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Sustainability Review 2021  
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9 August 2021

## Submission: Review of fisheries management measures for east coast tarakihi, for 2021/22

### Recommendations

1. The Minister sets a conservative Total Allowable Catch and reduces the Total Allowable Commercial Catch for east coast tarakihi to achieve the following outcomes –
  - a. A 45% reduction of the Total Allowable Commercial Catch (TACC).
  - b. A rebuild of the tarakihi stock to 40% of unfished biomass (B40) by 2028.
  - c. Commits to a further management review of east coast tarakihi TACs within 3 years.
  - d. Divides TAR 1 at North Cape into two separate management areas, one spanning the east coast down to Cape Runaway, the other from North Cape to Tirua Point, south Waikato.
  - e. Divides TAR 7 into two separate management areas.
  - f. Designates the two main spawning areas as ‘habitats of particular significance for fisheries management’ which must be protected in accordance with the environmental principles in the Fisheries Act 1996, and that must be closed to fishing methods that can both disrupt spawning behaviour and significantly reduce the number of fish spawning.
2. The Minister rejects Options 1 to 3 from Fisheries New Zealand and agrees with our proposed Option 4, and sets the Total Allowable Catch (TAC), Total Allowable Commercial Catch (TACC) and allowances by whole Quota Management Area and for eastern tarakihi only, as per the following table (in tonnes) -

			Māori		All other	TACC for
Stock	TAC	TACC	Customary	Recreational	mortality	eastern TAR
TAR1	1095	829	73	110	83	250
TAR2	1030	745	100	110	75	745
TAR3	597	515	15	15	52	515
TAR7	1076	953	5	23	95	90
<b>Total</b>	<b>3798</b>	<b>3042</b>	<b>193</b>	<b>258</b>	<b>305</b>	<b>1600</b>

## The submitters

3. The New Zealand Sport Fishing Council (NZSFC) appreciates the opportunity to submit on the review of fisheries management measures for 1 October 2021. Fisheries New Zealand (FNZ) advice of consultation was initially received on 23 June 2021, with submissions due by 27 July. On 15 July FNZ advised a revised document would be distributed the following week. On 19 July FNZ issued an updated document with submissions due by 9 August 2021.
4. The NZ Sport Fishing Council is a recognised national sports organisation of 55 affiliated clubs with over 36,200 members 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).
5. The New Zealand Angling and Casting Association (NZACA) is the representative body for its 35 member clubs throughout the country. The Association promotes recreational fishing and the camaraderie of enjoying the activity with fellow fishers. The NZACA is committed to protecting fish stocks and representing its members' right to fish.
6. Collectively we are '*the submitters*'. The joint 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].
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. On 26 June 2021 David Parker, the Minister of Oceans and Fisheries, announced the Government had adopted an oceans vision, objectives and principles for the Oceans and Fisheries portfolio<sup>1</sup>, as follows –

### **Vision**

*Ensuring the long-term health and resilience of ocean and coastal ecosystems, including the role of fisheries.*

### **Objectives**

- *Promote an ecosystem-based approach to research, monitoring and management*
- *Establish a spatial planning framework that optimises the protection and use of marine space and resources*
- *Support the development of a high-value marine economy that provides equitable wellbeing benefits*

### **Principles**

- *Precautionary approach and adaptive management*
- *Equitable allocation of costs and benefits*

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<sup>1</sup> <https://www.beehive.govt.nz/release/government-adopts-oceans-vision>

- Give effect to the principles of Te Tiriti o Waitangi/Treaty of Waitangi, including through fisheries and aquaculture settlements and other legislation
- Decision-making based on sound science and traditional knowledge
- Consistency with international commitments
- Transparent, inclusive, and effective public participation processes.

9. The Minister also referred to the Prime Minister’s Chief Science Advisor’s (PMCSA) report, as follows-

*The Prime Minister’s Chief Science Advisor’s report The Future of Commercial Fishing in Aotearoa New Zealand, released in March 2021, envisaged an ambitious, innovative future for the commercial fishing sector, operating with minimal environmental impacts. The report recommended taking immediate, evidence-based action.*

*While the full Government response to the report is being prepared, work is underway on some of the report’s recommendations, including innovation in fishing, protecting habitats of particular significance, and increasing the availability of fisheries information.*

10. On 22 March 2021 the Prime Minister’s Chief Science Advisor, Professor Dame Juliet Gerrard, released ‘[The Future of Commercial Fishing in Aotearoa New Zealand](#)’ report, making the following comments [foreword] –

*Over the course of this work, many stakeholders identified the parts of the Fisheries Act 1996 that are under- used. These can enable protection of special marine habitats and an ecosystem approach to fisheries management (EAFM). The most striking example is perhaps Section 9(c), which enables the protection of habitats of particular significance for fisheries management – but has never been used. These provisions can be used in the short term and enable immediate action. We challenge the Minister and the regulator to strengthen their arm and use these provisions to catalyse change.*

*The inherent uncertainty in fisheries management is very easily manipulated to support a particular narrative. From an agreed percentage of how many of our stocks have been assessed, to the size of the original non-fished biomass, to a percentage of this biomass that can be sustainably harvested, to whether our trawling footprint is increasing or decreasing – the very basis of our fisheries management is often fiercely contested.<sup>2</sup>*

