



Review of recreational regulations for the CRA 2 and CRA 5 rock lobster fisheries

Final Advice Paper

Prepared by the National Rock Lobster Management Group

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Requests for further copies should be directed to:

Publications Logistics Officer
Fisheries New Zealand
PO Box 2526
WELLINGTON 6140

Email: brand@mpi.govt.nz
Telephone: 0800 00 83 33
Facsimile: 04-894 0300

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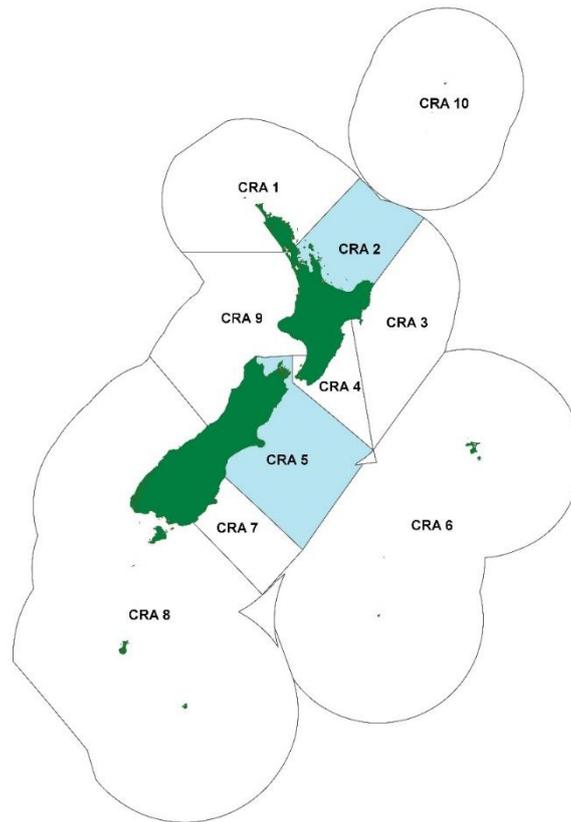


Figure 1: Map of rock lobster Quota Management Areas with CRA 2 and CRA 5 highlighted in blue.

1 Summary

1. This paper seeks your decisions on proposed changes to recreational fisheries regulations for the CRA 2 (Hauraki Gulf/Bay of Plenty) and CRA 5 (Canterbury/Marlborough) rock lobster fisheries (Figure 1):
 - a) **Reduce the CRA 2 recreational daily bag limit** from six to three spiny rock lobsters to ensure that recreational catch (on average) is managed within the 34 tonne allowance while the fishery rebuilds from low levels;
 - b) **Introduce new CRA 2 and CRA 5 recreational regulations to assist with addressing illegal take**, including the requirement for recreational fishers to clip the last-third of the middle part of the tail fan (the telson)¹ of spiny rock lobsters in one or both of CRA 2 and CRA 5, and to introduce an accumulation limit² and associated bag and tag conditions³ for spiny lobsters in CRA 5.
2. Subject to your decisions, it is proposed that these measures will come into effect before recreational fishing activity increases over the 2019/20 summer period.
3. This Final Advice Paper has been prepared by the National Rock Lobster Management Group (NRLMG), and includes consideration of the best available information, and an analysis of submissions received from tangata whenua and stakeholders on each consultation option.

¹ Telson clipping is a way of marking spiny rock lobsters to make it clear that they have been recreationally caught, and therefore unable to be sold, traded, or bartered.

² Accumulation limit means the maximum amount of a particular species (in this case spiny rock lobster) that a recreational fisher can be in possession of at any one time, even if they have been fishing on multiple days.

³ Bag and tag conditions support the accumulation limit and refer to the requirement for a fisher to hold a single day's catch in a container or bag, and label this with the fisher's name, date taken, and number held.

4. The NRLMG is a national-level, multi-stakeholder group comprising representatives of the customary, recreational and commercial fishing sectors, and Fisheries New Zealand. Since its formation in 1992, the NRLMG has acted as the primary advisor to Ministers on catch limit, regulatory and other management actions that apply specifically to rock lobster fisheries.
5. Fisheries New Zealand publically consulted on your behalf on the proposals presented in this paper for six weeks (separately for CRA 2 and CRA 5) in the latter half of 2018. Tangata whenua and the majority of submitters generally supported the change proposals. However, several non-commercial submitters did not support telson clipping in CRA 2, although general support was expressed for the measure through informal engagement.

CRA 2 bag limit

6. The NRLMG recommends that you reduce the recreational daily bag limit for spiny rock lobsters in the CRA 2 fishery from six to three.
7. This measure is proposed to complement the significant commercial catch and recreational allowance reductions you made from 1 April 2018, and to further support the rebuild of the CRA 2 fishery. A reduction to the bag limit is considered to be the most effective measure to manage recreational harvest to the 34 tonne allowance as the fishery rebuilds. The proposed reduction is unlikely to impact greatly on recreational use benefits at this time given current levels of low abundance. But it will support the rebuild as lobster abundance increases and more lobsters become available to recreational fishers.
8. It is proposed that the CRA 2 bag limit, along with the Total Allowable Catch and allowances, be reconsidered at the time of the next CRA 2 stock assessment, which is currently scheduled for 2021. If information suggests management action is required sooner, this will be considered by the NRLMG.

CRA 2 and CRA 5 telson clipping

9. The NRLMG sector members (customary, recreational and commercial) support the introduction of telson clipping in CRA 2 and to the wider CRA 5 area. These members consider that telson clipping is likely to be the most effective additional measure to support compliance actions to reduce illegal take for sale, poaching, and black market activity. This conclusion is based on the NRLMG's consideration of measures to reduce the extent of illegal take, and discussions with different Ministry for Primary Industries (MPI) Fisheries Compliance representatives who attended some NRLMG meetings. Telson clipping should deter licensed fish receivers, dealers in fish and those in the retail and hospitality trades from opportunistically purchasing recreationally caught lobsters (which is illegal).
10. The NRLMG sector members also note that an additional benefit of telson clipping is that it will actively engage recreational fishers in the management of rock lobster fisheries. If the measure is not introduced for the CRA 2 fishery this will result in a lost opportunity, particularly since there is a willingness from recreational fishers to contribute to the rebuild of the stock.
11. Fisheries New Zealand supports telson clipping in CRA 5, but does not support this measure in CRA 2. This position differs between the fisheries because of the different fishery characteristics, the level of compliance risk and associated compliance costs:
 - The CRA 5 fishery is abundant, meaning rock lobsters are easy to catch, and there are known groups of non-commercial fishers who take the daily bag limit frequently (i.e. six-a-dayers), with some of these fishers opportunistically selling or trading these lobsters. Telson clipping is likely to assist with reducing the abilities of these opportunistic fishers to sell or trade their catch in CRA 5. MPI Fisheries Compliance experience from telson clipping in Kaikōura (a sub-area of CRA 5) suggests that it has assisted in reducing the illegal sale of non-commercially caught rock lobsters through commercial premises.
 - Fisheries New Zealand acknowledges that telson clipping could assist with addressing illegal take and sale of rock lobsters by non-commercial fishers in CRA 2. However, it is concerned that the costs of the measure will outweigh its expected benefits due to the particular nature of the offending that is observed in the CRA 2 fishery.

MPI Fisheries Compliance do not observe as many opportunistic non-commercial fishers who sell their catch in CRA 2, compared to CRA 5. This is likely to be related to a combination of factors, including socio-economic drivers and current low levels of abundance. The recommended reduction to the CRA 2 bag limit is also likely to further reduce the incentives for non-commercial fishers to sell their catch, and impede recreational catch from ending up in commercial premises.

MPI Fisheries Compliance does not expect that telson clipping will result in significant additional compliance costs associated with inspections of CRA 2 non-commercial catch (i.e. at sea or boat ramps). Additional and ongoing compliance costs are expected in relation to enforcement action against those not complying with telson clipping. This could be significant in CRA 2 given the higher levels of recreational participation in the area (a substantial proportion of the New Zealand population reside or holiday in the area).

CRA 5 accumulation limit and bag and tag conditions

12. The NRLMG supports the introduction of a rock lobster accumulation limit and associated 'bag and tag' conditions to the wider CRA 5 area.
13. An accumulation limit of 18 spiny rock lobsters provides a balance between restricting stockpiling for illegal purposes, while providing for reasonable levels of recreational harvest for enjoyment and subsistence. Setting the accumulation limit at three times the daily bag limit (6) in CRA 5 is less likely to generate undesirable outcomes, such as fishers acting illegally to bypass the limit. Based on MPI Fisheries Compliance experience, the trial of an accumulation limit and bag and tag conditions in the Kaikōura Marine Area has provided Fishery Officers with another tool to address illegal take in the fishery.

2 Recommendations

14. The NRLMG recommends that you make decisions for each proposed measure as follows:

CRA 2 recreational daily bag limit

Option CRA2_1A (NRLMG recommended option)

- i. Agree to reduce the recreational daily limit for spiny rock lobsters from six to three for the CRA 2 Quota Management Area, within the combined daily limit of six rock lobsters (spiny and packhorse combined). This means that six packhorse lobsters could still be harvested, if no spiny lobsters are taken at the same time.

Agreed / Not Agreed

OR

Option CRA2_1B (Status quo)

- ii. Agree to retain the recreational daily limit of six rock lobsters (spiny and packhorse combined) for the CRA 2 Quota Management Area.

Agreed / Not Agreed

CRA 2 recreational telson clipping

Option CRA2_2A (NRLMG customary, recreational and commercial sector member recommended option)

- iii. Agree to introduce a requirement for recreational fishers to mark spiny rock lobsters taken from the CRA 2 Quota Management, through clipping the last-third of the telson off the tail fan of the spiny rock lobster on taking. This includes the creation of new penalties and offences for not complying with the measure.

