



# Review of amateur regulations relating to rock lobster in the Fiordland (Te Moana o Atawhenua) Marine Area

MPI Regulatory Impact Statement

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## Regulatory Impact Statement

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

#### Agency Disclosure Statement

This Regulatory Impact Statement has been prepared by the Ministry for Primary Industries. It provides an analysis of options to amend amateur regulations relating to rock lobster in the Fiordland Marine Area.

The regulatory change proposals are aimed at: allowing for greater utilisation opportunities for amateur fishers in the internal waters of Fiordland, addressing a compliance issue in relation to catch identification when the same holding pots are used by multiple amateur fishers to store live rock lobsters, and protecting significant marine biodiversity in Doubtful Sound.

During 2011 and 2012 public consultation was undertaken by the Fiordland Marine Guardians and the Ministry for Primary Industries to better understand the issues. From this process, a preferred response was identified, which the Minister for Primary Industries has agreed to take to Cabinet, for consideration. This announcement constrains the extent of the RIS analysis.

Several information sources have been used in the analysis of options, including: scientific research data on rock lobster, amateur fishing research surveys, Ministry for Primary Industries Compliance information, and anecdotal information from the Fiordland Marine Guardians. Key uncertainties in the analysis are on the extent and timing of rock lobster amateur fishing and the actual level of rock lobster abundance in the internal waters of Fiordland.

The proposed regulatory changes can be implemented without further work by the Ministry for Primary Industries, except for communication and education of the new rules

The proposals do not override any fundamental common law principles, impair property rights or impose additional costs on the rock lobster industry or other businesses. The proposals are expected to have a high compliance rate, as they have been carefully worked through with stakeholders.

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Ministry for Primary Industries

/ /2013

## Executive Summary

1. Following recommendations from the Fiordland Marine Guardians, the Minister for Primary Industries has recommended that several amateur regulations relating to rock lobster in the Fiordland Marine Area be amended. The changes proposed are:
  - Increasing the maximum daily number of rock lobsters that may be taken or possessed by amateur fishers from three to six per day in the internal waters of Fiordland, except for Milford Sound which is to remain at three
  - Allowing an accumulation of up to 15 rock lobsters in the internal waters of Fiordland, except for Milford Sound which is to remain at three
  - Amending the rock lobster accumulation defence provision conditions to require amateur fishers to maintain a written record of all rock lobsters stored and removed from holding pots in the Fiordland Marine Area
  - Prohibiting the use of amateur rock lobster pots in the internal waters of Fiordland adjacent to an area of high habitat diversity at Seymour Island in Pendulo Reach, Doubtful Sound.
2. The changes are consistent with Ministry for Primary Industries and Fiordland Marine Guardians objectives. They are based on an analysis of feasible options and take into account submissions received during consultation.

### Summary of option analysis <sup>1</sup>

Summary of Options	Objective 1: ensure stock sustainability	Objective 2: protect the aquatic environment	Objective 3: maximise sector utilisation benefits			Objective 4: cost-effective compliance and enforcement	Key cost or benefit
			<i>Customary</i>	<i>Amateur</i>	<i>Commercial</i>		
<b>Maximum daily limit for rock lobster in the internal waters</b>							
Option 1A - retain the current maximum daily limit of 3 rock lobsters per amateur fisher in the internal waters of Fiordland	✓	✓	–	✗	–	–	Amateur utilisation opportunities in the internal waters would continue to be limited
Option 1B - increase the maximum daily number of rock lobsters that may be taken or possessed by amateur fishers from 3 to 6 per day in the internal waters of Fiordland, except for Milford Sound, which is to remain at 3	✓	✓	–	✓	–	–	Amateur utilisation opportunities in the internal waters would increase
<b>Rock lobster accumulation limit in the internal waters</b>							
Option 2A - retain the current rock lobster defence provisions that allow for accumulation of up to 3 rock lobsters in the internal waters of Fiordland	✓	✓	–	✗	–	–	Amateur utilisation opportunities in the internal waters would continue to be limited
Option 2B - amend the rock lobster accumulation defence provisions by removing the accumulation limit of 3 rock lobsters in the internal waters of Fiordland, except for Milford Sound, to allow for an accumulation of up to 15 rock lobsters	✓	✓	–	✓	–	–	Amateur utilisation opportunities in the internal waters would increase

<sup>1</sup> KEY: ✓ = option supports objective; ✗ = option does not support objective; – = unlikely change/impact.

