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Exports of Rock Lobster to China and the impact of the Coronavirus Outbreak

Purpose:

To update you on actions being undertaken by Fisheries New Zealand to respond to the impact that the Coronavirus outbreak in China is having on live rock lobster exports.

| Minister | Action Required: | Minister's Deadline |
|-----------------------|--|-----------------------|
| Minister of Fisheries | <p>Note that Fisheries New Zealand (FNZ) has confirmed an approach for responding to the impacts faced by the rock lobster industry as a result of the Coronavirus outbreak in China.</p> <p>Note that this includes FNZ making provision for the return to sea of rock lobsters under certain conditions.</p> <p>Agree that officials progress the proposal for the carry forward annual catch entitlement (ACE) into the next fishing year.</p> <p>Note that the carry forward of 10% rock lobster ACE requires an Order in Council via Cabinet and full carried forward (100%) would require an amendment to the Act itself.</p> <p>Agree to forward a copy of this briefing to the Hon David Parker, Minister for Trade and Export Growth and the Hon Damien O'Connor, Minister of State for Trade and Export Growth.</p> | ASAP – on 4 February. |

Comments:

There is likely to be a high level of public and media attention in relation to this given links to Coronavirus outbreak.

Contact for telephone discussion (if required)

| | Name | Position | Work | Mobile |
|----------------------|-----------------|-------------------------------|------|-----------|
| Responsible Director | Stuart Anderson | Director Fisheries Management | - | s 9(2)(a) |

Background

1. China is the leading export market for live New Zealand rock lobsters accounting for 98-99% of all exports. Due to the outbreak of Coronavirus and impacts on movement of people and gatherings in China, local demand for rock lobsters has collapsed and Chinese buyers have cancelled orders of rock lobsters from here, Australia, and other jurisdictions.
2. This has come at an unfortunate time for exporters with a large volume of rock lobsters being held in holding facilities to meet export demand for Chinese New Year celebrations (25 Jan – 8 Feb) in anticipation of the best export prices.
3. It is recommended that you forward a copy of this briefing to the Hon David Parker, Minister for Trade and Export Growth and the Hon Damien O'Connor, Minister of State for Trade and Export Growth.

Current Situation

4. The NZ Rock Lobster Industry Council (NZ RLIC) has advised fishers to stop catching until the market rebounds, but we estimate that between 150 and 180 tonnes of rock lobsters remain in New Zealand holding facilities at sea and on land.
5. The industry, through NZ RLIC, have approached FNZ seeking the following assistance:
 - To allow rock lobsters currently held to be released to the sea without a need to balance this with annual catch entitlement (ACE).
 - To allow the carry forward of ACE into the next fishing year. Industry's preferred option is that 100% of all remaining ACE for the year is able to be carried over.
 - Other options such as financial assistance and cost recovery relief.
6. The rock lobsters are currently being held in the following three different holding facilities:
 - **In holding receptacles at sea = approx. 70 tonnes;**
These are large holding pots in the sea often located in sheltered waters to minimise any loss of lobsters.
 - **In fisher holding containers on land = approx. 20 tonnes; and**
These are often located in rural locations on a fisher's property close to the sea. Lobsters are not processed at these facilities, but are held until they are able to be transferred to a processor or fish retailer.
 - **On licensed fish receiver (LFR) premises = approx. 85 tonnes.**
Rock lobsters held on LFR premises are ready for export or delivery to a fish retailer. The balancing of ACE has already occurred at this point.
7. There is a degree of urgency in making a decision on the fate of rock lobsters held in facilities across the country. Rock lobsters in these facilities will have

been held for varying amounts of time. The length of time they are held, along with the conditions in which they are held, influences their survivability.

Impacts on the Rock Lobster Industry

8. It is uncertain at this time how long the issues with the Chinese market will continue, or whether restrictions on exports will ensue. There is a possibility that these conditions may persist for some time.

9. s 9(2)(ba)(i)

Proposed Relief Measures

Return to Sea of Live Rock Lobster

10. Schedule 6 of the Fisheries Act 1996 (the Act) makes provision for stocks to be returned to the sea in accordance with stated requirements. Within Schedule 6 there is a provision for rock lobsters which states:

A commercial fisher may return any rock lobster of legal size to the waters from which it is taken if—

- a) that rock lobster is likely to survive on return; and*
- b) the return takes place as soon as practicable after the rock lobster is taken.*

11. The return of rock lobsters to the sea in accordance with Schedule 6 does not carry requirements to balance these fish with ACE.
12. Provided the intent of this provision is able to be met, we consider this to be an appropriate mechanism for the return to sea of rock lobsters in certain circumstances. In doing so it will be important that the fisher can demonstrate that Schedule 6 requirements for rock lobster are met, i.e. returned to the waters from which it is taken, likely to survive on return, and the return takes place as soon as practicable.
13. Another important consideration is biosecurity and disease risks associated with returning rock lobsters that have been removed from the wild and held on land (in fisher holding containers and LFR premises). In order to satisfy these concerns it will be incumbent on the fisher or LFR to demonstrate:
- Records of the point of capture of each individual lobster;
 - Segregation of catch based on point of capture;
 - Independent water supply among catch;
 - An acceptable health status of held catch (and the associated management procedures); and
 - Effective biosecurity measures in place to manage the potential transfer of pests and disease.