Agreed / Not Agreed

OR

Option CRA2_2B (Status quo) (Fisheries New Zealand recommended option)

- iv. Agree to retain the status quo, which does not require recreational fishers to telson clip spiny rock lobsters taken from the CRA 2 Quota Management Area.

Agreed / Not Agreed

CRA 5 recreational telson clipping

Option CRA5_1A (NRLMG recommended option)

- v. Agree to extend the requirement to mark spiny rock lobsters taken from Te Whata Kai o Rakihouia i Te Tai o Marokura – Kaikōura Marine Area to the wider CRA 5 Quota Management Area, through clipping the last-third of the telson off the tail fan of the spiny rock lobster on taking. This includes extending the existing Kaikōura Marine Area telson clipping penalties and offences to the wider CRA 5 area.

Agreed / Not Agreed

OR

Option CRA5_1B (Status quo)

- vi. Agree to retain the status quo, which does not require recreational fishers to telson clip spiny rock lobsters taken from the CRA 5 Quota Management Area (apart from the Kaikōura Marine Area).

Agreed / Not **Agreed**

CRA 5 accumulation limit and associated bag and tag conditions

Option CRA5_2A (NRLMG recommended option)

- vii. Agree to extend the spiny rock lobster accumulation defence limitation provision that applies in the Te Whata Kai o Rakihouia i Te Tai o Marokura – Kaikōura Marine Area to the wider CRA 5 Quota Management Area. Noting that this includes:
- a. A limit on the number of rock lobsters that a recreational fisher can accumulate to three daily bag limits (i.e. 18 rock lobsters); and
 - b. Conditions that require recreational fishers to hold spiny rock lobsters in a container or bag that only contains a single day's catch, and is clearly labelled with the individual fisher's name, date it was taken, and the number held.

Agreed / Not **Agreed**

OR

Option CRA5_2B (Status quo)

- viii. Agree to not extend the Kaikōura Marine Area accumulation defence limitation provisions for spiny rock lobsters to the wider CRA 5 Quota Management Area.

Agreed / Not **Agreed**



Hon Stuart Nash
Minister of Fisheries

7 / 8 / 2019

3 Proposal to reduce the CRA 2 recreational daily bag limit

3.1 Objective

15. The overall objective of this proposal is to introduce measures to support a rebuild in the abundance of CRA 2 spiny rock lobsters, and to provide for the utilisation of the CRA 2 fishery while ensuring sustainability.

3.2 Background

16. The 2017 stock assessment suggested the CRA 2 fishery was experiencing low levels of abundance. Results from this assessment suggested that female spawning stock biomass during the 2016 autumn-winter season (1 April to 30 September) was 18.5% of the unfished level. This meant that the stock was very likely (82% probability) to be below the soft limit of 20%; the level where it is Fisheries New Zealand policy to put in place a time-bound formal rebuilding plan.
17. After consideration of the best available information and submissions from tangata whenua and stakeholders, you made significant reductions to the CRA 2 Total Allowable Catch (416.5 to 173 tonnes), recreational allowance (140 to 34 tonnes), and the Total Allowable Commercial Catch (200 to 80 tonnes) from 1 April 2018. The new Total Allowable Catch is expected to see a doubling of current rock lobster abundance in four to eight years⁴.

Further management measures

18. When making your April 2018 decisions, you signalled that further management measures were needed to support the management of CRA 2 recreational catch, and to ensure the rebuild and long-term sustainability of this important shared fishery is not compromised.
19. Recreational catch can vary from year to year based on a number of factors, including changes to rock lobster availability and abundance, accessibility, and recreational fishing effort and participation. Recreational catch is managed within the allowance set, primarily through a combination of a daily bag limit and a minimum legal size.
20. To manage recreational catch (on average) to an allowance of 34 tonnes until the fishery has rebuilt to a healthier level requires considering changes to the recreational rules (e.g. daily bag limit). Existing recreational regulations and non-regulatory options on their own may not be sufficient to manage recreational catch to the new 34 tonne allowance as abundance in the fishery improves.

3.3 Statutory considerations

21. In addition to the advice provided in this paper, an analysis of the statutory considerations relevant to your decisions is provided in Appendix One. This includes consideration of environmental and information principles and other factors.

3.4 Input and participation of tangata whenua

22. Iwi Fisheries Forums and Forum Fisheries Plans are ways in which input and participation of tangata whenua can be provided for. They are the way that Fisheries New Zealand and tangata whenua have agreed to provide for input and participation.

⁴ In four years, based on average recruitment (new lobsters entering the stock) from 2005 to 2014 and assumptions that recreational catch will be managed to the 34 tonne allowance. If recruitment continues at the estimated lower levels of the most recent four years (2011 to 2014), it could take at least eight years for abundance to double.

23. Information provided by Forums and tangata whenua views on the management of fisheries resources and fishstocks, as set out in Iwi Fisheries Plans, express how tangata whenua exercise Kaitiakitanga⁵.
24. Fisheries New Zealand has directly engaged with the Mai i nga Kuri a Whareki Tihirau Iwi Fisheries Forum (the Bay of Plenty Iwi Fisheries Forum) about the future management of the CRA 2 fishery. The Forum is supportive of taking action to rebuild the CRA 2 fishery, and notes that they are already placing limitations on customary harvest authorisations.

3.5 Consultation

Process and options

25. Fisheries New Zealand publically consulted on the options shown in Table 1 for six weeks from 7 November to 19 December 2018. A standard consultation process was followed, consisting of posting the consultation document on the Fisheries New Zealand website and alerting stakeholders to the consultation through a media release, social media posts, and email notifications.
26. During public consultation, submitters were encouraged to provide feedback on the proposed options and to provide any additional information that could be helpful to inform the review.

Table 1: Recreational daily bag limit proposals for CRA 2.

Option	Description
CRA2_1A	Reduce the daily bag limit for spiny rock lobster from six to three
	Within the daily bag limit of six rock lobsters (spiny and packhorse combined), amend the Amateur Regulations so that a recreational fisher must not, on any day, take or possess more than <u>three spiny rock lobsters</u> . This would not change the packhorse bag limit because up to six packhorse lobsters could still be harvested if no spiny lobsters are taken at the same time.
CRA2_1B	Status quo
	Retain the current daily bag limit of six rock lobsters (spiny and packhorse combined) per recreational fisher.

27. The proposed daily bag limit reduction would apply to all recreational fishers in CRA 2. A “recreational fisher” is a person fishing under the Fisheries (Amateur Fishing) Regulations 2013 (Amateur Regulations), and includes those fishing on an amateur fishing charter vessel, and commercial fishers taking fish for non-commercial purposes under section 111 of the Fisheries Act 1996.
28. No new offences would be introduced as a consequence of the bag limit proposals (these already exist in regulation). The following infringement fees would continue to apply:
 - A \$250 infringement fee for taking or possessing more than the daily limit for rock lobster, but not more than 2 times that daily limit;
 - A \$500 infringement fee for taking or possessing more than the daily limit for rock lobster, but not more than 3 times that daily limit.

⁵ The Act defines Kaitiakitanga to mean “the exercise of guardianship; and, in relation to any fisheries resources, includes the ethic of stewardship based on the nature of the resources, as exercised by the appropriate tangata whenua in accordance with tikanga Māori”, where tikanga Māori refers to Māori customary values and practices.

3.6 Submissions received and other feedback

29. Fisheries New Zealand received 30 submissions on the CRA 2 bag limit reduction proposal. The majority of submitters (23) supported the proposed reduction. Full copies of submissions received are provided in Appendix One. Matters raised that were not directly related to the consultation options, and that are not discussed below are summarised in Appendix Two.

Submissions supporting a reduction to the CRA 2 daily bag limit (Option CRA2_1A)

30. Fourteen individual submitters and nine organisations expressed support for reducing the recreational daily bag limit for spiny rock lobsters from six to three. Organisations or groups that expressed support included: CRAMAC 2, Forest & Bird, NZ Marine Sciences Society, NZ Rock Lobster Industry Council, NZ Sport Fishing Council (with support from the NZ Angling & Casting Association)⁶, Paua Industry Council, Spearfishing NZ, Te Ohu Kaimoana, and the Whitianga & Coromandel Peninsula Commercial Fishermen's Association.
31. Reasons given for support included that the current limit is "excessive and unnecessary", and that reducing the bag limit is an enforceable and effective management tool, and the most efficient and certain way to ensure recreational harvest is managed within the allowance as the stock rebuilds.
32. While submitters Forest & Bird and NZ Marine Sciences Society expressed support for the bag limit reduction, this was as an interim measure because they considered that the bag limit reduction did not go far enough to ensure a rebuild of the fishery.
33. NZ Sport Fishing Council also promoted a voluntary reduction to the CRA 2 bag limit from six to three over the 2018/19 summer as a conservation initiative.

Submissions opposed to changing the CRA 2 daily bag limit (Option CRA2_1B)

34. Four individuals either expressed support for retaining the daily bag limit of six spiny rock lobsters, or opposed the bag limit reduction.
35. Reasons given for retaining the status quo included that it would be ineffective at rebuilding the fishery because fishers find it challenging to find lobsters, and it could instead put pressure on packhorse rock lobsters.

Other comments

36. Two individual submitters (C. Long and K. Woodham) supported setting the daily bag limit to two, with a review in ten years' time to evaluate lifting the daily bag limit to three in months of less pressure on the fishery.
37. One individual (Professor A. Jeffs) proposed that an upper size limit be introduced for both spiny and packhorse rock lobster.
38. Some individual submitters also suggested a seasonal closure when lobsters are in berry or soft-shell⁷, a total closure for two years, or the creation of more marine reserves to allow CRA 2 abundance to improve.

⁶ NZ Sport Fishing Council representatives also attended NRLMG meetings in 2017 and 2018 to support discussions on the CRA 2 fishery.