Summary of Options	Objective 1: ensure stock sustainability	Objective 2: protect the aquatic environment	Objective 3: maximise sector utilisation benefits			Objective 4: cost-effective compliance and enforcement	Key cost or benefit
			<i>Customary</i>	<i>Amateur</i>	<i>Commercial</i>		
<b>Accumulation defence provisions for rock lobster in the FMA</b>							
Option 3A - retain the current amateur rock lobster accumulation defence provision conditions for the Fiordland Marine Area	-	-	-	-	-	✘	A compliance issue in relation to catch identification is retained
Option 3B - amend the rock lobster accumulation defence provision conditions by requiring amateur fishers to maintain a written record of all live rock lobsters stored in and removed from holding pots in the Fiordland Marine Area	-	-	-	-	-	✔	The written record requirement will help to address a compliance issue in relation to catch identification
Option 3C - amend the rock lobster accumulation defence provision conditions by requiring amateur fishers to use individual coloured plastic cable ties for all live rock lobsters stored in holding pots in the Fiordland Marine Area	-	-	-	-	-	-	Coloured cable ties will help to identify an individual's catch, but will not sufficiently satisfy the compliance issue
<b>Amateur potting in the internal waters</b>							
Option 4A - retain the use of amateur rock lobster pots in the internal waters of Fiordland	-	✘	-	-	-	-	Significant marine biodiversity will continue to be at risk of damage from amateur potting activities
Option 4B - prohibit the use of amateur rock lobster pots in the internal waters of Fiordland adjacent to Seymour Island in Pendulo Reach, Doubtful Sound	-	✔	-	-	-	-	Significant marine biodiversity in the internal waters would be protected from the risk of potting damage Amateur utilisation benefits are unlikely to change because there is currently a low frequency of potting in the area

## Background information

### *The Fiordland Marine Area and Guardians*

3. In 2005 the Fiordland Marine Area (FMA) was established through the enactment of the Fiordland (Te Moana o Atawhenua) Marine Management Act 2005. This Act also gave formal recognition to the Fiordland Marine Guardians (FMG). The FMG are an advisory body appointed by the Minister for the Environment to advise central and local government on the management of the FMA.
4. The current amateur and commercial fishing rules for the FMA were introduced in 2005 based on recommendations from the FMG. In 2011 the FMG decided to undertake a review of these rules to assess whether they were still consistent with the original vision and key objectives for the FMA.
5. In relation to rock lobster the FMG review found that:
  - The lower limits that apply to amateur rock lobster fishing in the internal waters of Fiordland, except for Milford Sound, were no longer necessary
  - Issues relating to the separation, identification and marking of individual catches within a holding pot needed to be resolved.
6. Separate to the 2011 review, the FMG recommended to Environment Southland to investigate the structure of seabed communities in areas where cruise ships anchor. Research discovered an area of fragile seabed habitat in Doubtful Sound that the FMG considers is at risk from ship anchors and anchor chains, but also amateur rock lobster pots.

