



10 July 2013

Dear Stakeholder

Application for Exemption from Quota Aggregation Limits – New Zealand Longline Quota Co Limited

New Zealand Longline Quota Co Limited (NZLLQC) has applied to the Ministry for Primary Industries (MPI) for an exemption from the quota aggregation limits set out in the Fisheries Act 1996 (the Act). Specifically, the request is to hold quota equivalent to 45.63% of the total allowable commercial catch (TACC) for red crab (CHC), and 54.26% of the TACC for king crab (KIC).

NZLLQC is looking to retain the quota currently owned by New Zealand Longline Limited (NZLL) as NZLL is being restructured. Table 1 below shows the proportion quota of each fishstock that is currently owned by NZLL and would be owned by NZLLQC if consent is granted.

Table 1: Proportion of quota for each CHC and KIC fishstock proposed to be owned by NZLLQC

Stock	Proportion of quota (%)
CHC1	31.7
CHC2	51.7
CHC3	67.5
CHC5	42.5
CHC6	42.5
CHC7	80.0
CHC8	80.0
CHC9	26.7
KIC1	46.7
KIC2	46.7
KIC3	75.0
KIC5	60.0
KIC6	60.0
KIC7	80.0
KIC8	80.0
KIC9	40.0

The application submitted by NZLLQC for consent to hold quota in excess of aggregation limits is attached for your consideration.

Section 60 of the Act requires the Minister, when dealing with such requests, to consult with persons and organisations the Minister considers are representative of those classes of persons having an interest in the exemption decision. In making a decision the Minister is required to consider the matters specified in s 60(3).

If you have an interest in this matter, I invite you or your organisation to make a submission on NZLLQC's request. In making your submission I request that you specifically address the matters that the Minister is required to consider under s 60(3) of the Act. They are:

- a) The willingness and ability of other members of the New Zealand fishing industry to acquire quota of the relevant species;
- b) The likely effect of the granting or withholding of the consent on:
 - a. The development of any new or existing stocks or species;
 - b. Other quota owners or commercial fishers;
 - c. The processing and marketing of that stock or species;
 - d. The ability of the applicant to take any other stock or species;
 - e. The efficiency of the New Zealand fishing industry or any person engaged in the New Zealand fishing industry;
- c) Such other matters as the Minister considers relevant.

I would also appreciate your views on what conditions (if any) should be attached to any consent on, should it be granted.

Submissions received will be provided to the Minister as part of the Ministry's advice on this issue.

Please note that all submissions are subject to the Official Information Act 1982 and may be released, if requested under that Act. If you have any specific reasons for wanting your submission or personal details withheld, please set out your reasons in the submission. The Ministry will consider those reasons when making any assessment for release of submissions if requested under the Official Information Act.

I would appreciate submissions on this matter no later than **Wednesday 7 August**.

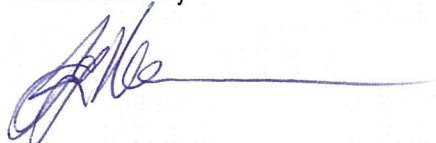
Please send your submissions to:

Deepwater Fisheries Management
Ministry for Primary Industries
P O Box 2526
Wellington 6140

or emailed to fmsubmissions@mpi.govt.nz

If you have any questions about this matter please contact Tiffany Bock at tiffany.bock@mpi.govt.nz or 04 819 4603.

Yours sincerely



Jeremy Helson
Manager Deepwater Fisheries

NZLL Quota Co Limited
149 Vickerman Street, Nelson

19 June 2013

Minister for Primary Industries
Hon. Nathan Guy
Parliament Buildings
Wellington

Dear Minister

NZLL Quota Co Limited - Application for Consent to hold Crab Stocks in excess of Aggregation Limits – Section 60(1) of the Fisheries Act 1996

1.0 Application

- 1.1 This is an application by NZLL Quota Co Limited (**NZLLQC**) to hold crab stocks in excess of the quota aggregation limits set out in section 59 of the Fisheries Act 1996 (**Act**).
- 1.2 The application is to hold 21.901 metric tonnes of CHC stocks out of a total TACC of 48.000 metric tonnes and a total of 48.833 metric tonnes of KIC stocks out of a total TACC of 90.000 metric tonnes.
- 1.3 The application is to hold the CHC/KIC quota in perpetuity without condition or restriction.
- 1.4 The application, if successful, will enable NZLLQC holdings to be 45.63% in CHC stocks (i.e. 0.63% above the maximum aggregation limit) and 54.26% in KIC stocks (i.e. 9.26% above the maximum aggregation limit).