⁷ Lobsters in these vulnerable states cannot be taken. A lobster in berry refers to a female lobster carrying external eggs, and a soft-shell lobster means the state of a rock lobster following moulting where the exoskeleton (outer shell) has not reached full hardness.

Online survey responses

39. In addition to submissions, Fisheries New Zealand received 220 online survey responses on the CRA 2 proposals, with over 80% of the responses from recreational fishing interests.
40. The majority (63%) of online survey respondents were in favour of reducing the bag limit from six to three (Figure 2, Option 1A). About 25% of the respondents suggested other measures when replying to the bag limit question, including a bag limit greater or less than three, or closure of the fishery (zero bag limit).

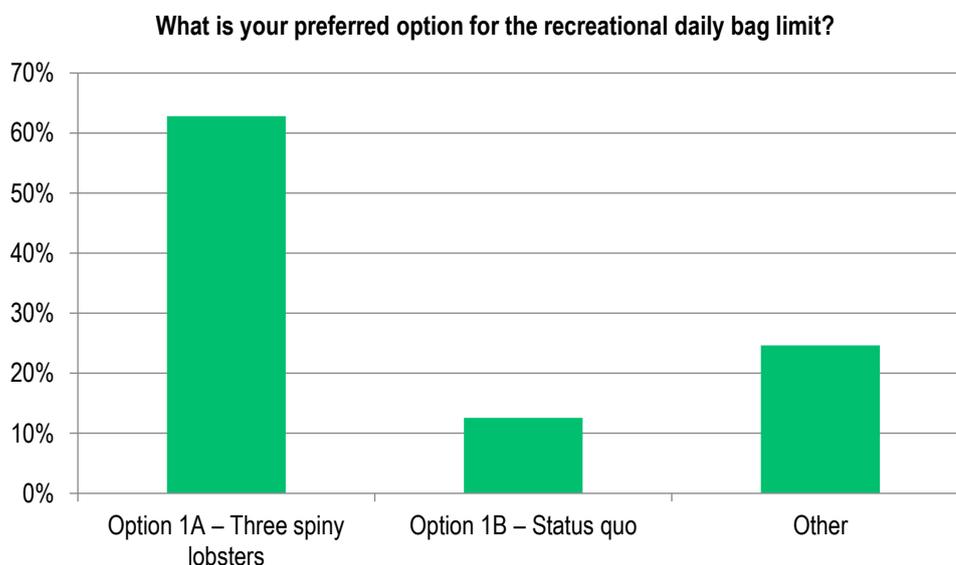


Figure 2: Online survey responses showing percentage support for each CRA 2 daily bag limit option.

Multi-sector workshop feedback

41. In 2017 and 2018, Fisheries New Zealand held two rounds of multi-sector workshops in Whakatane and Thames to gather feedback from the wider community on the management of the CRA 2 fishery.
42. At the November 2017 workshops, all sectors (customary, recreational and commercial) agreed that the fishery is in a poor state and action was needed to ensure more lobsters are in the water for future generations. It was agreed that all interests needed to contribute to the rebuild of the fishery. At the June 2018 workshops, participants considered the proposal to reduce the daily bag limit to three spiny rock lobsters and there was general support for this, and some support for a bag limit of two.

3.7 Analysis of CRA 2 bag limit proposals

Benefits of reducing the daily bag limit

Managing recreational harvest to the allowance

43. Recreational fishers are not required to report the quantities of rock lobster they catch (other than reporting by amateur charter vessels). In recent years, estimates of CRA 2 recreational harvest have been made through specific onsite surveys and periodic National Panel Surveys.
44. The 2011/12 National Panel Survey estimated the recreational catch of rock lobsters in CRA 2 at 40.86 tonnes⁸. However, in the absence of any new survey information to inform the 2017 CRA 2 stock assessment, an assumption of 34 tonnes was made to represent current levels of recreational catch. This reflected the assumption that recreational catch has probably declined

⁸ With a 95% confidence range from 21.7 to 60.0 tonnes.

since the 2011/12 survey, but the level to which it had declined was uncertain. This information formed the basis of the consultation on the proposed reduced bag limit.

45. Since consultation closed, the results of the 2017/18 National Panel Survey have become available. This survey estimated the CRA 2 recreational catch at 14.21 tonnes⁹. While these results suggest that CRA 2 recreational harvest was under the allowance in 2017/18, it is expected that recreational catch and effort will increase as the fishery rebuilds.
46. Overall the impact of a daily bag limit reduction on overall recreational harvest depends on the frequency at which the daily bag limit is fully caught by recreational fishers and by the number of fishers.
47. Analyses based on information provided by the 2011/12 National Panel Survey suggested that a bag limit of three may manage recreational catch (on average) to the 34 tonne recreational allowance over the next few years. However, there is considerable uncertainty in the analyses and they should be interpreted as a guide only, because a range of factors can drive how many rock lobsters are harvested within a bag limit (including fisher behaviour and changes in effort and participation). The Rock Lobster Fisheries Assessment Working Group did not consider that the analyses were adequate to advise precisely what bag limit will manage recreational catch to the allowance, because responses of fishers to changes in the rule cannot be reliably predicted.
48. Since recreational catch is strongly influenced by abundance, it is intuitive that recreational harvest will have been restrained by the low levels of abundance. Feedback received from CRA 2 multi-sector workshops also suggested that recreational fishers are finding it challenging to find legal-sized rock lobsters in parts of the CRA 2 fishery, and many fishers are no longer focused on targeting rock lobsters.

Impacts of reducing the daily bag limit

Fishers changing behaviour

49. Recreational fishing effort is influenced by a range of factors, including weather, accessibility and the availability of rock lobsters.
50. There is a risk when reducing daily bag limits that recreational fishers could change their behaviour. For example, fishers could be incentivised to go fishing to take their bag limit more often, they may fish less often in CRA 2, move their effort into a neighbouring fishery, or they may aggregate bags among fishers in a party. More frequent collection of a CRA 2 daily bag limit could reduce the benefits intended by lowering the bag limit.
51. One individual submitter (M. Cornish) expressed concerns that reducing the CRA 2 daily bag limit could prompt a shift of recreational effort to areas immediately outside CRA 2, particularly areas north of Te Arai (north of Auckland) and the Hen and Chicken Islands (into the CRA 1 Northland fishery). The NRLMG notes that there is a risk that this could occur. A CRA 1 stock assessment proposed for later this year provides an opportunity to consider whether there needs to be a review of catch settings or other management controls to ensure the ongoing sustainable utilisation of the fishery.

Different bag limits between management areas

52. The proposed bag limit reduction in CRA 2 will establish a bag limit that is inconsistent with the rest of New Zealand. This could create some confusion amongst some fishers and result in poor compliance. However, this risk will be mitigated with widespread education and enforcement of the new rule.

⁹ With a 95% confidence range from 4.2 to 24.2 tonnes.

53. If a recreational fisher takes rock lobsters from outside of the CRA 2 fishery, the combined daily bag limit of six spiny and packhorse lobsters would still apply (i.e. fishers could take up to six spiny lobsters if no packhorse is harvested). If this catch is brought into the CRA 2 area and the catch is inspected by MPI Fisheries Compliance, it will be up to the recreational fisher to provide evidence that the lobsters were harvested outside of CRA 2.

Concerns that the bag limit will remain at three for spiny lobster

54. Some recreational fishers expressed concerns that the proposed bag limit reduction might be set at three and not reviewed in the future.
55. It is proposed that the bag limit, along with the Total Allowable Catch and allowances, be reconsidered at the time of the next CRA 2 stock assessment in 2021. This will provide an opportunity to review whether the bag limit is appropriate for the allowance made for recreational fishing. If information suggests management action is required sooner than 2021, this will be considered by the NRLMG.

Benefits and impacts of the status quo (no bag limit change)

56. Under the status quo (Option CRA2_1B), the utilisation opportunities for recreational fishers in the CRA 2 fishery would remain unchanged. However, as CRA 2 rock lobster abundance increases there is the potential for recreational fishers to receive the benefits of additional catch as the stock rebuilds. If this goes unchecked, the rebuild of the fishery could be compromised and the overall objective of increasing CRA 2 abundance will be put at risk.

4 Proposal to introduce new CRA 2 and CRA 5 recreational regulations to assist with addressing illegal take

57. It is proposed that recreational telson clipping is introduced for the CRA 2 fishery, and that the measures of telson clipping and an accumulation limit are extended from the Kaikōura Marine Area to the wider CRA 5 fishery. It is not proposed that an accumulation limit is introduced for the CRA 2 fishery at this time given lower levels of abundance, but it is a measure that might be considered in a future management review (see Appendix Two re: Other matters).

4.1 Objective

58. The objective of these proposals is to provide MPI Fisheries Compliance with additional and cost-effective tools to minimise the illegal take and sale of rock lobsters from the CRA 2 and CRA 5 fisheries by opportunistic non-commercial fishers and fish thieves.