### *Rock lobster fisheries in the Fiordland Marine Area*

7. The FMA lies within the Southern (CRA 8) rock lobster fishery. The CRA 8 fishery is the largest mainland fishery geographically and has the largest Total Allowable Catch and Total Allowable Commercial Catch (currently set at 1053 and 962 tonnes respectively).
8. The FMA supports a thriving rock lobster industry in the 'outer waters' of the FMA. In 2005 commercial fishers agreed to stop fishing within the 'internal waters' as part of a gifts and gains approach undertaken in the establishment of an integrated strategy and subsequently the introduction of the Fiordland (Te Moana o Atawhenua) Marine Management Act 2005. The internal waters are entirely non-commercial rock lobster fishing areas.
9. Rock lobster is taonga (treasured) to Maori. Within the Total Allowable Catch, an allowance of 30 tonnes has been made for CRA 8 customary Maori interests. Best available information suggests existing CRA 8 customary catch is within the allowance allocated for this interest<sup>2</sup>.
10. Rock lobster also supports the most important amateur target fishery in the FMA. Within the Total Allowable Catch, 33 tonnes has been made for CRA 8 amateur interests. Information is uncertain on the level of amateur catch within the CRA 8 (or the FMA) and whether the current allowance set for this interest is sufficient. The Ministry for Primary Industries (MPI) notes the amateur allowance does not limit the actual harvest of this

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<sup>2</sup> Between 2006-07 and 2011-12 an average of 6 tonnes of rock lobster was harvested per year by customary fishers in CRA 8.

interest. This is instead constrained by the amateur daily bag limit and accumulation provisions.

11. A survey of amateur fisheries in the FMA between 2006 and 2008<sup>3</sup> illustrates the importance of rock lobster. When rock lobster was targeted by pots, there was an overall catch rate of 0.9 fish per hour and 0.3 fish per hour by private/syndicate vessels. When harvested by diving the catch rate was higher; 3.6 fish per hour by charter vessels and 2.3 fish per hour by private/syndicate vessels. This survey did not provide an estimate of amateur harvest because it was designed to provide a snapshot of fishing activity only.

### **Status quo and problem definition**

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

12. The amateur regulations applying to rock lobster in the internal waters include:
  - A maximum daily limit of three rock lobsters per fisher
  - No accumulation (i.e. only three rock lobsters can be possessed by an individual amateur fisher).
13. These limits are more conservative than the outer waters, where a daily limit of six rock lobsters applies and accumulation of 15 rock lobsters is allowed.
14. New information suggests that rock lobster abundance has increased in the internal waters since the above limits were introduced. This abundance increase relates to the prohibition on commercial fishing in the internal waters since 2005 and the rebuild of the wider CRA 8 fishery. The 2012 stock assessment results indicate that the CRA 8 fishery is healthy and is well above the statutory target level.
15. The FMG and MPI consider that the internal waters (except Milford Sound) could now sustain higher levels of amateur rock lobster harvest. It is proposed that the limits should increase to provide for greater amateur utilisation opportunities.
16. Milford Sound is excluded from the proposals because of limited rock lobster habitat in the area and concerns that any increase in amateur harvest could result in localised depletion of rock lobsters.

#### *Accumulation defence provisions for rock lobster in the FMA*

17. Key species of fish are frequently accumulated in the FMA due to fishers engaging in extended fishing trips of several days duration. The current FMA amateur defence provisions allow amateur fishers to accumulate up to 15 rock lobsters when taken within prescribed daily limits over three days or more, but with a maximum of three rock lobsters from the internal waters.
18. To satisfy this defence, amateur fishers must comply with 'bag and tag' conditions. This requires each fisher's rock lobster catch to be held in separate containers and labelled to record the date taken, the quantity and the fisher's name. MPI views these conditions as being indispensable for catch inspections, particularly in dealing with large groups. The conditions enable Fishery Officers to promptly quantify and identify each fisher's accumulated catch.

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<sup>3</sup> Davey, N.K., Hartill, B. (2011). A characterisation of amateur fisheries in the Fiordland Marine Area based on monitoring between 2006 and 2008. New Zealand Fisheries Assessment Report 2011/32. 46p.