11. On 16 June 2021 the High Court of Wellington released its decision in regards to the judicial review by Forest & Bird of the Minister of Fisheries’ 2019 decisions for the management of tarakihi on the east coast of New Zealand<sup>3</sup>.
12. The High Court confirmed that when rebuilding fishstocks that have fallen below the soft limit the Minister is obligated to set a time to reach target, with an acceptable probability, that is appropriate for the stock and between  $T_{\min}$  and  $2xT_{\min}$ . This becomes a mandatory relevant consideration when setting a Total Allowable Catch (TAC) under section 13 of the Fisheries Act.
13. The Ministerial discretion to consider social, cultural, and economic factors only apply to the way and rate of rebuild, under s 13(3). As the rebuild target, and thus the way, has been set under s 13 (2) the Ministerial discretion, when considering the social, cultural, and economic factors is limited to the time between  $T_{\min}$  and  $2xT_{\min}$ .

<sup>2</sup> <https://cpb-ap-se2.wpmucdn.com/blogs.auckland.ac.nz/dist/f/688/files/2020/01/Fish-report-Full-report-11March21.pdf>

<sup>3</sup> <https://www.nzsportfishing.co.nz/wp-content/uploads/2021/06/Tarakihi-High-Court-decision-16-June-2021.pdf>

14. On 28 May 2009 the Supreme Court issued its judgment in regards to the appeal taken by recreational interests involved in the Kahawai Legal Challenge<sup>4</sup>. In the minority decision of Elias CJ the Court found –

*Sustainability is a principal purpose of the Act. The measures contained in Part 3 of the Act are designed to achieve the sustainability of **all species**. Importantly, sustainability measures include catch limits as s 11(3) makes clear.*

*Conceivably, where a species is of particular importance to one interest group (perhaps Māori or recreational) or **where interdependence of stock prompts environmental concern, limitation of the commercial catch may be a necessary tool for sustainability reasons which are independent of the maintenance of the stock at or above maximum sustainable yield.***

15. In the Court of Appeal judgment by McKay J, McGechan J was quoted from the High Court decision in *Air New Zealand and others v Wellington International Airport Limited and others*, CP 403-91, Jan 6, 1992, in part as follows –

*Consultation must allow sufficient time, and a genuine effort must be made. It is a reality not a charade. The concept is grasped most clearly by an approach in principle. To "consult" is not merely to tell or present. Nor, at the other extreme is it to agree.*

*Implicit in the concept is a requirement that the party consulted will be (or will be made) adequately informed so as to be able to make intelligent and useful responses. It is also implicit that the party obliged to consult, while quite entitled to have a working plan already in mind, must keep its mind open and be ready to change and even start afresh.<sup>5</sup>*

16. It is with these comments in mind that we make this submission.

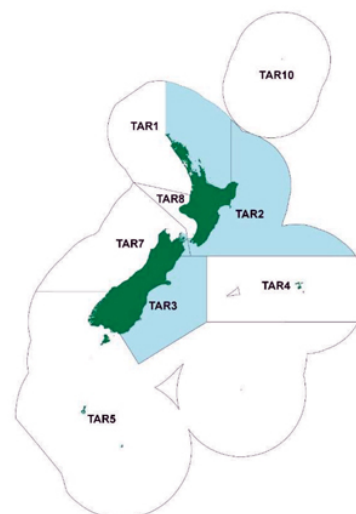
## Response to proposals

### A valuable species

17. Tarakihi are a valuable species for Māori customary, recreational and commercial fishers. Most catch is taken and consumed in New Zealand, with only around 11% of catch exported.

18. Tarakihi fillets retail for around \$30 per kilo so non-fishers benefit from having an abundant fishery available to both commercial and amateur fishers.

19. There are few fish species in New Zealand that provide for the social, economic and cultural wellbeing of so many communities and consumers so it is incumbent on the Minister to ensure the sustainability of tarakihi for generations to come.



### Ensuring sustainability

20. The Fisheries Act 1996 has a purpose of enabling utilisation while ensuring sustainability. The Minister may provide for utilisation at his or her discretion however, sustainability must be

<sup>4</sup> [http://www.option4.co.nz/kahawai/documents/KLC\\_SC\\_decision\\_28\\_05\\_09.pdf](http://www.option4.co.nz/kahawai/documents/KLC_SC_decision_28_05_09.pdf)

<sup>5</sup> *Wellington International Airport Limited and others v Air New Zealand* [1993] 1 NZLR 671, at p. 675.

**ensured**; demanding the highest available threshold to bring certainty of sustainability.

21. Ensuring sustainability is imperfectly defined in the Fisheries Act;

**ensuring sustainability** means—

- (a) maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations; and
- (b) avoiding, remedying, or mitigating any adverse effects of fishing on the aquatic environment

22. It isn't possible to determine a point estimate of what level of abundance and diversity will meet the reasonable foreseeable needs of future generations and thus comply with the Fisheries Act. At a high level we can assume that maintaining functioning and resilient ecosystems is a bottom line. Catch settings must import the consideration of the environmental and information principles alongside any science advice to ensure that more vulnerable species are not sacrificed in the pursuit of the most productive.