4.2 Background

Illegal take concerns

59. The NRLMG and fishing interests are concerned about the apparent level of illegal fishing for rock lobsters in CRA 2 and CRA 5. Any rock lobster that is not taken under a commercial fishing permit or a customary authorisation is subject to legislation governing recreational fishing. Commercial rock lobster catches can be sold (subject to a stringent record keeping and reporting regime), but customary and recreational catches cannot.
60. Rock lobsters are prone to being illegally taken or sold because:
- They are highly valued by many New Zealanders;
 - They can be easily accessed by divers and pot fishing (including theft from legitimate pots), and can be taken in isolated areas where the chances of being seen by someone who could report the activity are lower;
 - Legally caught rock lobsters are more expensive than rock lobsters from the black market, which means there can be demand for illegal product; and
 - The inherent financial and status value of lobsters make them valuable goods for trading and bartering.
61. Illegal fishing can undermine the integrity of the fisheries management regime, increase the uncertainty in stock assessment results, reduce the benefits that legitimate fishers can realise from the use of the resource, contribute to localised depletion, and result in increased non-compliance of legitimate fishers if they lose confidence in the fisheries monitoring and enforcement regime.
62. The level of illegal take of rock lobsters is difficult to quantify because offending is hard to detect. There is considerable uncertainty in current estimates of illegal take from the CRA 2 and CRA 5 fisheries. Despite this, an estimate of 40 tonnes was used in 2017 CRA 2 stock assessment and an estimate of 30 tonnes was used in the 2015 CRA 5 stock assessment.
63. When making your April 2018 decisions for the CRA 2 fishery, you also asked MPI to ensure an increased compliance focus on the fishery to help minimise illegal take, so that the benefits of any rebuild do not go to those engaged in illegal activities.
64. During the NRLMG's consideration of measures to reduce the extent of illegal take, a range of measures were considered and discussed with different MPI Fisheries Compliance representatives. Based on these discussions, the NRLMG sector members came to the conclusion that telson clipping was likely to be the most effective additional compliance measure to reduce illegal take for sale, poaching, and black market activity.

Telson clipping history

65. The proposal to identify recreational rock lobster catches by telson clipping has been promoted by the New Zealand Recreational Fishing Council since the early 2000s as a way of reducing illegal sales of rock lobsters (Figure 3). This proposal was based on experience from Western Australia, where telson clipping assisted Fishery Officers in distinguishing recreationally caught rock lobsters from those landed by commercial fishers.

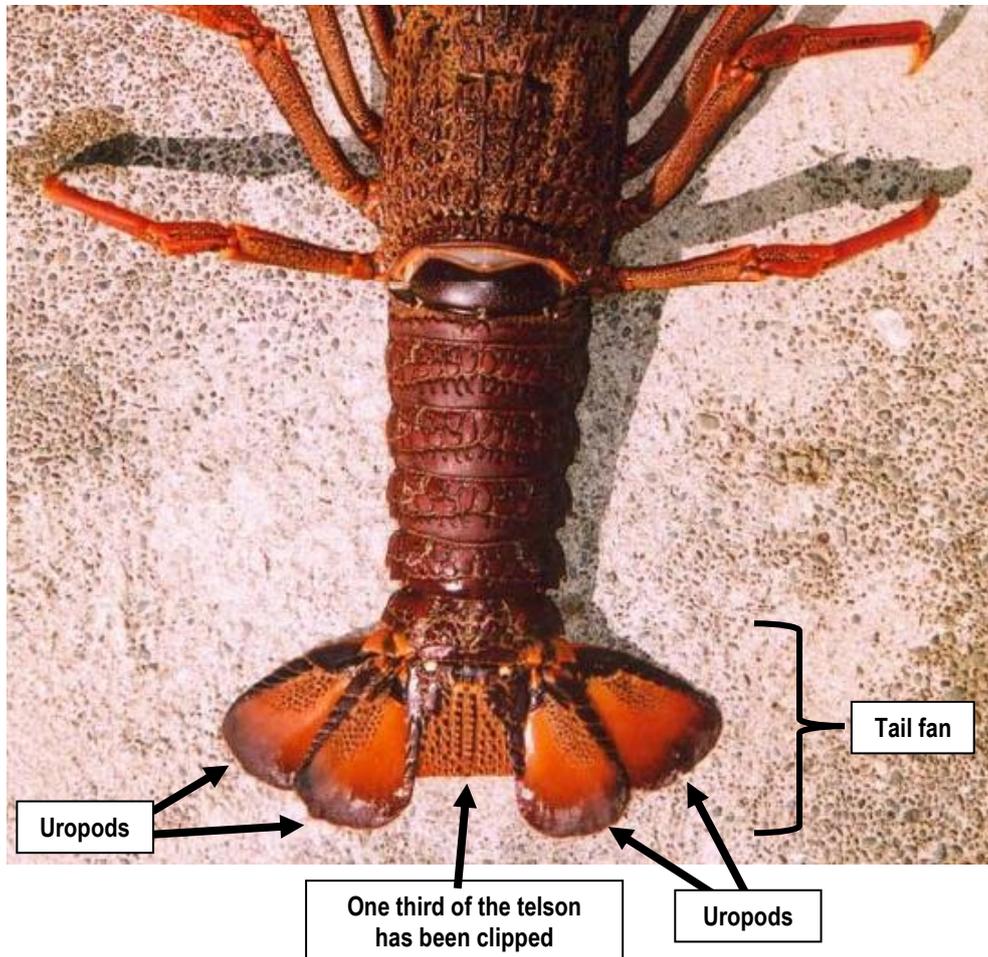


Figure 3: A telson clipped spiny rock lobster. Photo credit: K. Ingram.

66. Recreational fisheries in Western Australia have some differences to those of New Zealand, but their experience is useful to consider, and suggests that telson clipping:
- Can be helpful in inspections of commercial fish retailers and wholesalers because it can assist Fishery Officers in detecting illegally sold catch; and
 - Provides a deterrent or disincentive to sell recreational catch.
67. While telson clipping may assist in reducing the number of recreationally caught lobsters entering the domestic market, Western Australia found that there were still numerous small-scale 'backyard' black market operations involving sales to friends and neighbours or bartering in exchange for goods or services that telson clipping wasn't effective at addressing.
68. Based on the Western Australian example, in 2012 the Kaikōura Coastal Marine Guardians proposed that telson clipping be introduced to the Kaikōura Marine Area. This was subsequently implemented in 2014 to help minimise illegal take, because the Guardians considered that fish theft was the biggest risk to rock lobsters in the Kaikōura area.

69. Telson clipping or punching has also been used in Tasmania, Victoria and South Australia to identify recreational landings for two decades or longer. Similar schemes have been implemented in other jurisdictions for clawed lobsters, including v-notching of reproductive female lobsters for conservation and identification purposes (Maine, Canada, Ireland and the Caribbean).

Rock lobster accumulation limit history

70. Accumulation limits are intended to limit the ability to store and transport large quantities of fish, without unnecessarily constraining legitimate recreational fishing. Such accumulation practices are often central to organised and large-scale illegal fishing and sales.
71. An accumulation limit of three daily bag limits (i.e. 18 rock lobsters) was initially proposed by the Kaikōura Coastal Marine Guardians and has applied in this area since 2014 to assist with reducing illegal take. An accumulation limit of 15 rock lobsters also applies in the Fiordland (Te Moana o Atawhenua) Marine Area when harvested over three or more days, provided the daily bag limit of 6 rock lobsters is not exceeded on any day (except for Milford Sound, where an accumulation limit of 3 applies). Within the Kaikōura and Fiordland Marine Areas bag and tag conditions currently apply to satisfy the defence limitation provisions (outlined below).

4.3 Statutory considerations

72. In addition to the advice provided in this paper, an analysis of the statutory considerations relevant to your decisions is provided in Appendix One. This includes consideration of environmental and information principles and other factors.

4.4 Input and participation of tangata whenua

73. Fisheries New Zealand has directly engaged with the Mai i nga Kuri a Whareki Tihirau Iwi Fisheries Forum (the Bay of Plenty Iwi Fisheries Forum) and they are supportive of taking action to rebuild the CRA 2 fishery, including actions to minimise illegal take.
74. Rock lobster (kōura) is identified as a taonga species in the Te Waipounamu Iwi Fisheries Plan, and contains management objectives to support and provide for the interests of South Island iwi. The plan contains two objectives, that the CRA 5 proposals are intended to support:
1. To create thriving customary non-commercial fisheries that support the cultural wellbeing of South Island iwi and our whanau;
 2. To restore, maintain and enhance the mauri and wairua of fisheries throughout the South Island.
75. Feedback from the Te Waka a Māui me Ōna Toka Forum in early 2016, the Fisheries New Zealand Iwi Fisheries Forum that covers the South Island, suggested that there is tangata whenua support for the CRA 5 telson clipping and accumulation limit proposals.
76. Telson clipping in CRA 2 and CRA 5, and an accumulation limit and associated bag/tag conditions in CRA 5 will not be made mandatory for customary fishers (catch taken under the authority of Customary Fishing Regulations¹⁰). This is because under those regulations, iwi and hapu manage their non-commercial customary fishing in a way that best fits their local practices. However, if you agree to the measures, tangata kaitiaki/tiaki will be encouraged to make these measures a condition of customary authorisations.

¹⁰ The Fisheries (Kaimoana Customary Fishing) Regulations 1998 or the Fisheries (South Island Customary Fishing) Regulations 1999.

4.5 Consultation

Process and options

77. Fisheries New Zealand publically consulted on the options shown in Table 2 for six weeks each: from 7 November to 19 December 2018 for CRA 2; and from 22 August to 3 October 2018 for CRA 5. A standard consultation process was followed, consisting of posting the consultation document on the Fisheries New Zealand website and alerting stakeholders to the consultation through a media release, social media posts, and email notifications.
78. During public consultation, submitters were encouraged to provide feedback on the proposed options and to provide any additional information that could be helpful to inform the review.

Table 2: Telson clipping proposals for CRA 2 and CRA 5, and accumulation limit and bag/tag proposals for CRA 5.

Stock(s)	Consultation options	Description
	CRA2_2A CRA5_1A	Telson clipping is mandatory for recreational fishers in CRA 2 and CRA 5 Amend the Amateur Regulations to require a recreational fisher to clip the telson of every legal sized spiny rock lobster that they intend to keep.
CRA 2 & 5	CRA2_2B CRA5_1B	No telson clipping in CRA 2 and CRA 5 (Status quo) There is no mandatory requirement for a recreational fisher to telson clip every legal sized spiny rock lobster that they intend to keep from CRA 2 and/or CRA 5 (except in the Kaikōura Marine Area (a sub-area of CRA 5) where the measure already applies).
	CRA5_2A	An accumulation limit and associated bag and tag conditions are mandatory for recreational fishers in CRA 5 Amend the Amateur Regulations to limit the number of rock lobsters that a recreational fisher can accumulate in CRA 5 to three daily bag limits (i.e. 18 rock lobsters), and to introduce associated bag and tag conditions.
CRA 5 only	CRA5_2B	No accumulation limit or bag and tag conditions in CRA 5 (Status quo) There is no accumulation limit for recreationally caught rock lobsters in CRA 5 nor mandatory bag and tag conditions, except in the Kaikōura Marine Area where the two measures already apply.

