 (other mechanisms prevented access to these fisheries between the mid 1980s and 1992). MFish indicated in advice on the introduction of pipi into the QMS that it will explore the use of fisheries regulations to constrain commercial harvesting to existing harvest areas.
167. We also note that regulatory measures have been put in place for these stocks, including closed areas and bag limit reductions, due to sustainability concerns.

Management Options

168. option4 agree with MFish that s13 management arrangements are appropriate for the pipi stocks under consideration in the IPP, notwithstanding our objection to the pipi stocks being part of the QMS.
169. We disagree with the proposed TACC's, other than those set at zero, for areas PPI1C, PPI2, PPI7 and PPI8.
170. We agree with MFish that for areas PPI 1B, PPI 3, PPI 4, PPI 5 and PPI 9 the TACC should be set at zero.

Rationale for proposed TAC

171. MFish state there is no comprehensive information available to determine the stock status of pipi in any QMA. MFish therefore proposes to set TAC's that reflect the recent catches in each fishery. We agree, as there has been no commercial catches of any of the other stocks being considered apart from PPI 1C. There has been no commercial fishing in PPI 1C since 1999/2000 so the TAC should reflect this and the TACC be set at zero.
172. In order to "allow for" non-commercial fishing interests (Fisheries Act s21) it would be prudent to set the TACC at zero for PPI 1C. The needs of future population growth also need to be taken into account (Fisheries Act s8(2) (a)) as this area is the fastest growing area, in population terms, in the country.
173. The possibility exists that if a TACC is set at 3 tonne, as suggested in the IPP, that a reallocation may have to occur in the future. In order to avoid compensation issues PPI 1C should have a TACC set at zero.
174. MFish cannot determine whether pipi stocks are stable, declining or increasing due to a lack of information. The IPP also states that many beds are reported to be under pressure from existing levels of utilisation and unlikely to support an increase in harvest levels. These are two very good reasons to set the TAC's at current utilisation levels and the TACC's at zero for all stocks under consideration.
175. We agree with MFish that pipi have a high social and cultural significance for many New Zealanders and that they are very important to Maori as a food source and have been harvested for this purpose consistently through history. Pipi have also become an extremely important recreationally harvested species, with most pipi beds around the country harvested to some extent on a recreational basis.

Pipi are harvested for food, they are not considered a sport fish. Sustenance fishers have an absolute priority to this species and therefore the TAC's should be set to current utilisation levels and the TACC's for all stocks under consideration to be set to zero.

Northern New Zealand

176. Harvesting pressure and concerns for sustainability have resulted in a variety of management interventions to limit pipi harvesting in the north, some areas of PPI 1C are closed because of localised depletion.
177. option4 submitted in support of the continued closure of the western Coromandel from Ngarimu to Wilson's Bay for the taking of cockles and pipi in December 2004.
178. In November 1999 bag limits in the Auckland Coromandel area were reduced from the national limit of 150 down to 50 per person. It is inconceivable that a TACC other than zero will be allocated in this stock.

PPI 1B and PPI 9

179. We note the proposal has a TAC based on current utilisation and suggests a TACC of zero for PPI 1B and PPI 9. We are pleased to agree with this suggestion and note that MFish have taken into consideration the expected growth in population and likely increase in harvest.
180. MFish also suggest that the expected growth in non-commercial harvest is unlikely to be sustainable. We recommend a stock assessment is completed as soon as possible so future management decisions can be made based on good information. These stocks are too valuable to non-commercial fishers, to ignore this advice would be negligent and not likely to fulfil requirements of s8 (2)(a) of the Fisheries Act 1996.

PPI 1C

181. option4 notes the IPP gives two different proposals for PPI 1C.
 - TAC set at 240 t with a TACC set at zero – based on current utilisation.
 - TAC set at 243 t with a TACC set at 3 tonne – to allow for development.
182. We strongly agree that there is a need for caution in setting catch limits for this stock. The higher TAC has been suggested due to past catches in Ohiwa Harbour. MFish suggest this may be sustainable even though no harvesting has occurred in this harbour since 1999/2000. No new information is available to support this option but MFish have suggested confining the additional harvesting effort to Ohiwa Harbour.
183. It is reasonable to expect that non-commercial fishers have increased their harvesting effort in this area and therefore would not want to be competing with commercial fishers in order to gather food. Increases in population over the past five years and also the likelihood that the harbour (and water quality) has suffered to some extent due to land development needs to be taken into consideration.
184. The TAC should be set at a level based on current utilisation, 240 t, and the TACC set at zero in order to allow for non-commercial interests in this stock.

PPI 3, 4 and PPI 5

185. A TAC based on current utilisation of these stocks is the most sensible option. We agree with MFish that there is currently no capacity for any commercial development of these stocks. The TAC's should be set to the proposed levels in the IPP and the TACC set at zero.
186. Non-commercial interests must be allowed for in these fisheries and we note there are already some area closures including part of the Kaikoura Peninsula (PPI 3) and a reduced pipi bag limit of 50 per day at Rapaki Bay, Lyttelton (PPI 3). Any increase in abundance should be made available to non-commercial fishers in the first instance.

PPI 2, 7 and PPI 8

187. option4 notes the IPP gives two different proposals for PPI 2, 7 and PPI 8. One set of TAC's based on current utilisation, the other higher TAC's to allow for some development of the fisheries. We object to the higher TAC options that include TACC's of 2 tonne.
188. We agree there is a need for caution in setting catch limits for these stocks.
189. Sustainability concerns have resulted in management measures being put in place for some of these stocks. Pukerua Bay (Kapiti Coast; PPI 8) and Hicks Bay (East Cape; PPI 2) have been closed until December 2006 and February 2007 respectively. No commercial fishing of the PPI 8 and PPI 2 stocks should be permitted until these stocks have recovered sufficiently to allow the resumption of harvesting in Pukerua Bay and Hicks Bay. Non-commercial fishing interests must be allowed for in this fishery.

Allocation of TAC

190. The IPP states, "*The 1996 Act stipulates a process by which the TAC is to be allocated. No explicit statutory mechanism provides guidance as to the apportionment of the TAC between sector groups either in terms of a quantitative measure or prioritisation of allocation.*"
- There may not be an explicit mechanism regarding apportionment but section 21 of the Fisheries Act 1996 is clear -
- 21 (1) In setting or varying any total allowable commercial catch for any quota management stock, the Minister shall have regard to the total allowable catch for that stock and shall allow for—
- (a) The following non-commercial fishing interests in that stock, namely-
 - (i) Maori customary non-commercial fishing interests; and
 - (ii) Recreational interests; and
 - (b) All other mortality to that stock caused by fishing.
- The Minister has to allow for our non-commercial interests in these pipi stocks. In order to achieve this he should be setting the TACC's at zero for these stocks.
191. The IPP goes on to say, "*The Minister has the discretion to re-allocate from one sector to another, based on available information.*"

The Minister may have this discretion but unfortunately it used mostly to reallocate to the commercial sector (as in SNA2). We have yet to see him exercise his discretion in favour of the non-commercial sector particularly in regards to our inshore shared fisheries.

