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27 July 2018

**Submission:** We support FNZ's Option 2 for ELE 3 with conditions.

### **Recommendations**

1. The Minister applies FNZ's Option 2 for ELE 3 with the following conditions –
  - a. No further Total Allowable Commercial Catch (TACC) increases are granted until systems are in place to increase compliance.
  - b. No further TACC increases are granted until research is carried out to better understand the extent and effects of dumping and misreporting in this fishery.
  - c. The allowance set aside to allow for recreational interests is reviewed when the results from the current National Panel Survey are available.
2. Fisheries New Zealand must develop a coherent policy on setting allowances for other fishing related mortality.

### **The submitters**

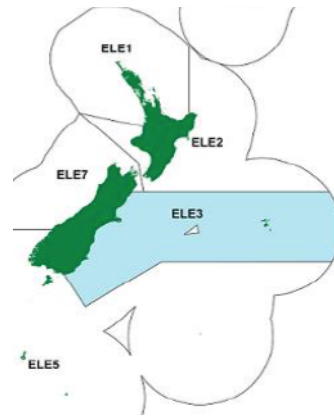
3. The New Zealand Sport Fishing Council (NZSFC) appreciates the opportunity to submit on the proposals for the future management of Elephant 3 (ELE 3). Fisheries New Zealand (FNZ) advice of consultation was received on 4 July, with submissions due by 27 July 2018.
4. The New Zealand Sport Fishing Council is a recognised national sports organisation with over 34,000 affiliated members from 56 clubs nationwide. The Council has initiated LegaSea to generate widespread awareness and support for the need to restore abundance in our inshore marine environment. Also, to broaden NZSFC involvement in marine management advocacy, research, education and alignment on behalf of our members and LegaSea supporters. [www.legasea.co.nz](http://www.legasea.co.nz). Together we are '*the submitters*'.
5. The submitters are committed to ensuring that sustainability measures and environmental management controls are designed and implemented to achieve the Purpose and Principles of the Fisheries Act 1996, including "maintaining the potential of fisheries resources to meet the

reasonably foreseeable needs of future generations...” [s8(2)(a) Fisheries Act 1996].

6. The submitter’s continue to object to FNZ’s truncated consultation timetables. It has been impossible for us to consult with our constituents on the 17 various proposal papers issued by FNZ, and respond within 18 working days. In our view this timeframe does not allow for adequate consultation. It is particularly offensive for non-commercial organisations such as ours that need to consult with a range of interests and volunteers nationwide. This is unacceptable consultation and, in our opinion, most likely unlawful as per ss12 & 13 of the Fisheries Act 1996 and as judged by the Court of Appeal<sup>1</sup>.
7. Our representatives are available to discuss this submission in more detail if required. We look forward to positive outcomes from these reviews and would like to be kept informed of future developments. Our contact is Helen Pastor, [secretary@nzsportfishing.org.nz](mailto:secretary@nzsportfishing.org.nz).

## Background

8. Elephant 3 (ELE 3) is a large management area off the South Island’s east coast. Elephant fish are fairly slow growing and late maturing with low reproduction, all contributing to the species being vulnerable to fishing pressure.
9. Commercial fishing for elephant fish in ELE 3 is seasonal, occurring mostly in spring and summer in inshore waters. elephant fish are primarily taken when trawlers are targeting red cod, flatfish and barracouta. Around 15% of ELE 3 landings are taken by set net fishery targeting a range of shark species.
10. From the 1950s to 80s landings of elephant fish of around 1000 tonnes per annum were common, with most catch coming from ELE 3. With the exception of 2002-03, commercial catches since 1986 have consistently exceeded the Total Allowable Commercial Catch (TACC). The initial TACC was set at 280 tonnes, increasing nine times between 1986 and 2015. A TAC of 1060 t was set in 2002, this included allowances for non-commercial interests and fishing related mortality. In 2009-10 the TACC was increased from 960 to 1000 t where it remains today.



## FNZ proposals

11. Fisheries New Zealand has proposed an increase to the ELE 3 Total Allowable Catch (TAC), Total Allowable Commercial Catch (TACC), recreational allowance and the allowance for all other mortality to the stock caused by fishing.
12. FNZ propose the TACC increase on the basis of better utilisation of the stock and generating value.
13. The increase to the recreational allowance is proposed in order to align with the best available information, produced by the National Panel Survey of Marine Recreational Fishers 2011-12: Harvest Estimates.

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<sup>1</sup> International Airport Ltd and Air New Zealand (CA 23/92, 73/92[1993] 1 NZLR 671).

14. The increase in the allowance for all other mortality to the stock caused by fishing is proposed to cover the increased mortality anticipated with the proposed increase in TACC.