CRA 2 and CRA 5 telson clipping

79. Under the CRA 2 and CRA 5 telson clipping proposals (Options CRA2_2A and CRA5_1A):
1. Recreational fishers must clip the last third of the middle part of the tail fan (the “telson”) of every legal sized spiny rock lobster that will be kept from CRA 2 and CRA 5 (even if the lobsters are to be moved outside of the areas);
 2. It would be an offence for a recreational fisher to possess any spiny rock lobster caught from CRA 2 and CRA 5 that does not have a clipped telson; and
 3. Lobsters retained and landed by recreational fishers must be kept and stored with the whole tail intact until being prepared for immediate consumption or being eaten.
80. The Amateur Regulations would be amended to reflect points 1 to 3 above. This is along with the introduction of new penalties and offences for the CRA 2 fishery and an extension of the existing Kaikōura Marine Area telson clipping penalties and offences to the wider CRA 5 fishery, including:
- A \$250 infringement fee for failing to telson clip a rock lobster;
 - A \$250 infringement fee for possessing a rock lobster without a clipped telson; and

- For repeated or more serious offending, a person commits an offence and is liable on conviction to a fine not exceeding \$10,000 if a person, on any day, takes or possesses a rock lobster from the CRA 2 or CRA 5 area without a clipped telson.

81. In the consultation document it was proposed that it would be illegal for owners and operators of commercial premises, such as licensed fish receivers, dealers in fish or restaurants, to possess any rock lobsters with a clipped telson. It was proposed that the Fisheries (Commercial Fishing) Regulations 2001 (Commercial Regulations) would be amended to reflect this point, along with the creation of a new offence.
82. Following further analysis of the existing legal provisions, it is now considered that an amendment to the Commercial Regulations is unnecessary. The Fisheries (Recordkeeping) Regulations 1990 do not prohibit the possession of recreational catch on commercial premises provided records are kept in accordance with these regulations¹¹. Failure to comply with the Recordkeeping Regulations carries an offence with a maximum penalty of \$100,000. Also, if a telson clipped lobster was found on a commercial premise, MPI Fisheries Compliance would likely regard this as recreational catch unless proven otherwise. Therefore, the offence in section 192(5) of the Act would apply¹².

CRA 5 accumulation limit

83. Under the CRA 5 accumulation limit proposal (Option CRA5_2A):
1. Recreational fishers can accumulate only three daily bag limits of rock lobster (i.e. 18), provided the daily bag limit is not exceeded on any day; and
 2. Recreational fishers must comply with the following 'bag and tag' conditions. A fisher would be required to hold rock lobster in a container or bag that contains only a single day's catch, and is clearly labelled with the individual fisher's name, date it was taken, and the number held.
84. To introduce these measures, the Amateur Regulations would be amended to extend the defence limitation provision that currently applies to the Kaikōura Marine Area to the wider CRA 5 fishery¹³. The accumulation limit and associated bag and tag conditions are specified in regulation 159A of the Amateur Regulations. The defence allows a person to be in possession of more than the daily bag limit of rock lobster (but no more than 18 rock lobster) if they can satisfy the court that the rock lobster were taken legally over a three day period or more. The proposed bag and tag conditions assist this defence and provide evidence that accumulated rock lobsters were taken within the daily bag limit over three days or more.

4.6 Summary of submissions

85. Fisheries New Zealand received 24 submissions on the CRA 2 telson clipping proposal, 29 submissions on CRA 5 telson clipping, and 25 submissions on the CRA 5 accumulation limit and bag/tag proposals (Table 3). Full copies of submissions received during consultation are contained in Appendices Three (CRA 2 submissions) and Four (CRA 5 submissions). Matters raised that were not directly related to the consultation options, that are not discussed below are summarised in Appendix Two.

¹¹ Regulation 6(1)(c) of the Recordkeeping Regulations – Every dealer in fish (excluding a licensed fish receiver) shall keep a record of all fish held by the dealer on behalf of any amateur fisher, which record shall be in sufficient detail to allow the fish and the circumstances in which the fish are held to be identified.

¹² Section 192(5) of the Act – No person shall purchase, otherwise acquire, or be in possession of any fish, aquatic life, or seaweed for the purpose of sale, unless the fish, aquatic life, or seaweed was purchased or acquired from: a) a commercial fisher; b) a licensed fish receiver; or c) a fish farmer.

¹³ Regulation 159A of the Amateur Regulations – It is a defence to a charge of possessing more than the daily limit for spiny rock lobsters taken from the Kaikōura Marine Area if the defendant satisfies the court that: a) the defendant possessed no more than 18 spiny rock lobsters; b) the daily limit for spiny rock lobsters was not exceeded; and c) in the case of spiny rock lobsters held on board or landed from a vessel, the spiny rock lobsters were held in clearly labelled containers or bags.

Table 3: Summary of submissions on the CRA 2 and CRA 5 consultation options.

Stock	Measure	Number of submissions			Total
		Supported	Did not support	Other suggestions	
CRA 2	Telson clipping	15	7	2	24
CRA 5	Telson clipping	22	4	3	29
CRA 5	Accumulation limit Bag & tag conditions	17	5	3	25

4.7 CRA 2 and CRA 5 telson clipping: Submissions received and Analysis

CRA 2 submissions and other feedback

In support of CRA 2 telson clipping

86. Ten individuals and five organisations expressed support for introducing telson clipping for recreationally caught rock lobsters in CRA 2. This included support from the following organisations: CRAMAC 2, NZ Rock Lobster Industry Council, Paua Industry Council, Te Ohu Kaimoana, and the Whitianga & Coromandel Peninsula Commercial Fishermen’s Association.
87. Reasons given for support included that telson clipping has been effective in deterring sales of non-commercial take of rock lobster by opportunistic sales and dedicated fish thieves (both in the Kaikōura Marine Area and in Australia). It is considered a simple and effective measure that could be enforced in the course of normal inspections of recreational fishers, and that the benefits of the tool outweigh the risk of recreational fishers clipping telsons of fish and returning them to the water (thereby making them unavailable to commercial fishers).
88. Two submitters (K. Woodham, C. Long) supported telson clipping, but were not convinced of its effectiveness at reducing poaching, because they considered that it would not be policed and is completely voluntary.
89. CRAMAC 2 added that enforcement of telson clipping must not take away from current enforcement activities to assist with reducing illegal take. The NZ Rock Lobster Industry Council considered that telson clipping should be accompanied with extra resourcing reliant on MPI Fisheries Compliance maintaining acceptable levels of inspection, surveillance and monitoring because of the overt risk of non-compliance that exists in lobster fisheries.

In opposition to CRA 2 telson clipping

90. Three individuals and four organisations (Forest & Bird, NZ Marine Sciences Society, NZ Sport Fishing Council (with support from the NZ Angling & Casting Association) and Spearfishing NZ) did not support telson clipping in CRA 2.
91. Reasons given included that:
- there is insufficient proof of the effectiveness of telson clipping in reducing illegal take;
 - The focus should be on those responsible for large scale poaching (not recreational fishers);
 - Resources should be better spent on other compliance and education measures;
 - The measure would not be enough to deter illegal sale of catch or the decline of the CRA 2 stock; and
 - Reducing the bag limit should be sufficient to affect small-scale illegal operations.

92. Spearfishing NZ also noted that while anecdotal evidence indicates that telson clipping has been an effective enforcement tool in the Kaikōura Marine Area, the costs and burdens of enforcing telson clipping would apply solely to recreational fishers. They consider that commercial supply chain traceability might be a better solution.

Other CRA 2 telson clipping comments

93. Individual submitter, A. Jorion, supported the idea of telson clipping, but it was unclear whether or not this submitter supported telson clipping in CRA 2. Another individual, M. Cornish, also indicated that telson clipping was a good idea, but might not be the most beneficial if limited to CRA 2 and should be applied nationwide.

Online survey responses received for CRA 2

94. In addition to submissions, Fisheries New Zealand received 210 online survey responses on the CRA 2 telson clipping proposal, with over 80% of the responses from recreational fishing interests. Most of the online survey respondents (70 %) were in favour of implementing recreational telson clipping in CRA 2 (Figure 4), with 26% opposing the measure.

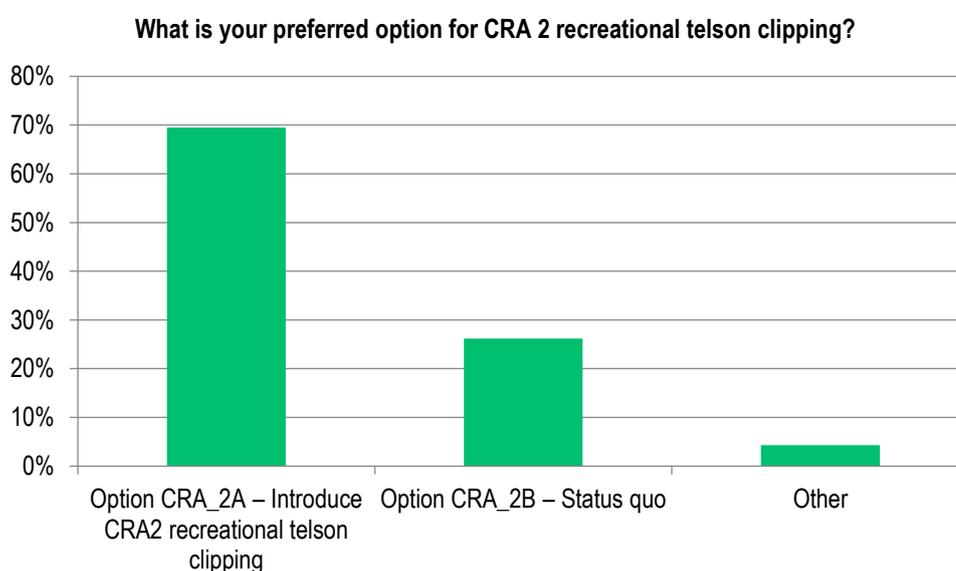


Figure 4: Online survey responses showing percentage support for each CRA 2 recreational telson clipping option.