192. The IPP continues, *“In shared fisheries MFish has a policy preference in favour of the catch history allocation model in the absence of clear information to the contrary. No information exists to support a re-allocation decision. However, where development opportunities exist, it is considered appropriate to allow for a TACC increase, recognising that the permit moratorium which has been in place since 1992 constrained historical commercial use.”*

So, we are now allowing for a TACC because commercial fishers have been denied access since 1992? If this is Ministry policy or preference on how they want to allocate between sectors then this same philosophy should be applied to our other inshore shared fisheries, many of which are below Bmsy. The public have been denied reasonable access and development opportunity in these fisheries through low biomass levels for many years. If this were MFish policy then option4 would like to discuss this in more detail.

Recreational allowance

193. The proposed allowances are based on the best information from the recreational harvest surveys. MFish refer to this as current utilisation. MFish also accept that *“the surveys are likely to significantly underestimate recreational harvest”*. Taking this into account and MFish’s previous statement regarding development opportunity, where has the development opportunity for recreational harvest been factored into this equation? Ministry cannot apply the development principle to a TACC and not to non-commercial harvest.
194. We would also like to point out that the recreational harvest surveys did not include harvest by tourists or those less than 15 years old. We consider the harvest estimate is well under what is actually taken by the recreational sector.
195. MFish state it is likely that recreational catch is much higher in PPI 1C we do not support a TACC other than zero in this fishery in order to “allow for” non-commercial fishing interests.

Customary Maori allowance

196. MFish state in the IPP, *“Pipi are an important customary taonga (treasured, significant) species taken as kaimoana in many parts of New Zealand. There is no information at present on estimated quantities harvested for customary purposes at a QMA level. It is likely that customary harvests are at least as high as recreational harvests.”* We agree.

197. MFish continue, *“It is likely that customary harvests are at least as high as recreational harvests. MFish proposes that the customary allowance for pipi in each QMA be equal to that of the recreational allowance. This is a notional figure only and may need to be revised when information becomes available”*.

Considering the statement by MFish that the recreational harvest estimate is likely to be significantly underestimated we question why more allowance is not being made available to Maori customary fishers. The significance of pipi to customary and sustenance fishers cannot be underestimated. The Minister has a statutory obligation to allow for Maori customary interests. To simply “allow for” a tonnage equal to the recreational allowance does not mean that Maori customary fishers will actually be able to harvest their allowance. The tonnage is irrelevant, the pipi have to be there for Maori customary fishers to harvest.

198. It is concerning MFish are making these allowance recommendations when they admit in para 21 that *“many beds are reported to be under pressure from existing levels of utilisation”*. MFish then go on to recommend a TACC of 2 or 3 tonne for PPI 1C, 2, 7 and PPI 8. This is inconsistent and does not adequately address the needs of Maori customary non-commercial fishers.

Other Mortality

199. We agree with the allowances made for other sources of mortality due to the hand gathering nature of pipi collection.

200. MFish attribute a significant mortality rate to illegal harvesting. The IPP states that MFish compliance staff advise, *“that non-commercial fishers often take more than the amateur daily limits for pipi. However, estimates of the quantities taken are not presently available. In the absence of better information, nominal allowances proportional to the recreational allowances have been provided”*. An interesting statement that requires clarification. Does this mean that both recreational and Maori customary fishers are exceeding the daily bag limits for pipi? If MFish are only referring to recreational fishers then this needs to be said. To attribute illegal harvesting to the non-commercial sector when fisheries staff is on hand to make the distinction between fishers is unfair to both recreational and Maori customary fishers.

201. It would seem to us that a significant source of mortality would be those lost to degradation of water quality. Pipi are vulnerable to the effects of habitat disturbance and degradation. Localised depletion has seen a number of bed closures and bag limit reductions in the Auckland Coromandel area.

202. While we acknowledge the Ministry of Fisheries has to work within the Fisheries Act we strongly recommend MFish work with tangata whenua, locals, other stakeholders and agencies to improve the quality of the marine environment.

TACC

PPI 1B, 3, 4, 5 and PPI 9

203. Agree with a zero TACC for these areas.

PPI 1C

204. Agree to a zero TACC for PPI 1C in the interests of allowing for non-commercial fishing interests. Object to the alternative proposal for a TACC of 3 tonne.

205. MFish suggest the 3 tonne TACC may be sustainable if taken from the Ohiwa Harbour, although this cannot be confirmed. If TACC is allocated within PPI 1C it will be available to be harvested from not only Ohiwa, but also Maketu and Ponui Island, Auckland. This is due to the PPI 1C management area being so large. A problem exists where MFish state that anecdotal evidence indicates an increase in catch levels from either Maketu or Ponui is not sustainable. It is unacceptable to have management areas so large that once TACC is allocated it cannot be confined within a zone without regulatory controls.

206. We also object to the suggestion by the Ministry that, “*should conflicts arise, there are tools available under the Fisheries Act 1996 which can assist in reaching a resolution.*” Past experience has proven that resolution, when sought through s311 of the Fisheries Act 1996, is cumbersome and demanding on resources. If MFish are referring to some other tools available then we would appreciate clarification.

PPI 2, 7 and PPI 8

207. Agree to a zero TACC for these stocks in the interests of allowing for non-commercial fishing interests. Object to the alternative proposal for a TACC of 2 tonne for these pipi stocks.

Other Management Measures

Returning pipi to the water

208. Agree that all pipi stocks should be added to the Sixth Schedule of the Fisheries Act to allow commercial fishers to return them to the water if they are taken below optimum commercial size or as incidental by-catch.

Method restriction

209. Agree with retaining the relevant regulations that restrict the commercial harvesting of pipi to the hand gathering method.

Consequential amendment to regulations

210. Agree with suggested amendments to fishing regulations as specified in the IPP para 68 – 70.

Deemed Value and Overfishing Threshold

211. Agree with deemed values as proposed in para 71 – 75 of the IPP.

Current and potential research

212. MFish makes the following statement in para 126,

“Given the paucity of information on this important coastal resource, a useful first step would be collect information on distribution and abundance in a coordinated way throughout New Zealand. All literature sources could be examined including university research and regional council reports, and all local knowledge utilized such as tangata whenua, the Honorary Fisheries Officer network and community groups.”

option4 would support such a move to collect more information on this species.

We would encourage MFish to begin meaningful dialogue with tangata whenua as they have a wealth of knowledge, often passed from generation to generation, which is generally untapped and considered anecdotal. We agree that HFO's and community groups would also be a good source of information.