**Table 1: Proposed management settings in tonnes for ELE 3 from 1 October 2018, with the percentage change relative to the *status quo* in brackets.**

Option	Total Allowable Catch (TAC)	Total Allowable Commercial Catch (TACC)	Allowances		
			Customary Māori	Recreational	All other mortality to the stock caused by fishing
Option 1 ( <i>Status quo</i> )	1060	1000	5	5	50
Option 2	1228 ↑ (16%)	1150 ↑ (15%)	5	15 ↑ (200%)	58 ↑ (16%)

## Submission

15. The submitters support FNZ Option 2 for ELE 3 with the following conditions -
- No further Total Allowable Commercial Catch (TACC) increases are granted until systems are in place to increase compliance.
  - No further TACC increases are granted until research is carried out to better understand the extent and effects of dumping and misreporting in this fishery.
  - The allowance set aside to allow for recreational interests is reviewed when the results from the current National Panel Survey are available.
16. Ministry reports such as [Operation Achilles](#) have revealed evidence of large-scale dumping, high grading and misreporting of up to 30% of elephant fish on vessels operating within ELE3. On some vessels between 20% to 100% of some quota fish were discarded on every haul. It was found that port price seemed to have the main influence on the discarding of small elephant fish. The low port price combined with the deemed value rate provided no incentive for fishers to land small elephant fish.
17. This ongoing behaviour, the refusal to increase the use of 125mm trawl mesh, and the blatant disregard for the future viability of the stock undermines the credibility of Catch Per Unit Effort (CPUE) data that is used to support the proposed increase in TACC and the estimated of fishing related mortality.
18. In trawl fisheries with known catch of small fish it is standard for the Minister to set aside an allowance of 10% of the TACC to 'allow for' other mortality caused by fishing. The latest FNZ proposals include an allowance of only 5% even though there is a documented history of dumping and wastage. There is also no consistency by FNZ in determining whether the increased allowance for other mortality ought to be deducted from the TAC or TACC when decisions are made. Fisheries New Zealand must develop a coherent policy on setting allowances for other fishing related mortality.
19. It is possible that the sustained CPUE is due to an increase in compliance and reporting, therefore increasing landing records while masking a true decline in CPUE.

20. This theory could be supported by the increases trend in ELE 3 average port price (Fig 1), therefore making landing elephant fish more economically feasible and discarding less appealing.

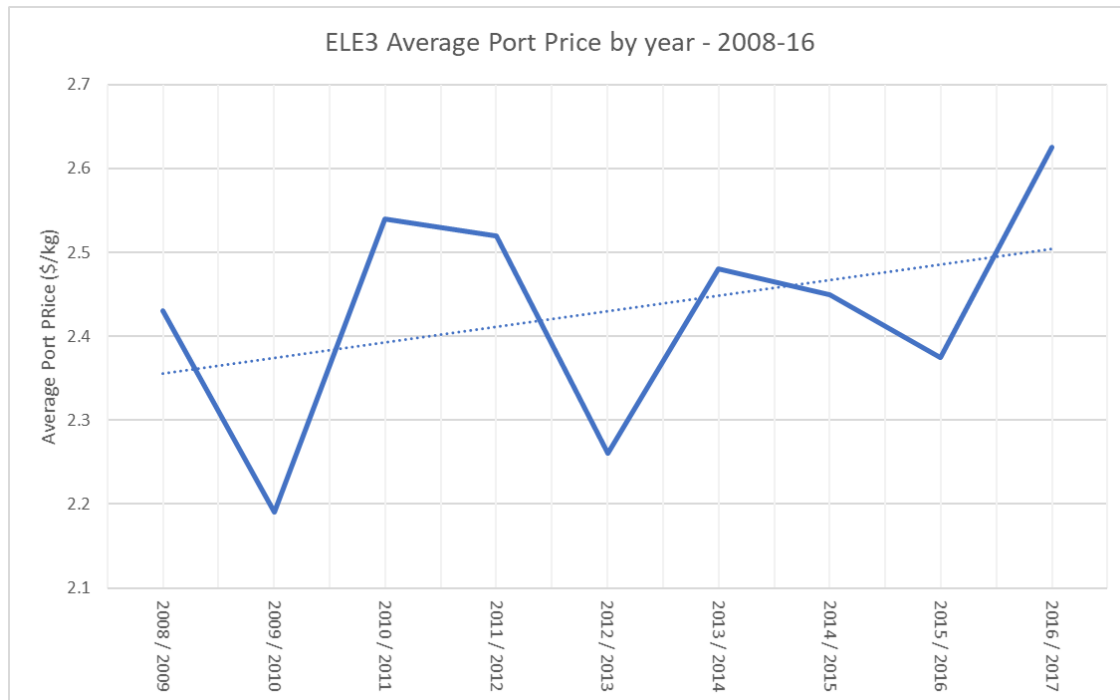


Figure 1: ELE3 Average port price by year - Sourced from FishServe

21. The East Coast South Island Trawl Survey shows no real change in ELE 3 giving some confidence that current catch levels are acceptable. However, without a true measure of fleet-wide CPUE we cannot determine if this survey is a true reflection of stock abundance.
22. The submitters agree that it is likely that this fishery is performing well and could possibly sustain the increased harvest, but in order to be confident of the long-term viability of this stock more information is required.
23. The apparent inability of commercial fishers to avoid elephant fish which has led to consistently exceeding the TACC is at least somewhat a symptom of the unselective harvest methods that are allowed to operate in our marine environment. In northern waters fishers use 125mm trawl mesh in mixed fisheries, there is no reasonable explanation for the ongoing use of 100mm mesh in southern mixed trawl fisheries, particularly given the prevalence of small fish in the south.
24. The use of these unselective methods must be removed from our inshore zone if we are to protect these valuable fish stocks to provide for the foreseeable needs of future generations.
25. The submitters support the Minister making a decision to increase the recreational allowance to better align with the most recent estimate of recreational harvest and recommend that consideration be given to reevaluating this once new estimates are obtained. The Minister has a statutory obligation to 'allow for' non-commercial harvest, both recreational and customary, so we would expect that an update to the overall recreational allowance would be the next step when the next harvest estimates are available.