14. Noting the above considerations FNZ proposes the following relief measures:

- **For holding receptacles at sea:** Returns to the sea **ALLOWED** on application to a Fishery Officer with random surveillance/supervision by Fisheries Compliance. It is likely that the majority of these lobsters will be able to be released.
- **For holding containers on land AND in LFR premises:** Returns to the sea **ALLOWED** on application, provided the facility can satisfy key criteria (referred to in para 12 above) and after an inspection by a Fishery Officer in consultation with Biosecurity New Zealand. It is likely that the release of these lobsters will only occur in some instances, particularly given the mixing of water between fish from various locations that often occurs within LFR premises.

15. This relief would be time bound to 2-3 weeks subject to discussions with industry around what is operationally feasible.

16. Under the above measures, there remains a degree of risk to the survivability of rock lobsters and to biosecurity that cannot be eliminated. The residual risk differs depending on the facilities that the rock lobsters are held in and the measures proposed, which include the application process and inspections, will help to mitigate the risk.

Carry Forward of Annual Catch Entitlement

17. Even with the return of fish to the sea there remains a financial cost to fishers who, in the majority of cases, purchased their ACE at the beginning of this fishing year. They now face the prospect of not being able to convert this ACE into profit if market demand does not improve between now and the end of this fishing year (31 March 2020).

18. The ability to carry over ACE into the next fishing year would provide commercial fishers some flexibility to defer catch to the next fishing year (starting 1 April 2020), with the expectation that the China export market for live rock lobster improves.

19. The Act (under section 67A(2)) already provides for the carry forward of up to 10% uncaught ACE into the next fishing year; unless the stock is listed in Schedule 5A or if the Total Allowable Commercial Catch has been reduced for the coming fishing year. Rock lobster is currently included on Schedule 5A and therefore the schedule would need to be amended to remove rock lobster allowing for ACE to be carried forward.

20. 10% is the maximum amount of ACE that can be carried forward under the Act and there is no other mechanism in the Act to carry ACE forward. To increase the carry forward provision by more than 10% would require an amendment to the Act itself.

21. FNZ supports removing rock lobster from Schedule 5A to allow the carry forward of 10% ACE. A similar request from the paua industry was approved in 2011 where industry sought increased flexibility to capitalise on fluctuations in market demand. The rationale here is effectively similar.
22. FNZ will explore further the implications of carrying forward ACE in excess of 10% (i.e. 100%). This will include assessing sustainability risks, precedent and procedural requirements associated with an amendment to the Act.
23. A formal briefing outlining the options, our recommended approach and a proposal to consult will be provided to you shortly for your consideration and decision.

Next steps

24. We need to implement our approach to deal with the rock lobsters in holding facilities with urgency, and propose to communicate this decision by the end of Tuesday 4 February. We are therefore urgently working to:
 - Meet with NZ RLIC to advise the decisions and process;
 - Finalise internal and external communications, including with your office; and
 - Finalise operational procedures for fishers and LFRs to make an application to Fisheries Compliance for live returns to sea.
25. Fisheries Compliance will proactively engage affected fishers as soon as decisions are made to kick off the process for live returns. Once applications are received for the release from holding receptacles at sea, a same or next day response is anticipated. For those facilities requiring an inspection, this will depend on the information provided and assessment of whether the key criteria have been met. In all cases we will work to expedite the process.
26. Once these measures are in place, we will discuss other matters such as support to fishers, and any broader assistance that we could support the industry with. This may include extending mental wellbeing support to fishers (that is currently being provided as part of the Hector's and Maui Dolphin Threat Management Plan).
27. FNZ will keep your office updated of the implementation and progress with these measures.

Recommendations

28. Fisheries New Zealand recommends that you:

- a) **Note** the approach Fisheries New Zealand (FNZ) intends to take for responding to the impact of the Coronavirus outbreak on the live export of rock lobsters.
Noted
- b) **Note** that proposals for the return to sea of live rock lobsters can be facilitated within current legislative provisions.
Noted
- c) **Note** that FNZ proposes that live rock lobsters being held by fishers in holding receptacles at sea be allowed to be returned to sea on application to a Fishery Officer.
Noted
- d) **Note** that FNZ proposes that live rock lobsters being held by fishers in containers on land and at LFR premises be allowed to be returned to sea on application to, and after an inspection, by a Fishery Officer provided certain criteria can be met.
Noted
- e) **Note** that c) and d) above will be time bound to 2-3 weeks subject to discussions with industry around what is operationally feasible.
Noted
- f) **Agree** that officials progress the proposal looking into the carry forward of annual catch entitlement (ACE) into the next fishing year.
Agreed / Not Agreed
- g) **Note** that the carry forward of 10% rock lobster ACE requires an Order in Council via Cabinet and that a full carry forward (100%) would require an amendment to the Act itself.
Noted
- h) **Agree** to forward a copy of this briefing to the Hon David Parker, Minister for Trade and Export Growth and the Hon Damien O'Connor, Minister of State for Trade and Export Growth.
Agreed / Not Agreed

Dan Bolger
Deputy Director-General
Fisheries New Zealand

Hon Stuart Nash
Minister of Fisheries

/ / 2020

Proactively Released