Statutory Considerations

213. Section 8 of the Fisheries Act 1996 provides for utilisation while ensuring sustainability including the reasonably foreseeable needs of future generations. It also requires that people are able to provide for their social, economic and cultural well-being.

214. Pipi are harvested for customary Maori purposes and the priority accorded to this activity should remain. The ability to manaaki manuhiri (provide kai for visitors) cannot be underestimated. To base allocation decisions other than zero TACC's for such a significant species will leave the Ministry and Minister open to the possibility of denying people their customary rights and this would be unacceptable.

215. Until the QMS adequately recognises the rights of future generations of non-commercial fishers to access fisheries of traditional and cultural importance this species should not be given away in perpetuity via quota rights. Pipi are not a sport fishery; they are gathered for the purposes of eating. The public has an outright priority to gather pipi for sustenance purposes.

216. We submit that pipi be managed according to s13 (2) of the Fisheries Act 1996. The cultural and social significance of this species demands that these stocks are managed above a level that can produce MSY. This is to take into account the rate at which fisheries management changes occur. As we have seen in so many other fisheries, if these stocks are managed at MSY there are likely to be adverse effects on non-commercial fishers before any management decisions are made. Also taking into account the reality that there is no estimate of total biomass or sustainable yield therefore caution needs to be applied to managing these important stocks.

217. Agree with pipi being managed according to s9 (a) of the Fisheries Act 1996 due to their importance in the intertidal ecosystem and as a food source for other animals such as wading birds. In addition to the possible benefits they provide in maintaining water quality and stabilising sand banks, particularly in harbours.

Preliminary Recommendations

218. As referred to in previous comments.

Conclusion

219. option4 does not support the introduction of pipi (other than those already in the QMS) into the QMS. The QMS on its own is not an adequate management regime for discrete shellfish beds. A more comprehensive management strategy is required.
220. We are very concerned the Ministry are proposing to set TACC's for stocks when there has been no scientific assessment of the current status of the stocks in relation to the Biomass that will support Maximum Sustainable Yield.
221. Commercial harvesting must not be allowed in the most accessible areas for the public, or sites of significance for wading birds.
222. The Ministry acknowledge that conflict may arise due to increasing pressure on existing shellfish beds. MFish make a particular reference to the pipi population in Ohiwa Harbour by saying, "*the estimates indicate there has been a substantial decline in biomass between 2000 and 2003*". Taking this into account why would MFish knowingly suggest a 3 tonne TACC is capable of being taken from Ohiwa Harbour? An explanation would be helpful.
223. Where there is development opportunity, for example where a resource is plentiful, best fisheries management outcome may be to "allow for" the non-commercial harvest as required under section 21, within sustainable limits, rather than increase compliance with the current arbitrary daily limits.
224. Population increase is inevitable and provision needs to be made for the needs of future generations. It is pointless allocating TACC's at this time due in part to the lack of information on stock sizes and also considering the reallocation that will be required as the population grows. Once the commercial allocations are made they are very difficult to adjust in order to allow for the non-commercial sector, even when it is clear that increasing population has resulted in increased fishing effort.
225. Where a development opportunity is identified, for example where a resource is plentiful, MFish must also consider that the best fisheries management outcome may be to allow for an increase the non-commercial harvest, within sustainable limits. This could mean an increase in bag limits for that area rather than increasing compliance with the current arbitrary daily limits, which are not linked to sustainability.

226. The rights of non-commercial fishers, Maori customary and recreational must come first in a fishery of such social, cultural and ecological value.

NON-QMS SCALLOPS (SCA)

227. Scallops are significant to non-commercial fishers, both recreational and customary Maori.
228. Commercial scallop fisheries have a checkered history. The best, most profitable, beds were fished into oblivion in just a few years and the boats moved on to the next fishery. This is exactly the type of fishery that will develop with TACC's for large FMA's. There will be serial depletion of the best scallop beds and it is the public and the environment that will pay the price, yet again.
229. option4 still does not support the introduction of scallops (other than those already in the QMS) into the QMS. The QMS on its own is not an adequate management regime for discrete shellfish beds. A more comprehensive management strategy is required.
230. Commercial harvesting must not be allowed in the most accessible areas for recreational or Maori customary fishers. Scallops are harvested for customary Maori purposes and the priority accorded to this activity should remain.
231. There is no evidence that the Ministry of Fisheries addresses issues of commercial allocation of quota set at an inappropriately high level, in a timely manner. Until the Ministry demonstrates a policy change where the interests of recreational and Maori customary fishers are accounted for as population and fishing effort increases, the non-QMS scallops should remain outside the QMS.

Key Issues to be Considered

232. option4 notes an estimate of total biomass or sustainable yield is not available for any of the scallop stocks in the IPP. Status of all stocks is unknown.
233. option4 notes MFish acknowledge that the size and structure of scallop populations fluctuates widely, both temporally and spatially and often independently of fishing pressure.
234. We note MFish accept that some scallop populations in enclosed harbours are at risk of localised depletion. Environmental factors can influence depletion along with highly variable recruitment rates.
235. option4 notes that MFish acknowledge that, "despite the customary and recreational importance of scallops, the volume of non-commercial harvesting of some of these non-QMS scallop stocks is not well known".
236. We note MFish consider that these non-QMS stocks are taken mostly as incidental by-catch by commercial fishers and that a permit moratorium has prevented the access of new commercial fishers since 1992.

Management Options

237. option4 agree with MFish that s13 management arrangements are appropriate for the scallop stocks under consideration in the IPP, notwithstanding our objection to the non-QMS stocks being part of the QMS.
238. We disagree with the proposed TACC's for areas SCA1A, SCA5, SCA7C and SCA9A.
239. We agree with MFish that for areas SCA2A, SCA3, SCA7A, 7B and SCA8A the TACC should be set at a nominal level of 1 tonne.

Proposed TACs

In-season TAC increases

240. MFish consider it appropriate to make available the opportunity for in-season adjustments for these scallops stocks due to their variable nature. Ministry state the flexibility is encompassed within s13 of the Fisheries Act 1996.
241. Both s13 (2) and s13 (3) refer to moving a stock towards a level that can produce MSY. With the lack of information there is no way to prove what MSY actually is for any of these stocks. So the statutory requirements for this measure, in relation to these scallop stocks, does not exist.
242. MFish recommend adding these scallop stocks to the Second Schedule of the Fisheries Act due to this variability, as allowed for in s13 (7). We disagree with this suggestion.
243. In the absence of any biomass estimates, sustainable yield estimates and also the unreliable harvest estimates for both commercial and non-commercial fishers we object to these scallop stocks being added to the Second Schedule.
244. MFish suggest in the IPP that, "*the mechanism envisaged for these scallop fisheries is that the TAC may be increased in-season for an identified scallop fishstock on the basis of information becoming available and, depending on the circumstances, an in-season survey of the scallop resources may be required.*" It is not likely that an in-season survey will be conducted unless commercial fishers thought there was a good chance of being allocated additional ACE, this mechanism is biased towards commercial fishers.
245. Ministry continue, "*An in-season TAC increase may be distributed between commercial, customary and recreational fishers, and an increased allowance can be made for other sources of fishing-related mortality.*" We ask how Ministry propose to distribute this increase in a fair and reasonable manner?
246. If the TACC is not being varied then s21 of the Fisheries Act does not apply in that the Minister does not have a statutory obligation to "allow for" non-commercial fishing interests. So it comes down to a decision made by the Ministry. In discussions regarding an in-season adjustment for the SCA CS

(Coromandel) fishery in 2004 Ministry were reluctant to make adjustments to daily bag limits due to concerns about compliance and management. What other mechanism is available for distributing an in-season increase to recreational and customary non-commercial fishers?