19. MPI experience has shown that it is problematic for amateur fishers to satisfy the 'bag and tag' conditions when multiple fishers use the same holding pots to store live rock lobsters at sea. This problem is further compounded by the existing limit on holding pot use in the FMA to a maximum of 2 holding pots per vessel if there are two or more persons.
20. Fishery Officers have taken a pragmatic approach to enforcing the conditions due to the impracticality of separating and identifying each fishers catch into separate containers in a holding pot and the review provides an opportunity to address the issue. Instead, Fishery Officers have placed greater emphasis in ensuring fishers comply with the 'bag and tag' conditions once fish have been removed from holding pots.

#### *Amateur potting in the internal waters of the FMA*

21. New research has discovered an area of previously unknown sensitive bottom habitat adjacent to Seymour Island in Pendulo Reach, at the fiord junction of Doubtful and Thompson Sounds. Species found in this area include delicate coral fans, red corals, sponges, sea pens and large black coral trees. Many of the coral species are protected under the Wildlife Act 1953 which means it is illegal to deliberately damage them.
22. The research also found that a large number of rock lobsters shelter amongst the black coral trees and coral assemblages adjacent to Seymour Island.
23. The FMG advise that rock lobster pots are not currently used with any frequency in the internal waters adjacent to Seymour Island. However, the FMG are concerned that once knowledge of the rock lobster abundance in the area is wider known, amateur potting will increase and have a negative impact on the fragile bottom species.

### Objectives

24. The FMG overarching vision is:  
*"That the quality of the Fiordland's marine environment and fisheries, including the wider fishery experience, be maintained or improved for future generations to use and enjoy".*
25. The FMG's key objectives for the FMA include (but are not limited to):
  - Ensuring sustainable utilisation of fisheries resources
  - Ensuring the ongoing integrity of areas, habitats and communities of special significance within Fiordland's marine environment
  - Ensuring that the rights of tangata whenua, recreational, charter operators, commercial and other user groups are identified and recognised
  - Encouraging voluntary compliance with the rules and reinforcing the view that non-compliance is unacceptable behaviour.
26. Using the FMG's objectives as a basis, MPI have analysed the options proposed in this RIS against the following:
  - Objective 1: Ensure stock sustainability
  - Objective 2: Avoid, remedy, or mitigate any adverse effects of fishing on the aquatic environment
  - Objective 3: Maximise customary, amateur and commercial utilisation benefits
  - Objective 4: Ensure cost-effective compliance and enforcement.
27. There is no statutory basis for undertaking the review or any time or budget constraints.



## Regulatory impact analysis

28. The range of options that have been considered, along with an analysis of their impacts and objectives are provided in the table below.