CRA 5 submissions

In support of CRA 5 telson clipping

95. Seventeen individuals and five organisations expressed support for introducing telson clipping for recreationally caught rock lobsters in CRA 5. This included support from the following organisations: CRAMAC 5, NZ Rock Lobster Industry Council, Spearfishing NZ, Te Ohu Kaimoana, and Te Rūnanga a Rāngitane o Wairau.
96. Reasons given for support included that telson clipping is a simple, effective and convenient measure that has assisted with reducing the illegal take and sale of rock lobsters in the Kaikōura Marine Area. Submitters considered that telson clipping would be effective at identifying recreationally-caught fish, would help stop people selling their catches (including to restaurants), and would be a helpful tool to assist MPI Fisheries Compliance in discouraging and reducing illegal take of rock lobsters in CRA 5.
97. CRAMAC 5 and one individual (P. Reinke) supported telson clipping, providing that the measure is amended to remove the clause saying licensed fish receivers and dealers in fish cannot possess a rock lobster with a clipped telson. CRAMAC 5 and P. Reinke noted that after telson clipping was introduced in the Kaikōura Marine Area, lobsters were caught in commercial pots that had been telson clipped and returned to sea. These submitters consider that telson

clipped lobsters should be allowed to be landed at (and be on the premises of) a licensed fish receiver or dealer in fish, particularly if their telson has been clipped some time ago and has started healing with subsequent moults.

98. Te Ohu Kaimoana and one individual (P. Reinke) supported amending the measure to make it illegal for a clipped lobster to be returned to the sea. An individual submitter (S. Ryan) also supported implementing telson clipping nationwide.

In opposition to CRA 5 telson clipping

99. Three individuals and the NZ Sport Fishing Council did not support CRA 5 telson clipping.
100. Reasons given included that telson clipping implementation costs that would be better utilised elsewhere, there is insufficient evidence that telson clipping is effective (including in the Kaikōura Marine Area), that recreational fishers could clip lobsters and return them to the sea in an attempt to prevent commercial fishers from landing them, and that incorrect clipping has potential animal welfare concerns.

Other CRA 5 telson clipping comments

101. Three individual submitters did not indicate specific support for a CRA 5 telson clipping option, but commented on illegal take concerns or whether the bag limit should stay the same in the CRA 5 fishery.
102. Fisheries New Zealand notes that no online survey was utilised to gather feedback on the CRA 5 proposals (like CRA 2).

Benefits and impacts of telson clipping

103. In combination with existing MPI Fisheries Compliance enforcement and monitoring actions, the NRLMG sector members consider that telson clipping is an additional tool that could assist with minimising illegal take from the CRA 2 and CRA 5 fisheries. Fisheries New Zealand is supportive of telson clipping in CRA 5, but does not support this measure in CRA 2 given concerns about the effectiveness of telson clipping in the CRA 2 fishery and the associated costs.
104. Telson clipping is likely to assist with addressing some aspects of illegal take, primarily by opportunistic non-commercial offenders. MPI Fisheries Compliance information suggests that this type of offending is more common in CRA 5 than in CRA 2, which is thought to relate to a combination of factors, including higher levels of rock lobster abundance in CRA 5 compared to CRA 2 and other socio-economic drivers.
105. Telson clipping, however, is unlikely to assist with reducing illegal take by determined offenders, who often operate in settings and locations where inspection and detection of offences are difficult (e.g. when lobsters are illegally sold to consumers in informal settings). It is likely that those involved in poaching and black market activities are already ignoring recreational fishing rules (e.g. bag and size limits); therefore, it is likely that they will also run the risk of being caught with an unclipped lobster.

106. Table 4 below provides a summary of the key benefits and impacts of telson clipping.

Table 4: Benefits and impacts of telson clipping

Benefits	Impacts
<p>Additional compliance measure</p> <ul style="list-style-type: none"> • Provide Fishery Officers with an additional tool to assist with addressing the illegal take and sale of rock lobsters by: <ul style="list-style-type: none"> ○ Opportunistic non-commercial fishers who sell or barter their catch for financial gain; or ○ Dedicated fish thieves who conceal their activity under legitimate non-commercial fishing (i.e. legal-sized fish and within the recreational daily bag limit of six rock lobsters). • The benefits that could be gained from telson clipping relate to areas where Fishery Officers currently carry out inspections of non-commercial catch (e.g. at sea, on landing (i.e. at boat ramps), and at road checks), and commercial catch (e.g. at licensed fish receivers, dealers in fish, and restaurants). • Telson clipping is not expected to pose significant additional compliance costs during inspections of catch. 	<p>Education</p> <ul style="list-style-type: none"> • Additional education initiatives will be needed to ensure widespread uptake of telson clipping and ensure that only the last third of the telson is clipped and to minimise any animal welfare issues (discussed below). • Updates to signage and the publication of guidance information for fishers and the community will be required. • Based on the experience of the introduction of telson clipping into the Kaikōura Marine Area, it took some time for fishers to comply with the new rule.
<p>Clearer detection of illegal fishing and sales</p> <ul style="list-style-type: none"> • Provide Fishery Officers with the immediate ability to see that the rock lobster is taken as recreational catch (aside from fishers' claims). 	<p>Compliance and enforcement</p> <ul style="list-style-type: none"> • There are expected to be additional compliance costs associated with enforcement action against those not complying with the rule, including the issuing of warnings and infringements, interviewing fishers, and associated paper work. These costs are likely to be significant in the short-term for the CRA 5 fishery, but ongoing in the CRA 2 fishery given the higher levels of recreational participation in the area (a substantial proportion of the New Zealand population reside or holiday in the area). • Previously compliant recreational fishers could be potentially penalised (i.e. with a warning or infringement) if they are found with unclipped lobsters in their possession - rather than determined offenders who are believed to be responsible for most of the illegal trade of rock lobsters. The implications of this is expected to be significant in CRA 2.
<p>Low cost and simple to do</p> <ul style="list-style-type: none"> • No special tools or devices are required to clip the telson of rock lobsters. • It can be done quickly and easily with ordinary kitchen scissors. • It involves minimal actions by the fisher considering the normal handling of rock lobsters (e.g. during capture by diving or measuring). 	
<p>Act as a deterrence</p> <ul style="list-style-type: none"> • May deter licensed fish receivers, dealers in fish and those in the retail and hospitality trades from opportunistically purchasing recreationally caught lobsters (which is illegal). • Reduce the market for non-commercially landed lobsters intended for illegal sale. • If Fishery Officers find clipped rock lobsters at commercial premises, this could reveal involvement in illegal trade. 	

107. Regardless of the introduction of telson clipping, MPI Fisheries Compliance will need to maintain high levels of surveillance and monitoring activities in CRA 2 and CRA 5 because of the relatively high risk of non-compliance that generally applies in rock lobster fisheries.

Animal welfare considerations

108. Rock lobsters are defined as an animal by the Animal Welfare Act 1999, and this Act recognises all animals (including Crustacea) as sentient (able to perceive or feel things). The Act requires that people who own or are in charge of an animal must meet their physical, health and behavioural needs in accordance with good practice and scientific knowledge. This includes treating any ill or injured animals, and killing them in a way that does not cause unnecessary or unreasonable pain or distress. The Animal Welfare Act applies to any rock lobster captured in a wild state (unless the animal has been captured for the purpose of facilitating its imminent destruction).
109. In the past and in a few submissions, concerns have been raised about whether telson clipping causes a rock lobster any discomfort. To address this question, an Australian review in 2003¹⁴ examined nervous tissue present in the tail fan of the spiny rock lobster. This review suggested that the type of nerve tissue present in the tail fan of lobsters is simplistic, and that telson clipping represents a less intense stimulus than being removed from the water. The review therefore concluded that there was insufficient evidence to justify abandoning telson clipping on animal welfare grounds.
110. Nevertheless, if telson clipping is not done properly and a greater proportion than the last third of the telson is clipped (because nervous tissue becomes thinner towards the end of the telson) there is some uncertainty about the impact of this on a lobster. The Animal Welfare group in MPI suggested that this could be mitigated if the telson was clipped after the lobster was killed. But this would likely weaken the compliance benefits of clipping a lobster on taking (as proposed), because a lobster may be killed away from locations where Fishery Officers commonly carry out inspections of non-commercial catch (e.g. at sea or boat ramps). In addition, it is not expected that telson clipping will cause longer-lasting harm to the animal, as clipped lobsters are highly likely to be killed for immediate consumption or storage.
111. In the CRA 2 and CRA 5 consultation documents, Fisheries New Zealand welcomed feedback on any alternative, effective and non-invasive techniques to mark rock lobsters as recreationally caught. Several submitters raised rock lobster horn tagging¹⁵ as a viable marking alternative. The primary aim of the tagging programme is to enable a harvest estimate, but is unlikely to be effective as a compliance measure since tags could subsequently be removed.
112. Fisheries New Zealand is aware of another study that tested marking freshwater lobster with an oil-based marker suitable for underwater use and noted that it has promise as a non-invasive measure¹⁶. This approach would require fishers to purchase a specific marker and have it on hand when fishing, which may be perceived as overly onerous by fishers and limit widespread buy-in to the measure. In comparison, telson clipping is relatively easy to do since fishers generally carry a knife when fishing anyway.
113. In examples of telson clipping or similar marking techniques from overseas fisheries jurisdictions, the NRLMG is not aware of any identified animal welfare concerns. Removing a section of the telson has been used in Australian lobster fisheries (Tasmania, Victoria, Western Australia and South Australia) to identify recreational landings for two decades or longer.