247. In relation to increasing the allowance for other sources of mortality, the proposed allocation and allowances set out in table 1 of the IPP does not seem to differentiate between mortality in a stock with a TAC of 30 tonne or 2 tonne. All stocks have an allowance of 1 tonne, despite the acknowledgement that these stocks are primarily gathered by dredging. Ministry need to explain this in more detail or make the allowance proportional to catch.
248. Ministry make no mention in the IPP of an in-season decrease. We understand this mechanism is available if the in-season survey identifies a problem with scallop abundance.
249. With either an increase or decrease the consultation regarding any changes should involve all stakeholders. Any management changes have the ability to affect commercial fishers and non-commercial fishing interests. A system whereby all stakeholders have the opportunity to have meaningful input needs to be devised. To merely consult with those who have the resources through making money by selling the harvest i.e. commercial fishers, is inadequate. Non-commercial fishing interests need to be given adequate opportunity to influence management decisions.

Rationale for proposed TAC

250. MFish state there is no stock assessment information, or CCL's, for any of the scallop stocks under consideration. Ministry add that, "*the data available on commercial catch is not considered to be fully reliable.*"
251. Recreational harvest surveys have been used as a basis to estimate recreational catch.
252. We agree with MFish that scallops are an important customary resource. The estimate of customary Maori harvest has been estimated at a level similar to the recreational catch estimate.
253. Nominal allowances of 1 tonne have been proposed for all scallop stocks under consideration.
254. We agree with MFish when they state, "*Environmental degradation and disease are thought to have been important factors in the dieback or decline of some scallop beds*".
255. We also agree that any increase in dredging effort is likely to have adverse effects on settlement and recruitment of scallop spat.

256. option4 also agree that “previously un-dredged areas will be subject to a higher level of adverse effects than the modified habitat that supports the existing QMS stocks”.
257. We find it interesting that MFish make the comment they consider the capacity for development of any of the stocks referred to in the IPP is unproven at this time and yet go on to recommend TACC’s other than nominal tonnages for SCA1A, 5, 7C and SCA9A.
258. In order to “allow for” non-commercial fishing interests (Fisheries Act s21) it would be prudent to set the TACC at 1 tonne for these stocks. The needs of future population growth also need to be taken into account as per s8 (2)(a). The fastest growing area, in population terms, in the country has access to SCA1A and SCA9A.

SCA1A

259. We object to the proposed TACC of 5 tonne for this stock.
260. MFish do not have good information regarding the SCA1A stock but advise the “*scallop resources are not likely to be large*”. In order to allow for our non-commercial fishing interests we recommend a nominal 1 tonne allocation should be made to cover incidental by-catch.
261. MFish consider the recreational harvest estimate is likely to be under-estimated and that the large resident Maori population in the area will harvest scallops.
262. The possibility exists that if a TACC is set at 5 tonne, as suggested in the IPP, that a reallocation may have to occur in the future. In order to avoid compensation issues SCA1A should have a TACC set at 1 tonne.

SCA2A, 3, 7A, 7B and 8A

263. We agree with proposed TAC, TACC and allowances for these stocks.

SCA5

264. We disagree with the TAC (10 t) and TACC (3 t) proposed for this fish stock.
265. A nominal TACC of 1 tonne should be set to cover incidental by-catch and the TAC adjusted from 10 to 8 tonne.
266. Previous commercial catch is estimated at 0.1 tonne in 2001/02 and before that 5.8 tonne in 1999/00 for this stock.
267. MFish consider it likely that the Fiordland Marine Conservation Strategy will be implemented restricting access to scallops in Fiordland. The strategy was proposed in order to protect the area. Due to low numbers of scallops in the

Paterson Inlet area it is likely some of the previous commercial harvest was taken from Fiordland. It would seem logical to have a small TACC to match the reduced availability of scallops. Otherwise the effort will just move from one area to another without reducing the ability to harvest scallops thereby defeating one of the objectives of the protection measures for Fiordland.

268. Paterson Inlet is already closed because of low scallop catches, in the advent of the Fiordland Strategy being implemented the area available to non-commercial fishers to harvest scallops is reduced and will have an impact on people's ability to harvest their allowance.
269. Unreliable harvest estimates exist for recreational catch and none for customary catch for SCA5. Our advice for the Minister is in the face of this uncertainty that a TACC of 1 tonne should be set. The Minister must allow for non-commercial interests before setting the TACC.

SCA7C

270. We object to the proposed TAC of 6 tonne and TACC of 3 tonne for this stock.
271. A nominal TACC of 1 tonne should be set to cover incidental by-catch and the TAC adjusted to 4 tonne.
272. Ministry advise they have based the allocation of TACC and allowances on "current utilisation". There has been no recorded commercial harvest in this stock since 1999/00 and there are no recorded recreational harvest estimates. Due to the lack of information the Minister should apply caution and set the TACC to the lower tonnage of 1 tonne.

SCA9A

273. We disagree with the proposed TAC of 30 tonne and TACC of 5 tonne for this scallop stock.
274. A nominal TACC of 1 tonne should be allocated to cover incidental by-catch and the TAC adjusted to 26 tonne.
275. MFish note the west coast, Auckland coastline harbours are currently closed to commercial scallop fishing. Is this measure going to continue considering their acknowledgment that "substantial scallop populations" are inside these harbours?
276. Ministry accept there are reasonably large recreational catches of scallops in this fishery but no estimates of customary catch. We remind the Ministry that our non-commercial interests need to be allowed for in this stock.
277. MFish propose the TAC be based on estimates of "current utilisation" although we have not been able to determine how the 5 tonne TACC has been arrived at, from the information supplied in the IPP.

Allocation of TAC

278. The IPP states, “*The 1996 Act stipulates a process by which the TAC is to be allocated. No explicit statutory mechanism provides guidance as to the apportionment of the TAC between sector groups either in terms of a quantitative measure or prioritisation of allocation.*”

There may not be an explicit mechanism regarding apportionment but section 21 of the Fisheries Act 1996 is clear -

21 (1) In setting or varying any total allowable commercial catch for any quota management stock, the Minister shall have regard to the total allowable catch for that stock and shall allow for—

- (a) The following non-commercial fishing interests in that stock, namely-
 - (i) Maori customary non-commercial fishing interests; and
 - (ii) Recreational interests; and
- (b) All other mortality to that stock caused by fishing.

