

17/6/03

## **option4 Submission to Kingfish IPP 2003**

### **1.0 Introduction**

Kingfish is an extremely important recreational species.

Of all the allocation type decision making processes that option4 have been involved in, this is by far the most important to the public.

### **2.0 Overview**

The conclusion of the IPP is that there are two options for allocating between commercial and public. The first is a Proportional System and the second is a Utility Based Allocation. Both allocation methods rely on the same allocation model which is to base the proportional shares on the catch histories of the respective sectors.

option4 believes that the catch history allocation model used by the Ministry as a foundation for the recommendations in the IPP is seriously flawed.

The IPP also considers size limits and option4 believes there good biological reasons for both sectors to operate at a 75 cm size limit and reject the Ministries assumption that the wastage in the commercial sector at higher size limits is unacceptably high.

### **3.0 Submission**

#### **3.1 MFish Proposed Allocation Models**

The allocation model being proposed for setting the (permanent) proportional shares purports to be based on catch history of the sectors. option4 believes the “histories” and the way they have been interpreted fail the tests of :”true and fair”.

Some commercial fishers will be issued quota based on catch histories arrived at through illegally targeting kingfish in contravention to their fishing permits. Furthermore the histories include the undersized portion of commercial landings over the last 10 years – catch history that is surely redundant given the introduction of size limits for trawlers in 2000 (65cm).

Past recreational conservation efforts are not taken into account in the MFish IPP. Voluntary conservation initiatives by the public include bag limit reductions, size limit increases, a successful tag and release programme and numerous well documented efforts by clubs and charter boats to adopt a 100 cm minimum size and a limit of 1 fish per person.

The truth is that every decision that could have gone the fishing industries way, HAS, and this has had the effect of arguing up the commercial catch history to the maximum it could possibly be. Not one fish has been left out.

With recreational fishers, the opposite has occurred. Whenever a catch history decision has been made, that part of the public catch history has either been ignored, as with children, tourists and conservation efforts, or the lowest number possible has been taken into account (as with the research documents the Ministry has selected to formulate the public's catch history) This has the effect of arguing the public catch history down to the minimum possible level and results in recommendations certain to under allocate the public share. This is the reason for the absurd result that could see the public returning 45% of their catch whilst the fishing industry get additional quota.

### **3.1.1 Proportional System for Allocation**

It would indeed be a cruel blow to all those recreational fishers who have worked so hard to conserve kingfish over the last 10 years if the MFish catch history allocation model is used.

Effectively and despite years of grave concerns being voiced by recreational fishers over the decline of the kingfish fishery commercial quotas will increase whilst at the same time we, the public, will have to accept a size limit increase (from 65 cm to 75 cm) which will result in us returning to the sea about 45% of the kingfish that we currently catch.

### **3.1.2 Utility Based System for Allocation**

A second Ministry proposal introduces the brand new concept of "Utility Based Allocation" (slicing the cake).

MFish writes - *"the term Utility Based Allocation describes a situation where allocations are based on the utility (or quantum of well-being) that would flow from a particular allocation. This method tends to favour allocations to those who value the resource most (downplaying the importance of past associations with the resource). As such it tends to have a focus on the future rather than the past. Within New Zealand fisheries management, the most obvious example of the utility based allocation approach is the on-going trading of Individual Transferable Quota that occurs under the QMS"*.

While it is good to see MFish acknowledge the need for an allocation method that can reallocate from commercial to recreational /sustenance fishers, it has used the same seriously flawed catch history model used in its first allocation recommendation. Effectively, what MFish has done is to under represent our catch history while arguing up the commercial catch history in their catch history allocation model and then suggest it will be possible to give us a small portion of our fish back through their utility-based allocation model.

### **3.1.3 Beware the double-edged sword!**

If we allow MFish to succeed with its smoke and mirrors catch history allocation model this will mean that "Utility" is the only argument left for the public to achieve sufficient kingfish to cover their needs.

However, when we inevitably come to allocate fisheries with high value to the fishing industry (like crayfish, hapuku, snapper, broadbill and paua) the sword could be turned upon us and used to slash our catches of these species as they are progressively

taken from us and given to the commercial sector. Because of the high potential for Ministry to argue that the “Utility Allocation Model” for commercial catch warrants a reallocation from the public to the commercial sector Utility should only be used as a model of last resort. In this instance option4 does not believe that the Utility model is necessary. Simply a “true and fair” allocation procedure.