2.0 Background

New Zealand Longline Limited

- 2.1 New Zealand Longline Limited (**NZLL**) is a duly incorporated company having its registered office in Nelson and is currently owned 50% by Sealord Group Limited (**Sealord**) and 50% by Talley's Group Limited (**Talley's**). Both shareholders are significant participants in the New Zealand fishing industry.
- 2.2 NZLL was incorporated in December 1998 to operate 2 longliners to fish Ling within the New Zealand exclusive economic zone and to fish toothfish in Antarctic waters under the CCAMLR protocols. It is still operating in this manner at present.
- 2.3 Pursuant to Ministerial consent dated 4 October 2011 NZLL was granted consent to hold the Crab stocks outlined in paragraph 1.4 in excess of aggregation limits under the Act (**NZLL Consent**). A copy of the NZLL Consent is attached to this letter as Appendix 1.

Transfer of NZLL's Quota

- 2.4 Talley's and Sealord wish to transfer the quota held by NZLL to a new company that is jointly owned by them, and it is intended that the quota shares be transferred to NZLLQC, a company which, as noted below, is currently a wholly-owned subsidiary of

Sealord. Sealord will then sell 50% of the shares in NZLLQC to Talley's so that Sealord and Talley's each ultimately own 50% of NZLLQC.

NZLL Quota Co Limited

- 2.5 NZLLQC, company number 4453929, is a duly incorporated company having its registered office at 149 Vickerman Street, Port Nelson, Nelson and is 100% owned by Sealord at present. As noted above, following the sale of the crab quota, the corporate structure of NZLLQC will mirror that of NZLL as indicated in paragraph 2.1 above, with Sealord and Talley's each owning a 50% stake in NZLLQC. It is intended that the directors of NZLL will be appointed as the directors of NZLLQC following the sale of the crab quota.
- 2.6 It is anticipated that the sale of the quota to NZLLQC will take place in July this year, subject to required Ministerial consent being granted pursuant to this application to permit NZLLQC to hold crab stocks in excess of aggregation limits.

Crab Fishery

- 2.7 A primary aim of NZLLQC will be to continue to investigate and research the viability of a profitable crab fishery within the New Zealand exclusive economic zone and if so, to try and develop it. In addition to owning the crab quota, it is intended that NZLLQC will hold the ling (and bycatch) quota currently owned by NZLL, with a view to maximising the return from the quota.
- 2.8 Despite considerable investment of time and money in the development of the crab fishery, results to date have been relatively poor, but a knowledge base is being built and participants remain optimistic of developing a viable fishery. However, significant further investment will be required.
- 2.9 Development of a viable fishery will offer benefits not only to the participants but also the inshore fishers. NZLLQC does not own inshore vessels and it is anticipated that if a viable industry can be developed ACE will be made available to smaller fishers under arrangements that will see product then supplied to Sealords and Talley's for value added processing at their on shore factories.
- 2.10 This will encourage that quota is utilised for the benefit of commercial fishermen while at the same time guaranteeing the supply of product to the Sealord and Talleys' processing factories sufficient to justify their investing funds in developing markets for the product.

3.0 Section 60 Legal requirements

- 3.1 The provisions of Section 60 of the Act control the procedures by which the Minister considers applications for exemption from the aggregation provisions of the Act.
- 3.2 The primary matters that must be taken in to account are set out in Section 60(3) of the Act.
- 3.3 Section 60(1) of the Act provides that the Minister shall, before granting consent, consult with such persons or organisations that the Minister considers are representative of those classes of persons having an interest in section 60(1).
- 3.4 We note that, in terms of Section 60(2) of the Act, the application is sought without conditions or restrictions (i.e. it is an application to own the quota shares in perpetuity without restriction).

Requirements of Section 60(3)(a) – the willingness and ability of other members of the NZ Fishing Industry to acquire quota of these Crab species

- 3.5 It is not NZLLQC's place to comment on which other members of the fishing industry may wish to buy the quota held in excess of aggregation limits held by NZLL, but a relevant factor is that zero metric tonnes were caught in the whole CHC fishery in the fishing year ending 31 March 2013. In the KIC fishery only 619 kilograms were caught in the same period, representing 0.7% of the fishery. Those figures reflect the fact that it has not yet been possible to establish a fishery or market in either stock, and suggest that buying interest would be extremely limited.

The Likely effect of granting or withholding consent (Section 60(3)(b))

- 3.6 This sub-section is split into five different sub-sections and deals with the likely effect of the granting or withholding of the consent on:
- (a) The development of any new or existing stock or species.
 - (b) Other quota owners or commercial fishers.
 - (c) The process and marketing of that stock or species.
 - (d) The ability of the applicant to take any other stock or species.
 - (e) The efficiency of the New Zealand Fishing Industry or any person engaged in New Zealand Fishing Industry.

Development of any new or existing stock or species (Section 60(3)(b)(i))

- 3.7 The continued investment by the major participants in attempting to develop a viable fishery will be encouraged by the granting of consent.