## Analysis of Impacts and objectives

Options	Stock sustainability	Aquatic environment	Sector utilisation benefits	Compliance and enforcement
<b>Maximum daily limit and accumulation limit for rock lobster in the internal waters</b>				
<p><b>Option 1A</b> - retain the current maximum daily limit of 3 rock lobsters per amateur fisher in the internal waters</p> <p><b>Option 2A</b> - retain the current rock lobster defence provisions that allow for accumulation of up to 3 rock lobsters in the internal waters of Fiordland</p>	<p>Maintaining the existing limits could result in a larger stock size in the internal waters than Options 1B and 2B</p>	<p>The level of any adverse effect of amateur potting on the aquatic environment is unlikely to change. Within the FMA a conservative amateur pot limit applies with a maximum of 3 rock lobster pots per person and vessel (in other areas the maximum limit is 3 pots per person and 6 pots per vessel). These pot limits help to restrict the occurrence of any adverse effect of potting on fragile seafloor communities</p>	<p><i>Amateur</i> utilisation benefits will continue to be limited.</p> <p><i>Customary</i> utilisation benefits will not change from the status quo.</p> <p><i>Commercial</i> utilisation benefits will not change because commercial rock lobster fishing is prohibited in the internal waters.</p>	<p>No change in existing MPI compliance risks and monitoring/enforcement effort</p>
<p><b>Option 1B</b> - increase the maximum daily number of rock lobsters that may be taken or possessed by amateur fishers from 3 to 6 per day in the internal waters of Fiordland, except for Milford Sound, which is to remain at 3</p> <p><b>Option 2B</b> - amend the rock lobster accumulation defence provisions by removing the accumulation limit of 3 rock lobsters in the internal waters of Fiordland, except for Milford Sound, to allow for an accumulation of up to 15 rock lobsters</p>	<p>The limit increases are unlikely to pose a risk to rock lobster sustainability in the internal waters over the short- to medium-terms.</p> <p>There is limited information available on rock lobster abundance in the internal waters (mainly because commercial fishing is prohibited). However, anecdotal information from the FMG and MPI suggests rock lobster abundance has increased in the internal waters and scientific research information suggests abundance has increased in the wider CRA 8 fishery. Based on this information it is considered that the internal waters could sustain higher levels of amateur catch at this time.</p> <p>Milford Sounds is excluded due to limited rock lobster habitat in the area and concerns about localised depletion if the limits were increased.</p>	<p>The level of any adverse effect of amateur potting on the aquatic environment is unlikely to change. This is because the number of pots that an amateur fisher/vessel can use to harvest the increased limits will remain unchanged.</p>	<p><i>Amateur</i> utilisation opportunities will increase through amateur fishers being able to take increased numbers of rock lobster in the internal waters. The accumulation limit increase will particularly benefit individual amateur fishers and charter boat operators on fishing trips over 3 days or more.</p> <p><i>Customary</i> benefits are unlikely to change. There are good numbers of rock lobsters available in the internal waters and this is considered sufficient to provide for both customary Maori and amateur harvest opportunities.</p> <p><i>Commercial</i> utilisation benefits will not change because commercial rock lobster fishing is prohibited in the internal waters.</p>	<p>Minimal change in MPI Compliance costs of education, monitoring and enforcement. Implementation of the new rules will fall within current resources that are allocated for the FMA.</p>

Options	Stock sustainability	Aquatic environment	Sector utilisation benefits	Compliance and enforcement
<b>Rock lobster accumulation defence provisions for the FMA</b>				
<p><b>Option 3A</b> – retain the current amateur rock lobster accumulation defence provision conditions for the FMA (including specific 'bag and tag' conditions).</p>	<p>Unlikely negative impact as long as rock lobster harvest is constrained to the current rules (i.e. excessive harvesting is limited).</p>	<p>No negative impact</p>	<p>No impact on <i>customary or commercial</i> utilisation benefits.  <i>Amateur</i> fishers could be negatively impacted by the status quo if they cannot satisfy the accumulation defence provisions in the future (i.e. with a written declaration of their individual catch). If amateur fishers cannot satisfy the provisions they will be required to comply with existing 'bag and tag' conditions, otherwise they could risk seizure of their catch and the issue of either a warning or infringement notice. MPI considers this necessary to curb parties of amateur fishers exceeding their daily limit and to protect the rock lobster resource from excessive harvesting.</p>	<p>No change in existing MPI compliance risks and monitoring/enforcement effort. From June 2005 to December 2012, MPI Compliance information shows a total of 17 incidents were detected involving 64 offending fishers in possession of excess rock lobster in breach of the daily limit or the maximum accumulation provisions in the FMA.</p>
<p><b>Option 3B</b> - amend the rock lobster accumulation defence provision conditions by requiring amateur fishers to maintain a written record of all live rock lobsters stored in and removed from holding pots in the FMA</p>	<p>No negative impact</p>	<p>No negative impact</p>	<p>No impact on <i>customary or commercial</i> utilisation benefits.  Written records would provide <i>amateur</i> fishers with a sensible and easy method to satisfy the current accumulation defence provisions when the same holding pots are used by multiple fishers. This change would formalise a current practice that has voluntarily been used by some amateur fishers to date.</p>	<p>The written record requirement should help to: 1) reduce the incidence of amateur fishers exceeding their maximum daily and accumulation limits; and 2) ensure the current defence provisions are practical to comply with when holding pots are used and can easily be enforced by MPI.  Written records have the potential to reduce catch inspection time for compliance, particularly when there are large numbers of people on a single vessel.  Implementation of the new rules would fall within current resources for the FMA.</p>