The Minister has to allow for our non-commercial interests in these scallops stocks. In order to achieve this he should be setting the TACC's at a nominal level of 1 tonne for these stocks.

Recreational allowance

279. The recreational allowances proposed are based on the estimates from the 1999-00 and 2000-01 harvest surveys for SCA1A, SCA5 and SCA9A.

280. There is no information on which to base allowances for SCA2A, 3, 7A, 7C and SCA8A.

281. MFish consider it unlikely there is any non-commercial harvest of scallops in the SCA7B fishery.

282. We struggle to see how the Minister can allow for our fishing interests when there is such poor information on which he has to be his decision. It would be in the Minister's and Ministry's interests to obtain more reliable information than what is currently being used to make management decisions.

Customary Maori allowance

283. MFish state in the IPP, “Scallops are an extremely important customary resource for all coastal communities and information indicates that most beds around New Zealand are utilised by local iwi.”

We agree.

284. The customary Maori allowance has been based on the level of recreational catch. To simply “allow for” a tonnage equal to the recreational allowance does not mean that all Maori customary interests will be accommodated. The scallops have to be accessible and available for Maori customary fishers to harvest and the role of Maori as kaitiaki must be respected.

Other Mortality

285. The Ministry propose an allowance of 1 tonne for other sources of mortality for each of the scallop stocks. There is no information on illegal catch of scallops.
286. The proposed allowances set out in table 1 of the IPP does not seem to differentiate between mortality in a stock with a TAC of 30 tonne or 2 tonne. MFish state, "*The use of dredges as the main harvest method will contribute a source of mortality to the stocks by fishing.*" We contend that a 1 tonne allowance for mortality in a TAC of 30 tonne is insufficient to cover the level of mortality associated with this fishing method a proportional allocation should be used.
287. The biological characteristics of scallops results in highly variable patterns of abundance and distribution. If not enough allowance is made for mortality then adverse impacts on stocks may not be detected until well after serious damage has been done to localised scallop stocks.
288. Scallops are vulnerable to environmental degradation and disease. While we acknowledge the Ministry of Fisheries has to work within the Fisheries Act we strongly recommend MFish work with tangata whenua, locals, other stakeholders and agencies to improve the quality of the marine environment.

TACC

289. The Ministry make the following statement in the IPP, "*with the availability of only unreliable catch information, it is not possible to stipulate whether the proposed TACC's are above or below the level of current commercial catch.*" We object to such poor information being available for such valuable scallop stocks. These stocks are food fisheries important to non-commercial fishers. If there are any doubts about availability of these stocks then nominal TACC's of 1 tonne should be set to cover incidental by-catch only.

Other Management Measures

Removing prohibition

290. Agree with MFish that s312(2) of the Fisheries Act be repealed to allow for the taking of scallops for sale anywhere in FMA7.

Second schedule

291. Object to these scallop stocks being added to the Second Schedule to allow for in-season increase to the TAC, on the grounds mentioned previously.

Sixth schedule

292. Agree with MFish that these stocks be added to the Sixth Schedule to allow for the return of scallops to the water.

Redundant fisheries regulations

293. We disagree with the proposal to revoke the regulations specified for the non-QMS scallop stocks. MFish explain these regulations were introduced to reduce target fishing intensity.
294. Unless the TACC's are set at a nominal 1 tonne there is no guarantee that these stocks will be not be targeted. If, after a period of time, these stocks were clearly being fished as by-catch fisheries then there would be some justification in removing these regulations. There is nothing to stop MFish re-consulting on this issue at a later date.
295. There is a safety issue that MFish should continue to promote particularly in regards to the Friday and Saturday harvesting prohibition and the limiting of harvesting within daylight hours.

Consequential amendment to regulations

296. Agree with suggested amendments to fishing regulations as specified in para 74 of the IPP.

Deemed value and over fishing thresholds

297. Disagree with deemed values as proposed in para 75 - 78 of the IPP.
298. The proposed deemed values are 25% of those currently being applied to other scallop stocks. MFish's justification is they want to encourage reporting of scallop catches and that they expect these non-QMS stocks to be by-catch fisheries.
299. If the TACC's are set to 1 tonne nominal levels and these stocks are added to the Sixth Schedule then there is no reason to have deemed values set so low. If, after a period of time, it is found that the existing deemed values are causing a problem with the reporting of these non-QMS stocks then there is no reason why MFish cannot re-consult on this issue.
300. The lower deemed values could also have an impact on the way scallop landings are reported. There could be a temptation to misreport because of the advantage of paying less in deemed values. It would be unfair to place commercial fishers in this position.

Consideration of other schedules

301. Agree with MFish recommendations that these scallops stocks not be added to Schedule 5A or the Eighth Schedule.

Statutory Considerations

302. Section 8 (a) of the Fisheries Act 1996 provides for utilisation while ensuring sustainability including the reasonably foreseeable needs of future generations. It also requires that people are able to provide for their social, economic and cultural well-being.
303. Scallops are harvested for customary Maori purposes and the priority accorded to this activity should remain. The ability to manaaki manuhiri (provide kai for visitors) cannot be underestimated. To make allocation decisions for TACC's other than at a nominal level of 1 tonne will leave the Ministry and Minister open to the possibility of denying people their customary rights and this would be unacceptable.
304. Until the QMS adequately recognises the rights of future generations of non-commercial fishers to access fisheries of traditional and cultural importance this species should not be given away in perpetuity via quota rights.
305. We submit that these scallops be managed according to s13 (2) of the Fisheries Act 1996. The cultural and social significance of this species demands that these stocks are managed above a level that can produce MSY. This is to take into account the rate at which fisheries management changes occur. As we have seen in so many other fisheries, if these stocks are managed at MSY there are likely to be adverse effects on non-commercial fishers before any management decisions are made. Also taking into account the reality that there is no estimate of total biomass or sustainable yield therefore caution needs to be applied to managing these important stocks.
306. Agree with these scallops stocks being managed according to s8 (b) and s9 (b) of the Fisheries Act.
307. MFish consider "that introduction of these scallops stocks into the QMS could cause new areas to be dredged for scallops. Previously un-dredged areas will be subject to a higher level of adverse effects than the modified habitat that supports the existing QMS stocks".
Commercial harvesting must not be allowed in the most accessible areas for recreational or Maori customary fishers.
308. Commercial dredges being employed in our scallop fishery have been used for years and caused damage in many areas. The Minister must not allow indiscriminate use of these heavy commercial dredges anywhere along our coast. This fishing method should be restricted to areas approved for dredging where there is a current biotoxin clearance.
309. The current scallop bag limits for recreational fishers are:
- 20 scallops per day for most of the country
 - 50 scallops per day in the Challenger area
 - 10 scallops per day in the Southland Fishery Management Area

These limits were obviously set as a sustainability measure. To introduce a commercial component in the SCA1A, 5, 7C and SCA9A by merely setting a larger TAC to enable the proposed TACC for these stocks is not based on any science, more to enable commercial harvest of these stocks. This does nothing for the long-term sustainability of our scallop stocks.