Other quota owners (Section 60(3)(b)(ii))

- 3.8 Refusing consent will have a detrimental impact on the other major participants that have already invested heavily in the fishery, including Aotearoa Fisheries Limited and Te Ohu Kaimoana.
- 3.9 Significant investment by NZLL has been made in the fishery and it is NZLLQC's current intention, if the consent is granted, to make further significant investment in developing the fishery going forward. Unfortunately, and despite the best efforts of the major quota holders, to date a viable fishery has not been able to be established. Given the risks associated with attempting to develop new fisheries, it is less likely that as much further investment would be made if the quota shares were not held by a joint venture entity such as NZLLQC (given that joint ventures essentially allow the risks to be shared by the joint ventures' shareholders). A logical 'flow on' effect would be that new participants to the fishery would be faced with significant barriers to entry in respect of cost, time and expense to further investigate and establish a viable fishery, a factor which would be largely mitigated by the ongoing investment by NZLLQC.

Processing and marketing of that stock or species (Section 60(3)(b)(iii))

- 3.10 It takes a number of years to build up a viable market and the ability to do so, once a viable fishery is established, will inevitably require strong support and investment from Sealords and Talley's (i.e. the NZLLQC shareholders following the sale of the quota), being the two participants with the facilities, capital, knowledge and experience to undertake that from a New Zealand base. Their ownership of the quota will encourage

that support and investment and thus, in the longer term, the ability to develop and then provide high quality product to overseas markets. Both Talley's and Sealord have strong, well established, international sales and marketing networks.

The ability of the applicant to take any other stock or species (Section 60(B)(iv))

- 3.11 This factor is not considered relevant; the issues instead being related to encouraging continuing investment in the development of a viable fishery for the stocks in issue and in the longer term encouraging investment in the development of value added production and high end markets for the resulting product.

The efficiency of the industry or any person engaged in the industry (Section 60(B)(v))

- 3.12 The granting of the consent will not impact on the efficiency of the industry or industry participants in general, although further investment (which is much more likely to be made if the consent is granted) may lead to improved efficiency in the harvesting of the relevant Crab stocks. In the longer term however, ownership by NZLLQC, who will be using smaller fishers to catch the product, is likely to see ACE utilised by a larger spread of fishers and so assist the viability of smaller fishers' operations.

Other matters the minister may consider relevant (Section 60(3)(c))

- 3.13 We submit that it is significant that a consent with exactly the same scope as that being sought in this letter has already been granted to NZLL (i.e. the NZLL Consent referred to above). NZLLQC will have the same shareholders as NZLL, the same directors and the same rationale for granting the NZLL Consent apply to this new application.

4.0 Summary

- 4.1 The consent is sought to:

- (a) Maintain both NZLLQC's position and the position of the other participants in developing the Crab fishery;
- (b) Replicate the existing consent held by NZLL;
- (c) Permit NZLLQC to hold crab quota in excess of aggregation limits; and
- (d) Avoid creating barriers to further investment in the development of the crab fishery.

- 4.2 The consent sought is on the same terms as the consent held by NZLL.

- 4.3 Given that we wish for the sale of the quota to be completed in July 2013, we would greatly appreciate it if this application could be processed with a high level of urgency.

- 4.4 If you have any questions or if further information is required, please do not hesitate to contact me or Sealord's General Counsel, Tim Silverstone (tjs@sealord.co.nz, 09 589 5342 or 021 994329).

Yours faithfully

NZLL QUOTA CO LIMITED



Graham Stuart
Director



Office of Hon Phil Heatley

MP for Whangarei

Minister of Fisheries and Aquaculture

Minister of Housing

- 4 OCT 2011

PH1347 / B11-283

11 OCT 2011

K J Potter
Quota Manager
New Zealand Longline Ltd
PO Box 7064
Nelson

Dear Kerry

Thank you for your application of 2 May 2011 requesting consent for New Zealand Longline Ltd (NZLL) to hold quota for red crab and king crab in excess of the aggregation limit specified in section 59 of the Fisheries Act 1996 (the Act).

Under section 60(2) of the Act I have approved NZLL's request to hold red crab and king crab in excess of the aggregation limit. The aggregation limit for both species specified in the Act is 45% of quota. My approval will allow NZLL to hold up to 45.63% of quota for red crab, and 54.26% of quota for king crab.

I considered the potential impacts on other deepwater crab quota owners or commercial fishers, and do not believe there will be any significant negative impacts of my consent.

I also acknowledge the likely benefits to the development of the deepwater crab fishery from NZLL holding quota in excess of the aggregation limits as this will provide added incentive for development of a commercially viable deepwater crab fishery.

If you wish to discuss this matter further, please contact Aoife Martin, Fisheries Manager Deepwater, on 04 819 4675 or email aoife.martin@fish.govt.nz.

Kind regards

Hon Phil Heatley
Minister of Fisheries and Aquaculture