Options	Stock sustainability	Aquatic environment	Sector utilisation benefits	Compliance and enforcement
<b>Option 3C</b> - amend the rock lobster accumulation defence provision conditions by requiring amateur fishers to use individual coloured plastic cable ties for all live rock lobsters that are stored in holding pots in the FMA	No negative impact	No negative impact	No impact on <i>customary</i> or <i>commercial</i> utilisation benefits. Coloured cable ties would provide <i>amateur</i> fishers with an easy method to identify their individual catch when multiple fishers are using the same holding pot.	The use of different coloured cable ties (i.e. a single colour for each fisher) will help to identify: 1) an individual's catch when the same holding pots are used by multiple fishers; and 2) the owner of any unlawful state (i.e. soft-shell or berried female) or undersized rock lobster. Unlike the proposed written record requirement (Option 3B), cable ties do not clearly show/record whether the rock lobster was gathered within the maximum daily limit or not. Because of this MPI compliance have a preference for written records over cable ties. However, the two measures together will immeasurably assist enforcement of the defence provisions.
<b>Amateur potting in the internal waters of the FMA</b>				
<b>Option 4A</b> - retain the use of amateur rock lobster pots in the internal waters of Fiordland	No negative impact	Significant marine biodiversity (i.e. black and red corals, and coral fans) would continue to be at risk from amateur potting. The immediate risk to these sensitive marine species is mitigated by the current low frequency of amateur pot use in the area.	No impact on <i>amateur</i> , <i>customary</i> or <i>commercial</i> utilisation benefits.	No change in existing MPI compliance risks and monitoring/enforcement effort
<b>Option 4B</b> - prohibit the use of amateur rock lobster pots in the internal waters of Fiordland adjacent to Seymour Island in Pendulo Reach, Doubtful Sound	No negative impact	Significant biodiversity would be protected from the risk of damage from amateur potting	No impact on <i>customary</i> or <i>commercial</i> utilisation benefits. Current amateur utilisation benefits are unlikely to change. The FMG advise that rock lobster pots are not currently used with any frequency in the internal waters adjacent to Seymour Island.	Minimal change in MPI Compliance costs of education, monitoring and enforcement. Implementation of the new rule would fall within current resources for the FMA. The Department of Conservation will also assist enforcement of the new rule through regular vessel patrols.

29. The rock lobster industry and Customary Maori fishers should not be negatively impacted by any of the proposals. The internal waters are closed to commercial fishing, and amateur rock lobster fishing is unlikely to increase in the outer waters where commercial fishing takes place, as a result of the proposals. The availability of good numbers of rock lobsters in the internal waters is considered sufficient to provide for both customary Maori and amateur harvest opportunities.

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

30. Increasing the amateur maximum daily limit from three to six rock lobsters (to equate with the daily limit in the rest of New Zealand) and allowing accumulation of up to 15 rock lobsters in the internal waters, except for Milford Sound:
- Should not pose a risk to sustainability in the internal waters over the short- to medium-term. Anecdotal information from the FMG and MPI suggests current rock lobster abundance in the internal waters could sustain higher levels of amateur catch
  - Will provide amateur fishers with increased utilisation benefits, mainly individual amateur fishers on fishing trips over 3 days or more and charter boat operators
  - Will result in minimal MPI Compliance costs of education, monitoring and enforcement; implementation of the new rules will fall under current resources that are allocated for the FMA.
31. Milford Sound is excluded from the proposals because of limited rock lobster habitat in the area and concerns that any increase in amateur take could result in localised depletion of rock lobsters.