¹⁴ *Recreational rock lobster fisheries: An examination of the welfare implications of the management procedure of tail fin clipping*. A report prepared by the Department of Primary Industries and Resources South Australia, Government of South Australia, July 2003.

¹⁵ Horn tagging is a non-invasive procedure where a tag is attached to one of the 'horns' (bases of the antennae) of a rock lobster to mark it as being recreationally caught.

¹⁶ R. O. Ramalho, W. R. McClain & P. M. Anastácio (2010). An effective and simple method of temporarily marking crayfish. *Freshwater Crayfish* 17, p 57-60.

Benefits and impacts of the status quo (no mandatory telson clipping)

114. If the status quo was maintained, recreational fishers will not be required to identify removals of spiny rock lobsters from the CRA 2 or CRA 5 fisheries by telson clipping, except for in the Kaikōura Marine Area where telson clipping has applied since 2014. No additional benefits or costs would be borne by recreational fishers on top of what is currently required under the Amateur Regulations.

Voluntary application of telson clipping

115. Voluntary application of telson clipping is possible under the existing Amateur Regulations. However, for telson clipping to have the greatest benefits, there needs to be widespread buy-in and use of the measure. It is unlikely that the measure would be consistently applied throughout the CRA 2 and CRA 5 fisheries if not required under regulation, which would reduce its effectiveness.

Additional comments

116. With respect to CRA 5 telson clipping, submitters CRAMAC 5 and P. Reinke raised the possibility of forbidding the return of rock lobsters with clipped telsons to the water (to try and stop commercial fishers from taking them). They also suggested that rock lobsters with clipped telsons (particularly if the telson clip is obviously old and partially healed) should be allowed to be held by licensed fish receivers and dealers in fish.
117. The NRLMG considers that amending the telson clipping proposal to prevent returning clipped lobsters to the sea is not necessary at this time and education should help to minimise inappropriate telson clipping (e.g. returning clipped lobsters to the water). With respect to allowing clipped lobsters on commercial premises, the NRLMG is no longer proposing to amend the Commercial Regulations to make it illegal for such a lobster to be on a commercial premise (refer paragraphs 81 and 82 above).

4.8 CRA 5 accumulation limit and bag/tag conditions: Submissions received and Analysis

CRA 5 submissions

In support of the CRA 5 accumulation limit and bag/tag conditions

118. Twelve individuals and six organisations expressed support for the CRA 5 accumulation limit and bag/tag conditions. This included support from the following organisations: CRAMAC 5, NZ Rock Lobster Industry Council, NZ Sport Fishing Council, Spearfishing NZ, Te Ohu Kaimoana, and Te Rūnanga a Rāngitane o Wairau.
119. Reasons given for support included the simplicity, efficacy and convenience of the measure, and that it should stop people stockpiling and selling their catch, and discourage large-scale illegal operations.
120. Overall most submitters supported an accumulation limit of 18 rock lobsters. However, two individuals (M. Loach and M. Parnwell) supported a smaller accumulation limit (i.e. 9 or 12 rock lobsters). Submitters CRAMAC 5 and P. Reinke considered the accumulation limit to be too high, especially considering the large size of lobsters in Motunau and Banks Peninsula.
121. CRAMAC 5 also considered that the accumulation limit requirements should be modified to restrict the number of people that can hold their accumulation in one location to two (e.g. up to 36 rock lobsters in any one location or residential property). Spearfishing NZ submitted that an exception should be made to the accumulation limit to allow Fishery Officers to approve the accumulation of more than 18 rock lobsters in one place for a specific event, such as a wedding, by prior arrangement.

In opposition to the CRA 5 accumulation limit and bag/tag conditions

122. Five individuals opposed the accumulation limit on the grounds that:
- The fishery is healthy and there is no need to limit the number of removals;
 - There is insufficient evidence that an accumulation limit reduces non-compliance; and
 - It would result in unfair penalising of recreational fishers.
123. In addition, submitter R. Divett considered that the proposed measures should not apply to the other parts of CRA 5 because they are less accessible, and weather and topography naturally restrict the number of fishing events. Mr Hitchon noted that people could still stockpile their catch by storing their accumulation limit in separate locations.

Other CRA 5 comments

124. Three individual submitters did not indicate specific support for a CRA 5 accumulation limit option, but commented on illegal take concerns or whether the bag limit should stay the same in the CRA 5 fishery.
125. Fisheries New Zealand notes that no online survey was utilised to gather feedback on the CRA 5 proposals (unlike in CRA 2).

Benefits and Impacts of the CRA 5 accumulation limit and bag/tag conditions

126. A rock lobster accumulation limit and associated 'bag and tag' conditions in CRA 5 are intended to prevent people from accumulating large quantities of rock lobsters and thereby reduce opportunities for individuals to sell rock lobsters, which is illegal. However, they may not reduce illegal activities by determined offenders. Individuals involved with poaching and black market activities often operate in settings and locations where inspection and detection of offences are difficult. Other compliance tools are required to minimise this type of illegal activity.
127. Table 5 below provides a summary of the key benefits and impacts of an accumulation limit and associated bag/tag conditions.

Table 5: Benefits and impacts of a CRA 5 accumulation limit and associated bag/tag conditions.

Benefits	Impacts
<p><i>Additional compliance measure</i></p> <ul style="list-style-type: none">An accumulation limit and associated bag/tag conditions will allow MPI Fisheries Compliance to identify breaches of the limit quickly.Setting the accumulation limit at three times the daily bag limit is less likely to generate undesirable outcomes, such as fishers acting illegally to bypass the limit because it's considered a reasonable limit.Enforceability of the rules and voluntary compliance by fishers are likely to be enhanced with extending the two measures to the entire CRA 5 area.	<p><i>Education</i></p> <ul style="list-style-type: none">Additional education initiatives will be needed to educate the community on the requirement (and method) to apply the accumulation limit and bag and tag catch, including updates to signage and the publication of guidance information for fishers and the community.
<p><i>Low cost and simple to do</i></p> <ul style="list-style-type: none">No special tools or devices are required to follow an accumulation limit or the associated bag/tag conditions; bagging and labelling catch can be done quickly and easily with plastic bags, containers and permanent markers, which are readily available.	
<p><i>Act as a deterrent</i></p> <ul style="list-style-type: none">May deter non-commercial fishers from accumulating lobsters for illegal sale.	

128. Regardless of the introduction of an accumulation limit and associated bag/tag conditions, MPI Fisheries Compliance will need to maintain high levels of surveillance and monitoring activities in CRA 5 because of the relatively high risk of non-compliance that generally applies in rock lobster fisheries.

Benefits and impacts of the status quo (no mandatory accumulation limit)

129. If the status quo was maintained, recreational fishers will not be required to apply the accumulation limit and bag and tag conditions to their catch in CRA 5, except within the Kaikōura Marine Area where the measures have applied since 2014. No additional benefits or costs would be borne by recreational fishers on top of what is currently required under the Amateur Regulations. Compared with a mandatory accumulation limit, the status quo does not affect the harvesting activity of legitimate recreational fishers (e.g. fishers on fishing trips for longer than three days may accumulate more than 18 rock lobsters, as they can simply choose not to follow the accumulation limit).

Voluntary application of an accumulation limit

130. Voluntary application of an accumulation limit (and bag/tag conditions) is possible under the existing Amateur Regulations. For these measures to have the greatest effect there needs to be widespread buy-in and use. It is unlikely that the measures would be consistently applied through-out the CRA 5 fishery if not required under regulation, which would reduce its effectiveness.

5 Next steps

131. After your decisions and following Cabinet approval, it is proposed that any changes to the Amateur Regulations would take effect later in 2019. This is so that the measures can have effect before recreational fishing activity increases during the 2019/20 summer period.
132. Stakeholders and submitters will be advised of any changes through publication of this Final Advice Paper and a Decision Letter on the Fisheries New Zealand website, and through email, social media posts and other communication channels.
133. If changes to regulations are made, Fishery Officers will educate local communities and recreational fishers about the new rules as part of their normal inspection activities. To support these education initiatives, updates will be made to signage along the coastlines and to information brochures.
134. It is proposed that a full scientific assessment of the CRA 2 fishery will be carried out in 2021. This will provide an opportunity to review the catch settings for the fishery from 1 April 2022, and also determine whether any adjustment to management measures is needed to ensure the long-term sustainability of the CRA 2 fishery. A review of the CRA 2 recreational daily bag limit will be considered at this time too. If monitoring information suggests management action is required sooner than 2021, this will be considered by the NRLMG. Fisheries New Zealand is currently considering different research initiatives to collect more frequent estimates of CRA 2 recreational harvest to adequately inform future decisions for the daily bag limit.
135. For the CRA 5 fishery, a full scientific assessment is proposed for 2020. Based on the information that becomes available from this assessment, the NRLMG will consider whether a further review of management measures is needed in the future for CRA 5 to ensure the ongoing sustainable utilisation of the resource.
136. Fisheries New Zealand, at the request of the NRLMG, will work with MPI Fisheries Compliance to consider looking at different metrics to measure the effectiveness of the proposed measures. For example, based on inspection information, this could include the proportion of telson clipped lobsters versus those un-clipped, and the number of prosecutions that involved telson clipped lobsters or not.

Appendix One: Statutory considerations

Table A.1: Sections of the Fisheries Act 1996 relevant to your decisions outlined in this paper, along with analysis of how they were considered in developing this advice.