#### **3.1.4 Truth is Stranger than Fiction - the pointlessness of conservation and the absurdity of allocating on catch history alone.**

If recreational/sustenance fishers had taken no steps to conserve kingfish, had insisted that catch history is everything and caught and landed everything they could, not only would there be few if any kingfish left, they would be in the box seats for getting allocated all the kingfish quota. Sounds a really stupid model, doesn't it? Yet this is the model on which MFish is issuing the fishing industry their quota on!

Under the current Fisheries Act, in a developing fishery, catch history is a basis for allocating quota. The Act says nothing about issuing commercial fishers quota for developing a commercial fishery in a stable, already fully utilised recreational/sustenance fishery with genuine commercial by-catch as was the case with kingfish.

The reason commercial fishers plundered the stable kingfish fishery with such vigour from the mid 1980's to the present time is the perverse incentives created by the introduction of the QMS in 1986. Many fishers became rich overnight as valuable quotas were issued in perpetuity; those who got little or no quota were marginalised. All instantly realized the value of securing big catch histories in species like kingfish that were unconstrained, and outside the quota system.

Fishers with uneconomically small quota holdings could target kingfish (and other non-QMS species) to become more economically viable and build a catch history, other commercial fishers also realised the race for catch history was on, and both groups wanted to be in the front row for allocation when kingfish and other non-QMS species were introduced into the QMS.

Regulations introduced in 1991 prohibiting the targeting of non-QMS species unless the species is authorised on a fisher's permit were also ineffectual. We have seen with kingfish that the Ministries ability to restrict catch or enforce non-target status for species is nonexistent.

Inexplicably, the Ministry's proposal does not mention the adverse impacts the increased commercial catches had on the public's ability to catch a legal sized kingfish as the biomass of kingfish plummeted. Neither does it make a statement outlining how recreational fishers were progressively disenfranchised and their catch history suppressed by the time a decent recreational survey was finally conducted in 2000.

#### **3.1.5 Comparing Apples with Apples – A “Reality Based Allocation Model”**

option4 suggests the following “Reality Based Kingfish Model” as MFish appears to have forgotten how the kingfish fishery was destroyed and also forgets to mention it's role in failing to constrain commercial catches to a by-catch level. They also seem to think it's all right to give fish conserved by the public to commercial fishers while

slashing both the public share in perpetuity and our annual catches from this October. Apparently they haven't allowed for kingfish taken by children, tourists and others either.

## **3.2 Catch History**

### **3.2.1 Targeted Commercial Kingfish Catch**

Before issuing any commercial quota based on catch history the illegitimate or redundant commercial catch histories must be deducted.

All catch history that was gained by illegitimate targeting kingfish and trampling on the rights of existing users must be removed from the Ministry's allocation model. It is the only proper and just thing to do! Why should the public lose access to their historical catch because MFish has failed to manage commercial catches?

We have had a decade of massive targeting of kingfish, set nets on reefs, kingfish catch taken by pilchard fishers in 50mm mesh nets. As recently as 2001, a new kingfish fishery has been developed with the mid water trawl method landing 25 tonnes on average per annum, where previously there was less than a tonne per annum landed

### **3.2.2 Undersized Commercial Kingfish Catch – Redundant Catch History**

MFish must also be directed to remove all undersized catch from the commercial catch history and not allocate quota for it. This catch history is now redundant since size limits have been imposed in the commercial fishery.

Under both of the Ministry's allocation models the catch history for recreational/sustenance undersized catch has correctly been removed. Newly undersized catch between 65cm and 75cm has also been removed from the recreational/sustenance allocation at the Ministry's proposed new recreational size limit of 75cm.

### **3.2.3 Recreational Catch History**

MFish proposes only one Allocation Model for determining recreational /sustenance fishers catch history on which to base the public's future share of the kingfish fishery. They have simply taken the average of the last two recreational surveys.

The first survey is the 1996 survey, which gave a predicted national recreational/sustenance catch of 440tonnes, the more recent survey conducted in 1999-2000 assessed the national recreational kingfish catch at 1014tonnes. The most plausible reason for the discrepancy is best explained as the 1996 survey massively underestimating the number of recreational fishers. option4 believes this explanation fits best as an earlier survey, conducted in 1993-94 , also gave a higher recreational/sustenance catch than the 1996 survey. The 1993-94 recreational survey still used the same flawed survey questions as the 1996 survey. There may simply have been more people willing to participate in telephone surveys in 1993. The argument against using the 1996 survey results as a basis for allocation is reinforced by Professor Kearney from Australia who reported that harvest estimates in the 1999-2000 survey had been self adjusting for the number of non-fishers included in the survey.

A cynic would think that by using the flawed 1996 survey and comparing it with the 1999-2000 survey MFish could make it look like recreational catches of kingfish were rapidly increasing. The outcome of this flawed model is that it may erode most of the public's historic catch from their rightful catch history and will result in giving public a much lesser share of the kingfish fishery while giving more kingfish quota to the fishing industry.

