

Summary of Agreement

The following summarises the Hoki Fisheries East/West Catch Limit Agreement (Agreement) agreed by hoki (HOK) quota and ACE owners and implemented and administered by Deepwater Group Ltd (DWG) for the coming year 2013-14 fishing year.

Enclosed with this explanatory memorandum is this year's Catch Limit Agreement ready for signing.

It is intended that this Agreement will apply for the fishing year commencing on 1 October 2013.

This explanatory memorandum is being sent to:

- All HOK1 quota owners;
- All permit holders who are not HOK1 quota owners but who used HOK1 ACE to balance catch during the last fishing year.

Purpose & Context of this Agreement

The purpose of this Agreement is to record agreement by HOK1 ACE owners that they will manage their catches of HOK1 from each of the Eastern and Western stocks, in accordance with the agreed catch limits and areas.

The HOK1 fishery is not formally subdivided into separate QMAs at this time.

This Agreement is a contractual agreement between the participants in the HOK1 fisheries. It is an addition to and not in substitution of any of the separate statutory obligations of permit holders and the owners of HOK1 quota and ACE. All legal obligations that presently exist relating to the trading and reporting of HOK1 quota, ACE and catch remain unaffected by anything in this Agreement.

Purpose of separate catch limits for Eastern and Western hoki stocks

The best available science accepts there are two separate stocks of hoki within HOK1 for management purposes. For a number of years the Minister and the Ministry have asked HOK1 quota owners to implement a robust management structure that enables separate catch limits to be set and the management of catches from each of the Eastern and Western stocks to be within these limits.

Separate catch limits are desirable from a sustainability perspective. These support the on-going certification of the hoki fisheries and serve to replace the need to formally subdivide the HOK1 Quota Management Area (QMA) and set two TACCs.

Why not formally subdivide the HOK1 fish stock?

The Fisheries Act 1996 does allow a Quota Management Area to be subdivided, either with the agreement of quota owners, or alternatively by the Minister if there are sustainability reasons for doing so.

In the longer term HOK1 quota owners may see this as a desired option but, at this stage, quota owners have elected to retain flexibility without formally subdividing the HOK1 QMA into two QMAs.

In a practical sense, this Agreement seeks to achieve the same outcome by using an agreed contractual framework.

What are the boundaries of the Eastern/Western fisheries?

A map showing the boundaries and the relevant co-ordinates for the two designated areas for each of the hoki stocks is shown in Schedule 1 of the Agreement.

Agreement acknowledges TACC increased and agreed sub-limits

The Agreement for 2013-14 is based on the HOK1 TACC of 150,000 tonnes for 2013 -14 and sub-area catch limits of 60,000 tonnes for the Eastern stock (known as HOK1E) and 90,000 tonnes for the Western stock (known as HOK1W).

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How long will the Agreement last?

The Agreement is for the 2013-14 fishing year (i.e. 1 October 2013 to 30 September 2014).

Who will need to be a party to the Agreement?

As this is a contractual agreement, each participant has the choice as to whether or not they sign it.

However, the Agreement is considered to be an essential part of the hoki management by the Ministry and the Minister and has been endorsed by all of the larger quota owners and by the Directors of DWG.

The intention is that you will agree to be a party to the Agreement if:

- You are the owner of HOK1 quota that will generate 275 tonnes or more of HOK1 ACE on the first day of the new fishing year; or
- If you purchase ACE at any time during the fishing year from anyone who is already a party to the Agreement.

Anyone who is a party to the Agreement is not permitted under the Agreement to sell ACE to any other party without first ensuring that the buyer has become a party to the Agreement. This is to ensure that when ACE is sold by a participant, the participant is always selling either HOK1E or HOK1W, and that the purchaser of that ACE purchases and uses the ACE to balance catch on that basis.

From a practical perspective, this means that HOK1 quota owners who will be allocated less than 275 tonnes of ACE on the first day of the fishing year, and permit holders who do not own any HOK1 quota, but who purchase small amounts of ACE to balance their catch from quota owners who own less than 275 tonnes of HOK1, will not be obliged to manage their catches in accordance with the agreed East/West catch limits.

Structuring the Agreement in this way will ensure that approximately 97% of the available HOK1 ACE will be covered by the Agreement, based on the ACE trading in previous years.

However, any permit holder who receives this Agreement is encouraged to sign the Agreement before the commencement of the fishing year, even if they are not going to be immediately affected by it. If you anticipate purchasing ACE from someone who will be a participant during the year, then it will speed up the ACE transfer process if you are already a participant.

Who will administer the separate catch limits?

FishServe has been contracted by DWG to administer and monitor catches against the catch limits, just as it does for the official statutory trading and balancing regime.

What will it cost?

HOK1 quota owners will meet the costs incurred by FishServe in administering these catch limits. As such, there will be no additional transaction charges for ACE owners associated with this trading and reporting regime.

Separate register

In addition to the official statutory ACE register for HOK1, FishServe will create and administer a non-statutory register for catches from HOK1E and HOK1W stocks. This will enable them to administer ACE trading, catch reporting and balancing for these stocks.

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ACE generation on the first day of the fishing year

On 1 October 2013, when FishServe's systems generate the HOK1 ACE holdings, FishServe will simultaneously subdivide the ACE holdings of all persons who have signed the Catch Limit Agreement. The figures below reflect the option that the TACC will increase this year. It will notify those quota owners of their:

- Total HOK1 ACE holdings;
- HOK1E ACE holdings (40% of their total holdings);
- HOK1W ACE holdings (60% of their total holdings).