### **Accumulation defence provisions for rock lobster in the FMA**

32. Amending the current accumulation defence provisions to require amateur fishers to maintain written records of rock lobsters stored in holding pots will provide these fishers with compliance benefits. Written records are a practical way to account for stored rock lobster catch in holding pots without breaking the current 'bag and tag' conditions.
33. MPI considers the written record requirement is a sensible way to address a compliance issue in relation to catch identification when holding pots are used. These records have the potential to reduce MPI Compliance costs of monitoring, particularly in cases where there are large numbers of people on a vessel who are storing rock lobsters live in holding pots.

### **Amateur potting in the internal waters of the FMA**

34. Prohibiting amateur potting in the vicinity of Seymour Island will protect sensitive marine biodiversity.
35. Current amateur utilisation benefits should not be impacted by the potting prohibition because amateur pots are not currently used with any frequency in the Seymour Island area. The proposal is aimed at protecting the marine habitat from risks posed by any future non-commercial fishing activities, particularly once knowledge of good numbers of rock lobster in the Seymour Island become wider known.

### **Non-regulatory options**

36. Non-regulatory options, including education and voluntary measures have been considered.

37. The use of coloured cable ties on the feeler of a rock lobster was suggested to help identify an individual fisher's catch when stored in a holding pot. It is proposed that this measure is adopted by amateur fishers on a voluntary basis to supplement the written record requirement proposal.
38. Voluntary measures to exclude potting on the sensitive marine habitats at Seymour Island are considered unlikely to be effective in providing the required level of protection.
39. Negative impacts of cruise ship anchors and anchor chains on the Seymour Island area will be addressed by Environment Southland. It is proposed that amendments will be made to the Cruise Ship Deed of Agreement to prohibit anchoring in the area and a change will be made to the Southland Regional Coastal Plan in the future to prohibit anchoring of all vessels in the area.

## Consultation

### *FMG consultation process*

40. During 2011 the FMG released a public discussion paper on a review of the management rules governing the FMA. Two public meetings were held in Invercargill and Te Anau to gather feedback from the public on the proposals. In addition a total of 30 written submissions were received.
41. In summary, submitters:
  - Indicated a good level of support for the FMG's initial position of removing the bag limit of 3 rock lobsters per day for the internal waters with no accumulation, to a bag limit of 6 for all areas while retaining the accumulation limit at 15
  - Expressed some concern about the limited amount of habitat within Milford Sound and that any increase in the bag limit may result in localised depletion of the areas
  - Noted difficulties in complying with current regulations in relation to keeping lobsters live within holding pots where multiple fishers are using the holding pots over a number of days. To address this, methods of identification for each fisher, such as various coloured cable ties applied to the base of the feeler of each lobster, and written records detailing the number of lobsters taken and stored by each fisher each day and the individual identifier for each fisher were recommended by submitters.
42. In 2011/12 the FMG provided MPI and the National Rock Lobster Management Group (NRLMG)<sup>4</sup> with final recommendations to change the current suite of rules for the FMA.

### *MPI consultation process*

43. MPI and the NRLMG considered the FMG's final recommendations during 2012. MPI then formally consulted on the proposals to review amateur regulations relating to rock lobster in the FMA between 8 November and 13 December 2012.
44. Five written submissions were received from the following organisations or groups on the initial proposals: New Zealand Recreational Fishing Council, New Zealand Rock Lobster Industry Council, New Zealand Sports Fishing Council, Ngai Tahu Seafoods and Toitu Te Whenua, and the FMA3&5 Regional Recreational Forum.
45. In summary:

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<sup>4</sup> The NRLMG is a multi-stakeholder group who acts as the primary advisor to the Minister for Primary Industries on catch limit, regulatory and other management actions that apply specifically to rock lobster.