It is certainly possible that the public caught 1000 tonnes of kingfish in 1999-2000. They may have caught even more in previous years when the fishery was in better shape.

There is plenty of anecdotal evidence from recreational fishers that the kingfish fishery is in decline and some of the comments regarding commercial catches in MFish proposal give little comfort.

*“The introduction of a MLS in 1993 was expected to result in a short-term reduction in landings, but landings were expected to improve as fish grew through to the MLS. Declining commercial landings over time may well be greater than can be explained by the introduction of a MLS in 1993 and the removal of the trawl exemption in 2000. This is particularly the case in KIN 1, the area of most concern to recreational fishers, although it should be noted that the number of vessels reporting landings of kingfish (a measure of fishing effort) has also declined over time. Although inconclusive, recent trends in commercial landings from some QMAs suggest the need for caution in setting catch limits and allowances for the future. The uncertainty of the status of the stocks provides further support for an approach that lowers the risk of not achieving the management objective.”*

If commercial catches have been inexplicably falling over recent years it is very likely that recreational catches have also been falling. So why do MFish want to allow peak commercial catches, which may not have been sustainable, from years ago to prop up commercial catch histories while locking the public into the average of one seriously flawed and one very recent catch assessment when the fishery is at its most depleted.

Could it be that doing it the MFish way means 737 tonnes national recreational catch history versus in excess of 1500 tonnes catch history if they use the latest results and allow the same decline as has been observed in the commercial catch over the years to be used in the recreational model?

The commercial catch history of 308 tonnes includes targeted kingfish in contravention to their fishing permits and the undersized portion of commercial catches landed over the last 10 years that, option4 is adamant, must be deducted from the commercial catch history.

Therefore the only reasonable (or acceptable) alternative for MFish to use is to take latest recreational catch figures (1014 tonnes) then it must be compared with the latest commercial catch figures (271 average for 2001/2002) This makes the most sense of any of the proposal because the “most recent” commercial catch history does not include previously redundant undersize catch or as much illegal targeting. **This would then be comparing apples with apples** – resulting in the same respective proportions

as the Utility allocation model would give. It would be a more honest way of allocating the respective shares of the fishery and would be supported by option4.

### **3.2.4 MFish Has Excluded Legitimate Catch History**

A major outstanding issue with all the allocation models, including this one is that they all fail to recognise legitimate kingfish catch history caught by people excluded from the recreational surveys.

Mainly these are children under the age of 15 and overseas visitors, be that on charter boats or with their Kiwi mates on recreational boats or off the shore. They also may include new New Zealanders from the Islands or Asia with language barriers. We believe that it would be prudent to make a nominal allowance for this, as yet, undetermined, but very real and widely recognised catch history of 100-200 tonnes. As future harvest estimates determine what this catch actually is, then this number should be adjusted up or down accordingly. As it is a historical catch it makes no difference to the pressure on the stock. As the Minister is bound under the 1996 Fisheries Act to allow for all mortalities, then he must allow for these catches in the allocation model, unless of course, there are plans to ban children, tourists and non-English speaking people from catching kingfish.

### **3.2.5 Was it worth Conserving Kingfish?**

It is absurd that the following recreational conservation efforts are not taken into account in determining recreational catch history by the MFish proposal- voluntary recreational bag limit reductions, previous size limit increases, a successful tag and release programme, the fact that many clubs and individuals are operating at a one metre size limit and many charter boats have a one fish limit and, as a sector are releasing around 60% of their catch alive.

MFish admits in its paper - *“Obtaining estimates of the total recreational catch of kingfish is difficult. Recreational fishing surveys are designed to estimate the fish caught and killed, not those that are taken and subsequently released. In the kingfish fishery, where the recreational sector practices “catch and release”, the survey estimates are likely to be an underestimate of the actual level of catch (and hence measure of fish available to the sector and the potential mortality associated with fishing). Survey participants may have reported some released kingfish, however, MFish considers that it is unlikely that survey estimates include all fish caught and landed or released by the recreational sector.”*

*“Charter boat operations are an increasingly important part of the recreational fishing sector. Charter boats accounted for 15% of recreational kingfish landings estimated from the 1996 diary survey, and a survey suggests that these landings represent 39% of the charter boat catch as the majority of kingfish are released alive. In addition, the charter boat estimate does not include landings by visiting anglers from overseas (who made up 7% of charter fishers in 1997-98).”*

What this means is that recreational fishers are being penalised and disenfranchised in the allocation process because they conserved fish in the past out of concern for the fishery.