Quota owners with less than 275 tonnes of ACE, and those who have elected not to sign the Agreement, will be notified only of their HOK1 holdings. These holdings will not be subdivided.

Trading ACE

Whenever anyone who is a party to the Agreement is selling HOK1 ACE, they will need to notify FishServe whether they are transferring HOK1E, or HOK1W, or both. This notification can be by email and essentially simultaneous with the ACE trade. It is necessary to do this in a separate email to FishServe as these details cannot be put on the statutory trading documents.

FishServe will immediately follow up anyone who forgets to notify FishServe of whether the ACE traded is HOK1E or HOK1W.

If the person buying the ACE is not a party to the Agreement, but is purchasing from someone who is a party to the Agreement, then the seller will need to ensure that the purchaser has become a party before they transfer the ACE to them.

If a person who is a party to the Agreement purchases HOK1 ACE from a smaller entity that is not a party to the Agreement, then when that ACE is brought into the holdings of the person who is a party, it will be split by FishServe in the same 40:60 proportions that occurred when ACE was generated at the beginning of the fishing year.

How will catch reporting occur?

Your statutory catch reporting obligations are not affected by this proposal (i.e. TCEPRs, TCERs, CELRs, CLRs, MHRs, etc.). The contents of these documents are prescribed by regulation and cannot and are not modified by way of this Agreement.

The only additional reporting required by participants under this Agreement is at the point when you lodge your MHR with FishServe. At the time you submit your MHR you will need to notify FishServe of the proportions of your catch from each of HOK1E and HOK1W. This additional reporting will again occur electronically by email.

Emails should be sent to: registry@fishserve.co.nz

The subject heading should be "Hoki Catch Limits".

FishServe will again follow up anyone who forgets to notify their catch split at the time they lodge their MHR.

Will there be separate deemed values for HOK1E and HOK1W?

There will not be a separate deemed value regime for HOK1E and HOK1W. Deemed values will only be levied on the current basis, where a permit holder exceeds their total HOK1 holdings.

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Will carry forward rights apply to HOK1E and HOK1W?

Exactly the same carry forward rights that apply in HOK1 also will apply in respect of HOK1E and HOK1W. That means that both HOK1E and HOK1W are treated as separate fish stocks and the total available under carry forward rights may not equal the HOK1 calculation for under-fishing.

An example of calculation of under-fishing rights for HOK1E and HOK1W:

HOK1			HOK1E			HOK1W		
ACE	Catch	U/fishing	ACE	Catch	U/fishing	ACE	Catch	U/fishing
1,000	565	100	400	20	40	600	545	55

Notification of catch balances

When FishServe notifies participants of their HOK1 catch balances, it will simultaneously notify their HOK1E and HOK1W balances.

Catch balances will be disclosed to DWG and other participants

It is critical to the success of these industry agreed catch limits that there is a transparent and robust regime for publishing and verifying catch balances. This needs to occur at an individual level as well as across the fishery as a whole; such that the Industry, Ministry and Minister can see that the catch limits are not being exceeded.

To enable this to occur the HOK1E and HOK1W catch balances will be notified to DWG, and then to all participants as soon as practicable after the end of the first and second quarters (31 December 2013 and 31 March 2014) and thereafter, as soon as practicable after the end of each month, commencing at the end of May 2014.

This differs from the statutory regime, which has catch balances reported on a quarterly basis for the first three quarters and monthly thereafter. Given the timing of the commencement of the main hoki season, it is considered desirable to have this information available on a monthly basis from the end of May onwards.

How will the catch balance be verified?

The Agreement authorises the Ministry to release catch and landing data to FishServe, and then summaries of ACE and catch balances to DWG and subsequently to the Minister. Reports from the Ministry's catch effort database enable DWG and the Minister (through FishServe) to verify that the catch reporting provided by each permit holder accurately reflects where their hoki were actually caught. These verification reports will become available a few weeks after the catch balance reports are notified.

The Agreement provides for a short (i.e. five working days) period in which FishServe can try and resolve any discrepancies before any reporting to DWG occurs.

What enforcement mechanisms are contained in the Agreement?

There are no enforcement mechanisms in this Agreement. This is deliberate.

At this stage, it is planned that compliance can be ensured through the fact that there will be a transparent and robust process for the reporting of any lack of balancing by participants. As such, if any participant fails to adhere to the separate catch limits, it will be known to all other participants.

If the management goals cannot be achieved by Quota Owners through contractual agreements, the Minister has previously advised that he will look at alternative options, which will likely involve some form of regulation. It is hoped the Industry participants can achieve these outcomes without the need for either regulations or the formal subdivision of the HOK1 QMA.

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When do I need to sign the Agreement?

As soon as possible please.

Can you please read the attached Agreement and, if you are in agreement with its terms, please sign the execution form (Schedule 2 of the Agreement) and return to Richard Wells at DWG as soon as possible by post to

Private Bag 24901, Wellington 6142 or email a scanned .pdf document to:
admin@deepwatergroup.org

As previously noted:

- Anyone who is a HOK1 quota owner whose quota will generate 275 tonnes or more of HOK1 ACE on 1 October 2013, is requested to sign the Agreement;
- Any smaller quota owners or permit holders who do not own quota, but who expect to purchase ACE from someone who is likely to be a participant, should also sign the Agreement please.

Further questions?

If you have any further questions you would like answered before signing the Agreement, please contact Richard Wells by phone on (021) 457 123 or by email

richard@resourcewise.co.nz