Preliminary Recommendations

310. As referred to in previous comments.

Conclusion

311. option4 does not support the introduction of these scallops stocks into the QMS. The QMS on its own is not an adequate management regime for discrete shellfish beds. A more comprehensive management strategy is required.
312. We are very concerned the Ministry are proposing to set TACC's for stocks when there has been no scientific assessment of the Maximum Sustainable Yield.
313. Commercial harvesting must not be allowed in the most accessible areas for non-commercial fishers.
314. Population increase is inevitable and provision needs to be made for the needs of future generations. It is pointless allocating TACC's at this time due in part to the lack of information on stock sizes and also considering the reallocation that will be required as the population grows. Once the commercial allocations are made they are very difficult to adjust in order to allow for the non-commercial sector, even when it is clear that increasing population has resulted in increased fishing effort.
315. The rights of non-commercial fishers, Maori customary and recreational must come first in a fishery of such social, cultural and ecological value.

TUATUA (TUA)

316. Tuatua are often abundant on exposed sandy beaches particularly on the long west coast beaches of the North Island. At times they are readily accessible at mid tide level and at other times they remain relatively inaccessible beyond mean low tide level. Storms and high seas can also make the beds inaccessible. On eastern beaches tuatua are often smaller and more localised.
317. Tuatua are an important species for customary and sustenance fishers in many areas.
318. The Ministry must acknowledge that the demise of toheroa on the most exposed surf beaches is a sign of significant changes in that environment. Care must be taken with land use and harvesting to ensure that tuatua does not follow.

Key Issues to be Considered

319. option4 notes there is no detailed and consistent information on tuatua abundance and distribution either nationwide, or within any QMA.
320. option4 notes there are no estimates of biomass or sustainable yields of tuatua in any tuatua QMA and the status of all stocks is unknown.
321. We agree that tuatua appear to play an important role in maintaining biodiversity, water quality and sediment stability in intertidal ecosystems.
322. Agree that tuatua are sedentary and beds are susceptible to localised depletion caused by both harvesting pressure and habitat disturbance and degradation.
323. option4 agree tuatua are both a popular species for recreational fishers and a valued local customary resource. There are only approximate estimates of non-commercial harvest.
324. option4 note the only commercial fishery for tuatua has been a dredge fishery in the entrance to the Kaipara Harbour and some hand picking on Bayleys Beach. Commercial fishing elsewhere has been constrained by a permit moratorium. A number of historic areas specified in regulation for commercial fishing have not been used.
325. option4 notes MFish's statement, "compliance information indicates that the illegal catch of tuatua is significant in some areas, with some recreational fishers exceeding their bag limits, especially in the northern North Island".

Management Proposals

326. option4 agree with MFish that s13 (2) management is the most appropriate approach for the tuatua stocks, notwithstanding our objection to the tuatua stocks being part of the QMS.

327. We agree with MFish that for areas TUA1A, 1B, 3, 4, 5 and TUA7 the TACC should be set at zero.
328. We agree with a zero TACC for TUA2 and TUA8 and disagree with the alternative proposal of a 2 tonne TACC's for these stocks.
329. option4 agree with the proposed TACC of 43 for TUA9.
330. Agree with MFish that tuatua should be added to the Sixth Schedule to allow for the return of shellfish to the water.
331. Agree with amendments being made to the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986, specifying a historic area between Papamoa Domain and Maketu Beach as being available for commercial harvest, in the event that a TACC of 0 tonnes is set for the TUA 1B stock, as this measure will become redundant.
332. Agree with MFish that amendments should be made to regulation 4A of the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986 to revoke specified historic commercial areas within TUA 9 (i.e., Ninety Mile Beach, Hokianga Harbour to the Maunganui Bluff, and specific areas between Maunganui Bluff to the North Head of the Kaipara Harbour). Any new commercial activity following QMS introduction is likely to give rise to a sustainability concern in these areas given the preliminary recommendation to set a TACC of 43 tonnes and the current capacity of these areas. Current commercial fishing can continue in the specified commercial area of the Kaipara Harbour entrance.
333. Agree to amendments to the reporting regulations.
334. Agree to the proposed deemed values for QMA's where TACC's are set above zero.

Proposed TAC

335. We agree with MFish that s14 provisions do not apply to tuatua.
336. MFish have proposed alternative (other than zero) TACC's for TUA2 and TUA8 on the basis that a 2 tonne TACC is capable of maintaining stocks at or above MSY. We question how MFish can make this statement when they already state in para 3 (a) and 3 (b) of the IPP that there are no estimates of biomass or sustainable yields. More explanation please.

Rationale for Proposed TACs, Catch Limits and Management Proposals

337. MFish state the proposed TAC's, TACC's and other allowances shown in Table 1 of the IPP are based on an assessment of the tuatua fishery against the statutory

obligations and policy guidelines described in the introductory section of the IPP. Sustainability of these stocks is paramount; if there is no stock assessment what other assessment has been made of the TUA2, 8 and TUA9 stocks?

338. Agree that caution should be applied when setting the TAC's and TACC's for these tuatua stocks.
339. We note the recreational allowance has been based on harvest estimates and that MFish acknowledge the possibility "that overall estimates may not be very accurate". In order to "allow for" non-commercial fishing interests (Fisheries Act s21) it would be prudent to set the TACC's at zero for TUA2 and TUA8.
340. The needs of future generations need to be taken into account as per s8 (2) (a) of the Fisheries Act 1996.
341. Customary Maori allowances have been based on the recreational harvest estimates. Due to the uncertainty associated with those estimates a zero TACC should be set for TUA2 and TUA8 to "allow for" Maori customary fishing interests.
342. The possibility exists that if a TACC is set at 2 tonne, as suggested in the IPP, that a reallocation may have to occur in the future. In order to avoid compensation issues TUA2 and TUA8 should have a TACC set at zero.
343. MFish cannot determine the quantities of excess take (above recreational bag limits) therefore the levels of other sources of fishing related morality cannot be measured. Until there is better information we submit that the TACC for TUA2 and TUA8 be set at zero.
344. MFish continue, "It is not known whether current commercial catches (in TUA 9) are sustainable". We agree to the proposed TACC of 43 tonne for TUA9. This stock has to be protected, as tuatua are an important part of the coastal ecosystem.
345. We agree with MFish that variability occurs because recruitment, growth and mortality differ from year to year as environmental influences change.
346. We also agree that tuatua are sedentary and are prone to localised depletion.
347. MFish state that "tuatua play an important role in aquatic ecosystems as food for both fish and seabirds. Ensuring that sufficient tuatua remain to continue to perform these ecosystem functions is another reason for taking a cautious approach in setting TAC's in all QMAs". Absolutely agree.
348. We object to the proposed 2 tonne TACC's for TUA2 and TUA8 "to determine if there may be further developmental potential in these areas". If there is any "developmental potential" it should be available to non-commercial fishers to provide for their cultural and sustenance needs.