If left unaccounted for, what sort of message are MFish trying to send to conservation minded recreational fishers. In option4's opinion, it is a message that MFish need to

desist from sending if they want the recreational sector to continue to conserve. If MFish want to send the right message to conservation minded recreation fishers they will include an allowance in the recreational allocation for past conservation efforts. The Minister is able to consider past fishing practises in his allocation decisions under the Fisheries Act.

### **3.3 Size Limits.**

The Ministry IPP states – “A recent review of reproductive information for kingfish has lead to a revision of estimates of the length at which kingfish attain (on average) sexual maturity. Current information now suggests that the fork length at which 50% of the kingfish have reached sexual maturity is 70 cm for males and 97 cm for females. The current MLS for kingfish of both sexes is 65 cm.”

Considering the above information it seems entirely appropriate for both commercial and recreational size limits to be increased nationally to at least 75 cm to give more of the fish a chance to breed.

MFish is considering three options

- 1.No commercial size limit,
2. Retain the current 65cm size limit or
3. Increase the commercial size limit to 75cm.

If there were no commercial size limit and all commercial kingfish were landed the quota would be vastly exceeded by the catch. The most effective constraint on commercial fishing for kingfish was the introduction of the 65 cm size limit. What this tells us is that size limits form an extremely important, if not essential, control on commercial fishers. That being the case we then have to assess whether that size limit is appropriate and, as it allows the harvesting of juveniles that will never have a chance to breed, a 65 cm commercial size limit cannot be considered the optimum level.

The Ministry of Fisheries is keen to see the size limit for recreational set at 75 cm and their rational for this follows-

*“In order to constrain recreational removals within the reduced allowances proposed above, **and provide biological benefits to the stocks** it is proposed that the recreational MLS is increased from 65 cm to 75 cm.”*

*“A further rational for an MLS is to **optimise yield per recruit**. In general, there is more benefit to the fishery by delaying recruitment to the fishery until the fish have passed through the most rapid phase of their growth”*

If the above applies to recreational fishers, surely it applies equally to commercial fishers.

MFish suggests a commercial size limit of 65cm be left in place for commercial fishers by only using a 65 cm size limit in its allocation calculations, while the recreational/sustenance size limit is increased to 75cm. Apparently, among other things, the social and economic hardship caused to commercial fishers would be too great having to put SOME of their fish back into the sea.

How can MFish sustain such an argument when nearly half of recreational fishers will have to put ALL their kingfish back? This is based on the fact that most recreational fishers who catch kingfish, catch only one, and around 40% of the kingfish recreational/sustenance fishers catch will have to be put back.

Another reason MFish uses to keep the commercial sector harvesting juvenile kingfish is the high mortality associated with releasing trawl caught kingfish, the following is a quote from their paper.

*“Akroyd Walshe assessed the proportion of trawl caught kingfish in KIN 1 that were dead when brought on board. Observers were placed on 21 fishing trips, enabling the sampling of 489 trawl shots throughout the fishing year, although most of the records relate to trips between October 1998 to March 1999. The results show that 41% of kingfish less than 65 cm were dead when brought on board. In addition, 72% of the kingfish caught by trawlers were less than 65cm in length.*

*“The Snapper 8 Company Ltd assessed the proportion of trawl caught kingfish in KIN 8 that were dead after fishing for west coast trevally. Observations were made on 8 fishing trips, enabling the sampling of 129 trawl shots during February 2001 to April 2001. The results showed that 65% of kingfish under the size of 65cm were assessed as dead at the end of the sorting process. In this case 28% of the kingfish caught by trawlers were less than 65cm in length.*

*The Snapper 8 Company Ltd research indicates there is a substantial level of incidental mortality for kingfish associated with trawling. However, a component of this mortality is associated with handling practices on board vessels once live kingfish are taken. The Snapper 8 Company Ltd report noted that the catch is sorted and binned, and any discarding of kingfish is made at the end of this sorting process”.*

One thing is certain; if the commercial size limit is left at 65 cm every fish over 65 cm will be killed, whereas if the fish are immediately returned to the sea, as a “best practice”, “high priority” handling method, 59% of the undersized catch will be returned alive. The acknowledgement that, over the years, tens of thousands of undersize kingfish have been left to suffocate on the decks of trawlers is truly disturbing. The Fisheries Act allows only one defense for possessing undersized fish and that is that that fish is returned as soon as practicable to the water. It is unthinkable to imagine recreational fishers leaving undersized fish on the deck whilst helping other people deal with their fish. Why should we accept this kind of behavior from the fishing industry and why does the Ministry allow this irresponsible behavior to continue. They would certainly pounce on a member of the public observed practicing this sort of behavior.