Fisheries Act 1996	Analysis
<p>8 Purpose The purpose of this Act is to provide for the utilisation of fisheries resources while ensuring sustainability.</p>	<p>The options presented in the paper are considered to be consistent with the purpose of the Act. The change proposals are expected to provide greater certainty around ensuring the sustainable use of the resource. Under all options, the stocks will be monitored and a review will be initiated if necessary.</p>
<p>9 Environmental principles There are three environmental principles that you must take into account when exercising powers in relation to the utilising of fisheries resources or ensuring sustainability:</p> <ul style="list-style-type: none"> (a) associated or dependent species should be maintained above a level that ensures their long-term viability; (b) biological diversity of the aquatic environment should be maintained; and (c) habitat of particular significance for fisheries management should be protected. 	<p>The options presented in this paper are considered to be consistent with the environmental principles of the Act.</p> <p>There are no known associated or dependent species that will be affected by the proposals. In the future, if new information becomes available to suggest associated or dependent species were affected by the proposed changes, appropriate measures such as method restrictions, area closures, and potentially adjustments to the TAC of the target stock could be considered to mitigate the effects.</p> <p>There is limited information to assess the effects of the rock lobster population on biological diversity of the aquatic environment. However, it is expected that the changes being proposed are unlikely to adversely affect biological diversity.</p> <p>No habitats of particular significance for fisheries management have been formally identified in CRA 2 or CRA 5. Habitats are unlikely to be affected by the proposals as rock lobster is a potting and hand-gathering fishery with relatively low levels of bycatch, and it is not expected that any additional effort will occur in areas that are not already being fished.</p>
<p>10 Information Principles There are four information principles that you must take into account when exercising powers in relation to the utilising of fisheries resources or ensuring sustainability:</p> <ul style="list-style-type: none"> (a) decisions should be based on the best available information; (b) decision makers should take into account any uncertainty in the available information; (c) decision makers should be cautious when information is uncertain, unreliable, or inadequate; (d) the absence of, or any uncertainty in, any information should not be used as a reason for postponing or failing to take any measure to achieve the purpose of the Act. 	<p>Best available information has been used to inform the proposals in this paper. All the science information on which the proposals are based, has been peer-reviewed by one of Fisheries New Zealand's Fisheries Assessment Working Groups and meets the Fisheries New Zealand Research and Science Information Standard for New Zealand fisheries.</p> <p>Where there are uncertainties in the information that has been presented, this has been identified in the paper.</p>
<p>11 Sustainability Measures Section 11(1) allows sustainability measures to be set or varied after taking into account:</p> <ul style="list-style-type: none"> (a) any effects of fishing on any stock and the aquatic environment; (b) any existing controls under the Act that apply to the stock or area concerned; and 	<p>Rock lobster fishing methods (potting and hand gathering) are thought to have little direct effect on non-target species, but could potentially have wider aquatic environment effects if rock lobster abundance is depressed significantly (because of rock lobster's role in the ecosystem).</p> <p>Given that the measures are designed to rebuild stocks (in the case of CRA 2) and to minimise illegal take, the proposals in the paper are believed to reduce any wider or indirect effects of fishing for rock lobsters compared with the status quo.</p> <p>A range of management controls apply to the stocks discussed in this paper including minimum legal sizes, daily bag limits for recreational fishers, method restrictions, and protection of egg-bearing females.</p>

Fisheries Act 1996	Analysis
<p>(c) the natural variability of the stock concerned.</p>	<p>Recruitment to rock lobster stocks is highly variable and this was taken into account during the development of options discussed in this paper. Rock lobsters have a long larval life, swimming and drifting in the ocean for 12-15 months. This means that larvae hatched in one area may be retained in that area by local eddy systems, carried to other areas by currents, or lost to New Zealand entirely. For most areas, larvae may originate a considerable distance from the settlement site.</p> <p>The number of 'puerulus' larvae that settle to the sea floor varies among areas and from year to year. Puerulus settlement may be affected by environmental factors such as the amount of suitable habitat available, the persistence of storms, prevailing ocean currents, sea temperature, food availability, and predation. Large numbers of puerulus larvae also die before reaching suitable habitat, which is due in part to predation, but may also be a result of unfavourable environmental conditions.</p>
<p>11(2) Sustainability Measures</p> <p>Before any sustainability measure is set or varied you must have regard to any provision of any of the following that apply to the coastal marine area and are considered to be relevant:</p> <p>(a) Any regional policy statement, regional plan, or proposed regional plan under the Resource Management Act 1991.</p> <p>(b) Any management strategy or management plan under the Conservation Act 1987.</p> <p>(c) Sections 7 and 8 of the Hauraki Gulf Marine Park Act 2000.</p> <p>(ca) Regulations made under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012.</p> <p>(d) A planning document lodged with the Minister of Fisheries by a customary marine title group under section 91 of the Marine and Coastal Area (Takutai Moana) Act 2011.</p>	<p>Fisheries New Zealand is not aware of any matters in 11(2)(a) to (d) that impact on the proposals in this paper.</p> <p>The boundaries of the CRA 2 fishery do intersect with the Hauraki Gulf Marine Park. The proposed recreational daily bag limit reduction is expected to support a rebuild of the CRA 2 fishery from its current state of low abundance. This is considered to be consistent with sections 7 and 8 of the Hauraki Gulf Marine Park Act.</p>
<p>11(2A) Sustainability Measures</p> <p>Before any sustainability measure is set or varied you must take into account:</p> <p>(a) Any conservation services or fisheries services;</p> <p>(b) Any relevant fisheries plan approved under this Part; and</p> <p>(c) Any decisions not to require conservation services or fisheries services.</p>	<p>Services of particular relevance to the decisions in this paper relate to programmed research used to monitor rock lobster stock abundance and recreational harvest. To date national fisheries plans have been approved only for deepwater and highly migratory species, and PAU 4; but not rock lobster.</p> <p>There is a draft National Fisheries Plan for Inshore Shellfish (which includes rock lobster). The proposals presented in this paper are considered to be consistent with the draft plan.</p>
<p>12 Consultation</p> <p>Before setting or varying any sustainability measure under the Act you are required to:</p> <p>(a) Consult with those classes of persons having an interest in the stock or the effects of fishing on the aquatic environment in the area concerned, including, but not limited to, Māori, environmental, commercial and recreational interests; and</p> <p>(b) Provide for the input and participation of tangata whenua having a non-commercial interest in the stock concerned, or an interest in the effects of fishing on the aquatic environment in the area concerned; and have particular regard to kaitiakitanga.</p>	<p>Fisheries New Zealand publically consulted on the options proposed over a six week period: from 7 November to 19 December 2018 for CRA 2; and from 22 August to 3 October 2018 for CRA 5.</p> <p>This paper provides you with analysis of the submissions and the feedback from tangata whenua. Copies of all submissions are provided in Appendices Three and Four.</p> <p>Fisheries New Zealand also held two rounds of multi-sector workshops in Whakatane and Thames to gather feedback from the wider community on the management of the CRA 2 fishery, in November 2017 and June 2018.</p>

Appendix Two: Other matters raised by submitters

A number of submitters raised matters that were outside the scope of this review of CRA 2 and CRA 5 Amateur Regulations. These matters included:

- **Improving the availability, frequency and reliability of recreational harvest estimates from rock lobster fisheries** (particularly for CRA 2) – accurate estimates are important for stock assessments, subsequent fisheries management decisions, and ensuring the sustainable use of the resource. Some submitters put forward recreational horn tagging¹⁷ as a viable measure to improve recreational harvest estimates (along with it being a non-invasive technique to mark lobsters as recreationally caught - instead of telson clipping).
- **Effectively managing recreational harvest** to allowances set under the Total Allowable Catch.
- **Improving estimates of illegal take** – accurate estimates of illegal take are important for stock assessments, subsequent fisheries management decisions, and ensuring sustainable utilisation.
- **Effectively constraining illegal take** from rock lobster fisheries so that the utilisation benefits of legitimate fishers are not compromised by those engaged in illegal activities.
- **Other CRA 2 management measures** – a range of potential measures have been put forward including: a three year moratorium on fishing, seasonal closures, recreational boat limits, pot limits, an increase to the minimum legal size, an upper size limit¹⁸, and an accumulation limit and associated bag and tag conditions. As part of the CRA 2 consultation, Fisheries New Zealand requested feedback on the potential introduction of a recreational accumulation limit via an online survey. Out of 201 responses, 60% of online respondents indicated support for a CRA 2 accumulation limit of three daily bag limits.
- **Finer-scale or more integrated fisheries management initiatives** than simply adjusting catch limits, particularly for CRA 2.
- **Amateur charter-fishing (ACV) operations** – concerns that the administrative and reporting framework is not being actively enforced and that the harvest of rock lobsters by some operators is excessive.
- **Delay in potential changes to the CRA 2 recreational regulations** – concerns about the time it has taken to execute this review and highlighted the need for more timely and responsive mechanisms for adjusting recreational regulations.
- **Reviewing the section 111 provisions for commercial fishers** – this provision enables commercial fishers to take species such as rock lobster for non-commercial purposes.
- **National Rock Lobster Management Group** – concerns that the Group does not have the appropriate recreational representation.
- **Identification or traceability of commercially landed rock lobsters** destined for the domestic market.

These matters can be considered, discussed or progressed through separate processes by the NRLMG or Fisheries New Zealand.

¹⁷ In Victoria Australia, a three-year trial programme commenced in July 2017 for recreational fishers to tag all rock lobsters they keep to collect information on the number of lobsters caught:

¹⁸ i.e. to enable larger lobsters to remain safe from harvesting and establish in reef areas, and predate on sea urchins to control their numbers.

Appendix Three: Submissions received on the CRA 2 recreational daily bag limit and telson clipping proposals

See separate document

Appendix Four: Submissions received on the CRA 5 recreational telson clipping and accumulation limit proposals

See separate document