349. Tuatua are harvested for food, they are not considered a sport fish. Customary and sustenance fishers have an absolute priority to this species and therefore the TACC's should be set to zero for TUA2 and TUA8.
350. If better information becomes available in the future we would like the opportunity to make comment on any proposed changes.

TUA1A, 1B, 3, 4, 5 and TUA7

351. In November 1999 bag limits in the Auckland Coromandel area were reduced from the national limit of 150 down to 50 per person due to concerns about the pressure on shellfish beds. MFish acknowledge "it is likely that harvesting pressure in this region will increase with on-going population growth". We agree with a TACC of zero for these stocks.

TUA9

352. We agree with MFish that because the commercial landings in TUA9 have varied the fishery cannot be considered stable or developing.
353. We accept MFish's advice that the Ninety Mile Beach and Dargaville coast tuatua populations are "unlikely to sustain commercial harvest at the level previously experienced, if at all".
354. MFish advise the TUA9 catch history is derived solely from the Kaipara dredge fishery and recognise the catch has fluctuated over time.
355. MFish averaged the commercial catch over the past 14 years; this resulted in a 43.2 tonne average. MFish have proposed a TACC of 43 tonne within a TAC of 102 tonne.

TUA2 and TUA8

356. option4 notes the IPP gives two different proposals for TUA2:
- TAC set at 7 t with a TACC set at zero.
 - TAC set at 9 t with a TACC set at 2 tonne – to allow for development.
357. option4 notes the IPP gives two different proposals for TUA8:
- TAC set at 5 t with a TACC set at zero.
 - TAC set at 7 t with a TACC set at 2 tonne – to allow for development.
358. MFish advise that, "while there has been no recent commercial harvesting in TUA 2 and TUA 8, these stocks may be able to sustain a low level of further harvest. MFish has no information on tuatua biomass for either stock, but considers that the additional two tonnes is not likely to place the stocks in any greater sustainability risk in contrast to the development opportunity that may be provided".
- Until there is more information no commercial rights should be allocated for this species in the interests of sustainability. To offer development opportunity is

biased in favour of the commercial sector. Non-commercial fishers deserve the opportunity to gather tuatua for customary and sustenance purposes ahead of any commercial gains that may accrue from harvesting this species.

359. While MFish try to justify their suggestion by saying the “these stocks may not be fully utilised by the non-commercial sector and abundance may be sufficient to support a commercial fishery”, we object. There is no way of telling if these stocks are being “fully utilised” but until there is better information the interests of current and future generations in these stocks are more important.
360. The TAC for TUA2 should be set at 7 tonne and the TACC at 0.
361. The TAC for TUA8 should be set at 5 tonne and the TACC at 0.

Allocation of TAC

362. It is interesting to note the Ministry discuss s21 of the Fisheries Act 1996 in regards to allowances and advise that the allowances for non-commercial fishing interests, both Maori customary and recreational, and all other mortality is based on “*the relative use of the resource by the different sectors in recent times*”. Section 21 is very clear, the Minister shall allow for our interests. In fisheries, and shellfish in particular, our interests can go beyond what we have used recently. Our interests are more fish in the water, including tuatua. For the Minister to merely allow for what we have used recently does not fulfil his statutory obligations as required under the Fisheries Act 1996.

Customary Maori allowance

363. MFish state in the IPP, “*tuatua are of appreciable social, cultural and economic value for non-commercial harvesters. MFish considers that this value needs to be reflected in the non-commercial allowances*”.
- We agree.
364. MFish continue, “*tuatua are an important customary species taken as kaimoana in many parts of New Zealand. There is no information at present on estimated quantities harvested for customary purposes at a QMA level. It is likely that they are at least as much as recreational harvests in most areas*”.
- MFish state there is uncertainty in recreational harvest estimates and the “*overall estimates may not be very accurate*”. We question why more allowance is not being made available to Maori customary fishers in stocks that MFish are proposing a 2 tonne “development opportunity” i.e. TUA2 and TUA8. If there is any doubt then Ministry should err on the side of caution and allow more for Maori customary non-commercial interests in these stocks.
365. The significance of tuatua to customary and sustenance fishers must not be underestimated. The Minister has a statutory obligation to allow for Maori customary interests. To simply “allow for” a tonnage equal to the recreational allowance does not mean that all Maori customary interests will be accommodated.

The tuatua have to be there for Maori customary fishers to harvest and the role of Maori, as kaitiaki must be respected.

Proposed Recreational Allowances

366. The proposed allowances are based on estimates from the National Recreational Fishing Survey 2000. MFish accept that the estimates may not be very accurate. Until better information is available we object to any TACC above zero for any of these tuatua stocks, aside from TUA9. The Minister has to allow for our non-commercial recreational fishing interests.
367. Taking this into account and MFish's previous statement regarding development opportunity, where has the development opportunity for recreational harvest been factored into this equation? For example, where a resource is plentiful why not raise the non-commercial bag limit and promote responsible use rather than spending so much time and effort enforcing amateur regulations that under utilise the resource available? Ministry should not apply the development principle to a TACC and not to non-commercial harvest.
368. We would also like to point out that the recreational harvest surveys did not include harvest by tourists or those less than 15 years old. We consider the harvest estimate is well under what is actually taken by the recreational sector.

Allowances for other sources of mortality

369. We agree with the allowances made for other sources of mortality.
370. MFish attribute a significant mortality rate to illegal harvesting by non-commercial fishers, though no estimates are available. The IPP states that the problem seems to be more apparent in TUA1A, 1B and TUA9 where tuatua are generally plentiful. As stated above, the best fisheries management outcome may be to "allow for" the non-commercial harvest as required under section 21 within sustainable limits, rather than increase compliance with arbitrary daily limits.
371. MFish have proposed a 7 tonne allowance for fishing related mortality in TUA9. This is based on the likelihood that it occurs due to the dredging of tuatua in the Kaipara. We agree with this proposal.
372. We totally agree with MFish that "*it would be desirable to quantify this type of fishing-related mortality through future research*".