Obviously the size limit does need to go up and it needs to be reinforced with a code of practice to ensure that all fish that do have a chance to survive get that chance. These codes of practice need to be developed and embraced by all sectors.

**option4 cannot envision any sound or compelling reason for having a differential size limit between the commercial and the public in this fishery.**

### **3.5 Groundhog Day**

Last year option4 submitted on the Snapper 2 allocation IPP. The primary thrust of our submission on SNA 2 was that the Ministry was grossly under estimating the recreational catch history. Ultimately, option4's fears were realised when the Minister increased the commercial SNA 2 quota by 43% and allocated the public only one third of the snapper that they have historically caught. option4 believes the SNA 2 decision was based on flawed Ministry advice and they suspect that that advice was not balanced against the option4 submission.

## **Recommendations**

Minister, we realise that a lot of the information contained within this submission is contradictory to the advice you have received from your Ministry. We would welcome the opportunity to debate these points of difference with the authors of the IPP, in your presence. You will note that under all of the options proposed in this submission the Utility based allocation model is not required.

### **Allocation decision.**

option4 asks that you consider more equitable allocation mechanisms than those provided by your Ministry. We have recommended National Limits which should be allocated in the appropriate quantities in the respective QMAs

We propose two methods of allocation between sectors based on Catch History

#### **1. Catch history based on the last ten years.**

##### **Commercial**

If the last ten years catch history are to be used as the basis for allocating the respective shares in the kingfish fishery then we ask that you remove the redundant undersized portion of the commercial catch history for the last ten years.

We also ask that you deduct from the remaining catch history an additional percentage to ensure that fishers who have chosen to disregard the ban on targeting species that have not been introduced to the QMS are not rewarded with quota in perpetuity based on illegal activities. We appreciate that this may impact adversely on well behaved fishers. However, the collective that is the QMS does not recognise the difference between good and bad practise or behaviours of individuals and it is totally unacceptable for quota to be allocated (in perpetuity) to reward illegal activity.

We would suggest 30% of the remainder of the legal sized commercial catch history be deducted.

##### **Recreational**

We ask that you direct your ministry give more weight to the 1999-2000 survey and work backwards year by year while applying increases to the recreational catch history to allow for the reduction in recreational CPUE that would have inevitably occurred as this fishery was fished down by both sectors and legal sized fish became less abundant. We note that the commercial catch has dropped. We ask that the same % decline be applied to recreational catches so that they track the fall of the biomass, thus comparing apples with apples.

We also ask that you direct your ministry to increase the recreational allowance to reflect past conservation efforts in the kingfish fishery – 200 tonnes.

We ask that you direct your Ministry to properly allow for a nominal 100-200 tonnes of catch history for kingfish caught by children, overseas visitors and non-english speaking people. All of who's catch histories are excluded from the Ministries catch history calculations

If the catch histories are determined as above, then any proportional reduction applied will genuinely share the PAIN between the sectors. We support a reduction of at least 20% to both sectors.

## **2. Catch history based on the last three years.**

### **Commercial**

This is much simpler and just as equitable. We are aware that as Minister you can set the allocations based on recent catch histories. We suggest the average commercial catch of 271 tonne, whether taken over the last two or three years.

### **Recreational**

The most recent estimate of recreational catch is 1014 tonnes and this should form part of the allocation.

In addition to this we ask that you add a nominal 100-200 tonne allowance for the children under 15, overseas visitor fishers, non English persons and others that may have been excluded from the recreational catch history model over and above the 1014 tonnes based on reported catch history.

We fully support that these would be the initial shares for each sector to which a 20% or more reduction should be applied.

### **Size Limits**

We ask that you set the size limit at 75cm for both commercial and recreational to allow the fish to breed and to gain the biological benefits to the stock that flow from the higher size limit with a condition that sectors that do not develop and implement codes of practise that reduce or mitigate undersize mortality, will expose themselves to the likelihood of further cuts to their quotas or allocations. The overall mortality from a national 75 cm size limit applied to all sectors and methods is liable to be a minor consideration when compared to the benefits that can be derived from it.

option4 has no objection to giving commercial fishers the right to release legal sized kingfish if they are alive and likely to survive if the Ministry can implement a monitoring strategy to ensure that it is not abused.

An allocation based on fair and reasonable catch history analysis will return recreational access to this important fishery and encourage further conservation in this fishery that could lead to very significant improvement in the quality of kingfish available to the public.

We thank you for this opportunity to submit to this IPP.

Yours faithfully

Paul Barnes  
On behalf of option4 .