- All submitters supported the increase to the maximum daily limit for rock lobster and an amendment to the defence provisions to allow accumulation of up to 15 rock lobsters, in the internal waters except for Milford Sound
  - All submitters, except for the NZ Sport Fishing Council, supported the proposal to prohibit amateur potting in the vicinity of Seymour Island
  - Submitters were divided on the written record requirement proposal. In general recreational submitters did not support the proposal because some thought the requirement would be too onerous. The FMA3&5 Forum and the Recreational Fishing Council, however, supported the use of coloured cable ties on a voluntary basis. Commercial and customary submitters supported the written requirement proposal because they considered it a practical way to address the problem.
46. In relation to the catch identification issue, MPI considers that the written record requirement is the most effective way to deal with the problem. To reduce concerns that some recreational fishers had about completing a form, MPI does not propose that an approved form must be completed. Instead amateur fishers will be required to provide a certain level of written information to satisfy compliance with the rules (e.g. name of individual fisher, date the rock lobster was taken, number of rock lobster taken and stored in a holding pot, location of the holding pot, and the date and number of rock lobster removed from a holding pot).
47. MPI does not consider that the sole use of coloured cable ties will fix the compliance problem of catch identification. MPI considers that this measure should be used on a voluntary basis in association with written records.

## Conclusions and recommendations

48. The options analysis indicates that the following changes could be made to the amateur regulations relating to rock lobster in the FMA:
- Increasing the maximum daily number of rock lobsters that may be taken or possessed by amateur fishers from three to six per day in the internal waters of Fiordland, except for Milford Sound which is to remain at three
  - Allowing an accumulation of up to 15 rock lobsters in the internal waters of Fiordland, except for Milford Sound which is to remain at three
  - Amending the rock lobster accumulation defence provision conditions to require amateur fishers to maintain a written record of all rock lobsters stored and removed from holding pots in the Fiordland Marine Area
  - Prohibiting the use of amateur rock lobster pots in the internal waters of Fiordland adjacent to an area of high habitat diversity at Seymour Island in Pendulo Reach, Doubtful Sound.
49. These changes would be consistent with the FMG's key objectives relating to fisheries, compliance and the marine environment.

## Implementation

50. If the proposals are approved, amendments to the Fisheries (Southland and Sub-Antarctic Areas Amateur Fishing) Regulations 1991 would be required.
51. It is proposed that the amendments would come into force on 1 October 2013. The Minister for Primary Industries has informed tangata whenua and stakeholders of his decision and agreed to recommend the proposed regulatory changes to Cabinet. If

Cabinet agrees, the Governor-General would then be recommended to make the necessary changes by Order in Council.

52. A communications plan is currently being developed for the notification of the measures. It is intended that the new measures would be publicised through local newspapers, posters and leaflets, as well as directly to interested stakeholders and through Fishery Officer's interactions with fishers in each area. The FMG also propose to promote the new measures and inform amateur fishers through their contacts database.
53. Informing the public of the new rules will help to ensure voluntary compliance and minimise any additional compliance costs that could result from the change. MPI note that implementation of the new rules will fall within current monitoring resources that are allocated for the FMA.
54. There is no scope to reduce or remove existing regulations. Instead the proposals aim to reduce the complexity of the different rules for the FMA by making the maximum daily limit and accumulation limit consistent across the FMA (except for Milford Sound), and making the rules easier to comply with through introducing a written record requirement for rock lobsters stored in holding pots.

### **Monitoring, evaluation and review**

55. It is proposed that MPI, the NRLMG and FMG would be responsible for overseeing an ongoing programme of monitoring to evaluate the regulatory changes against objectives for the FMA.
56. The status of the fishery will monitored primarily using research that estimates the relative abundance of the CRA 8 fishery. Charter boat catch reporting information (which commenced in October 2012) and information from any amateur harvest surveys will be used to monitor the harvest of rock lobster from the internal waters.
57. The FMG already have a monitoring programme in place to ensure the management objectives of the FMA are met. This includes biological and social research (i.e. user surveys) that is overseen by the Department of Conservation.