

31 July 2008

Tena koe

URGENT AMENDMENT OF THE FISHERIES ACT 1996: TAC SETTING

This letter is to inform you of a process being undertaken to amend the Fisheries Act 1996 (the Act) before the end of the current Parliamentary term. A bill amending the Fisheries Act 1996 was introduced to Parliament on 21 July 2008, and referred to the Primary Production Select Committee on 29 July. The bill is due to be reported back to the House by 25 August. This means there is a very short period for consideration of submissions. The Committee will be advertising for submissions in newspapers this Saturday 2 August 2008, and the request for submissions will also be on the Parliamentary website.

The following sections provide you with information on the problem being addressed in the Bill and the objectives and intent of the amendment. A copy of the Bill is attached to this letter.

The Problem

The effect of the judgment of Justice Miller of 22 February 2008 in *Anton's Trawling Company Limited v The Minister of Fisheries* (CIV 2007-485-2199) is that a key provision of the Fisheries Act – Section 13: Total Allowable Catch (TAC) – is not available for use in management decisions for many fish stocks. The TAC set under section 13 is the main instrument used to constrain fishing on each fish stock to levels that can be sustained over time.

The Court found that before a TAC decision can be made under section 13(2), the Minister must be provided with an estimate of both current biomass and the biomass that can produce the maximum sustainable yield (MSY). For a majority of New Zealand's 629 quota management stocks, this specific information is not available.

Since the Act came into effect, various management strategies – all aimed at supporting the goal of maximum sustainable yield – have been pursued using alternative indicators of the relative state of the stocks, in addition to modelled estimates of biomass levels where available. Some of the alternative indicators have links to the MSY reference points of the Act but others do not.

This approach to management with limited information is the norm internationally, being commonly used in jurisdictions with similar regimes such as Australia, the US and Canada.

In order to continue lawful management with these strategies for stocks with limited information, the Act needs to be amended.