TACC

TUA1A, 1B, 3, 4, 5 and TUA7

373. Agree with a zero TACC for these areas.

TUA9

374. Agree with a 43 tonne TACC.
375. The 43 tonne TACC is based on the average of the landings of tuatua reported to have been taken from the bed at the entrance to the Kaipara Harbour over the past 14 years.
376. We note in 14 years commercial fishers have not been able to harvest 43 tonne of tuatua on nine occasions. The last time 43 tonne was harvested was in 1999/00. These tuatua play an important role in the aquatic environment of the Kaipara and are food for fish and birds. We recommend more research be conducted to estimate the size of this fishery.
377. We agree with MFish that there is a sustainability risk with the provision of the TACC for TUA9 as a whole. We agree that regulations will be required to limit commercial harvesting of tuatua in TUA9 to the Kaipara beds.

TUA2 and TUA8

378. Agree to a zero TACC for these stocks in the interests of allowing for non-commercial fishing interests. Object to the alternative proposal for a TACC of 2 tonne for these tuatua stocks.
379. MFish state in para 31 that the alternative 2 tonne allocation is “*based on recent catch with an additional two tonnes*”. There has been no commercial catch in either of these QMA’s since before 1990/91. We are unable to determine what was landed before then, as the IPP does not supply details prior to 1990/91. We reject this attempt by Ministry to justify a 2 tonne TACC in these areas.
380. The IPP continues, “MFish envisages that the nominal TACCs would provide a means for commercial rights-holders to develop a sustainable fishery while meeting the requirements of the Act”. The only reason why commercial fishers would be “rights-holders” is if Ministry and the Minister give our tuatua away to them. We totally object to this proposal and submit the TACC's for TUA2 and TUA8 are set at zero.

Other Management Measures

Returning tuatua to the water

381. Agree that all tuatua stocks should be added to the Sixth Schedule of the Fisheries Act to allow commercial fishers to return them to the water if they are taken below optimum commercial size or as incidental by-catch.

Method restriction

382. Agree with the MFish proposal to retain regulation 4A(3) of the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986. This regulation restricts commercial harvesting using a dredge to the area inside the

entrance of the Kaipara Harbour.

383. Agree with the MFish proposal to retain the part of regulation 22A of the Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986 that restricts commercial gathering of tuatua (other than in the Kaipara) to the method of hand gathering, in the interests of having the least effect on the environment.

Consequential amendment to regulations

384. Agree with suggested amendments to fishing regulations as specified in the IPP para 57 – 59.
385. Disagree with the proposal to remove the 200kg daily limit that applies to commercial fishers hand gathering tuatua. If TACC is allocated in future for any areas apart from the Kaipara beds, the hand gathering will more than likely take place in the same area that non-commercial fishers will be harvesting tuatua. We do not want non-commercial fishers adversely impacted by the activities of commercial fishers.
386. The QMS does not adequately address the problems associated with large FMA's and small discrete shellfish beds. Inevitably there would be conflict if commercial fishers were targeting the densest beds that are harvested by non-commercial fishers. Until the QMS can address this most fundamental issue current controls on daily limits should remain.

Reporting Regulations

387. Agree with amendments to the Fisheries (Reporting) Regulations 2001.

Deemed Value and Overfishing Threshold

388. Agree with deemed values as proposed in para 63 – 66 of the IPP.

Statutory Considerations

389. Section 8 of the Fisheries Act 1996 provides for utilisation while ensuring sustainability including the reasonably foreseeable needs of future generations. It also requires that people are able to provide for their social, economic and cultural well-being.
390. Tuatua are harvested for customary Maori purposes and the priority accorded to this activity should remain. The ability to manaaki manuhiri (provide kai for visitors) cannot be underestimated. To base allocation decisions other than zero TACC's in TUA2 and TUA8, for such a significant species will leave the Ministry and Minister open to the possibility of denying people their customary rights and this would be unacceptable.
391. Until the QMS adequately recognises the rights of future generations of non-commercial fishers to access fisheries of traditional and cultural importance this species should not be given away in perpetuity via quota rights. Tuatua are not a

sport fishery; they are gathered for the purposes of eating. The public has an outright priority to gather tuatua for sustenance purposes.

392. Interesting comment in para 69 that “*proposed TACs for tuatua stocks in all QMAs are set at levels that anecdotal information indicates should be sustainable*”.
- We would like to know where this anecdotal information has come from and why it is being applied to tuatua and not in other fisheries management scenarios.
393. We submit that tuatua be managed according to s13 (2) of the Fisheries Act 1996. The cultural and social significance of this species demands that these stocks are managed above a level that can produce MSY. This is to take into account the rate at which fisheries management changes occur. As we have seen in so many other fisheries, if these stocks are managed at MSY there are likely to be adverse effects on non-commercial fishers before any management decisions are made. Also taking into account the reality that there is no estimate of total biomass or sustainable yield therefore caution needs to be applied to managing these important stocks.
394. We agree that tuatua are thought to assist in maintaining water quality and the stability of sand banks, especially in harbours.
395. Agree with tuatua being managed according to s9 (a) of the Fisheries Act 1996 due to their importance in maintaining biological diversity and as a food source for fish and seabirds.
396. The Ministry claim that “*pipi is the main associated species and may be taken as a by-catch of tuatua harvesting*”, is relation to s9 (a) of the Fisheries Act. We disagree, as there is no overlap of tuatua with major beds of cockle or pipi. Tuatua are not found in estuarine or in normal harbour conditions. The entrance of the Kaipara harbour is an exceptional environment with high current flows and sand movement.

Preliminary Recommendations

397. As referred to in previous comments.

Conclusion

398. option4 does not support the introduction of tuatua into the QMS. The QMS on its own is not an adequate management regime for discrete shellfish beds. A more comprehensive management strategy is required.
399. We are very concerned the Ministry are proposing to set TACC’s for stocks when there has been no scientific assessment of the current status of the stocks in relation to the Biomass that will support Maximum Sustainable Yield.
400. Commercial harvesting must not be allowed in the most accessible areas for non-commercial fishers.

401. Population increase is inevitable and provision needs to be made for the needs of future generations. It is pointless allocating TACC's at this time due in part to the lack of information on stock sizes and also considering the reallocation that will be required as the population grows. Once the commercial allocations are made they are very difficult to adjust in order to allow for the non-commercial sector, even when it is clear that increasing population has resulted in increased fishing effort. It is best to set TACC's at zero now (except for TUA9) and avoid compensation issues for the Crown, in the future.
402. We are particularly concerned for this species, as tuatua are a traditional food source for many people. Tuatua are harvested for customary Maori purposes and the priority accorded to this activity should remain.
403. Where a development opportunity is identified, for example where a resource is plentiful, MFish must also consider that the best fisheries management outcome may be to allow for an increase the non-commercial harvest, within sustainable limits. This could mean an increase in bag limits for that area rather than increasing compliance with the current arbitrary daily limits, which are not linked to sustainability.
404. The rights of non-commercial fishers, Maori customary and recreational must come first in a fishery of such social, cultural, environmental and ecological value.

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