23. The requirement to avoid, remedy, or mitigate adverse effects of fishing is a non-discretionary power. It requires that when considering catch limits to ensure sustainability the Minister must enquire into the adverse effects of fishing and take action to avoid, remedy, or mitigate any identified effects.

**Trawling, the practice of dragging chains across the seabed, is an adverse effect of fishing and places an obligation on the Minister to establish what these effects are and take appropriate steps to avoid, remedy, or mitigate these effects.**

24. Further to seabed damage, the section also encompasses bycatch.

**Bycatch must be fully measured and considered before permitting trawling to occur, particularly in inshore waters where biodiversity and juvenile habitat drives fishery production.**

25. Traditional models and analyses also do not generally consider the non-market costs associated with fisheries production, such as habitat damage and bycatch, with an overwhelming reliance on technical measures (e.g. regulated hook types or bycatch reduction devices) or spatial closures to limit bycatch and habitat damage (Hall and Mainprize, 2005). However, Beaumont et al. (2008) found that marine biodiversity does indeed have considerable value to the broader community, and reductions of such result in a loss of benefits to society as a whole. Squires and Vestergaard (2016) also developed a theoretical model demonstrating that **taking into consideration non-market benefits associated with ecosystem services generated within fisheries systems resulted in a higher "optimal" stock level than if these benefits were ignored** (Sean Pascoea, 2017).

## **Principled, ecosystem based management**

26. As noted by the Prime Minister's Chief Science Advisor (PMCSA), there are many parts of the Fisheries Act that remain under used and **this submission advocates for better use of sections 9 and 10 of the Fisheries Act 1996**. Full use of the these principles will take government along the

path to more ecosystem based and precautionary decision making, meeting the objectives and principles of the Oceans and Fisheries portfolio. We apply sections 9 and 10 to this process to ensure that matters of uncertainty, precaution, and the obligation to following generations are given full weight.

27. The move from single species stock assessments for a limited number of species determining catch settings to an ecosystem considered process for setting catch limits is supported by both the Minister and the PMCSA. To meet this ecosystem based approach we have, to the extent available in such a short consultation window, considered the effects of changes in fishing effort for tarakihi on other species and the marine environment.
28. FNZ advise that any reduction in tarakihi Total Allowable Commercial Catches (TACCs) may mean more fishing effort is applied to other species such as red cod, barracouta and flatfish (TAR 3 & 7), or red gurnard, snapper and trevally in TAR 2, and snapper in SNA 1. If this extra effort poses a threat to the other species then clearly that is an indication that those TACCs are not set at a precautionary level and a review of those TACCs is also required to meet the Minister's statutory obligation to *ensure sustainability*.
29. Once again, **this highlights the failure of single species management particularly in a mixed trawl fishery**. It also elevates the need for adequate monitoring of all these species, and in the absence of good information, the need for regular reviews aimed at ensuring precautionary catch settings for all species.
30. FNZ also raise the spectre that TACC reductions may lead to trawling shifting to other areas in an effort by fishers to avoid tarakihi. We would expect evidence of shifting effort to be available in the quarterly reports required under the 2019 Ministerial decision and *The Eastern Tarakihi Management Strategy and Rebuild Plan*. The 3 quarterly reports available show more tarakihi catch is now being taken from the western portion of TAR 7 (TAR 7W), whereas catches in TAR 1E & 1W are relatively the same.
31. FNZ provide no maps of trawl intensity for the current or previous fishing years so we cannot make an informed comment on any patterns associated with overall fishing effort. Moreover, given the long history of commercial fishing for tarakihi it would be surprising to learn that there are any new grounds holding patches of tarakihi that have not already been exploited.
32. Managing catches and discards of mixed species fisheries, particularly trawl fisheries, has proved problematic in most jurisdictions. The government has chosen a 100% camera coverage of inshore vessels with an obligation to land all catch as the preferred strategy to detect discards and alter incentives<sup>6</sup>. However, there is limited ability for fishers to select catch and we anticipate that historical catch mixes will largely continue.
33. An essential element of the industry rebuild plan was cameras aboard vessels operating in TAR 2 & 3, to verify the scale of juvenile tarakihi catches. The plan was approved in 2019 and two years later it is still under discussion between commercial interests and FNZ. Relying on voluntary

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<sup>6</sup> <https://www.rnz.co.nz/national/programmes/ninetoon/audio/2018800308/fish-dumping-ban-biggest-change-to-management-in-100-years>

agreements and discussions with FNZ officials is clearly not an expressway to positive action.

34. **If the Minister is serious about achieving principled, ecosystem based management then it is up to him to decide what changes are needed and define a clear timeline for success.**

## Stock management target

35. In 2018 east coast tarakihi were estimated to be at 17% of unfished biomass (B17). In 2019 it was at 15.9% of unfished biomass. FNZ suggest that the change in stock status most likely indicates “a more accurate estimation of abundance as a result of refinements to the modelling”. There is no explanation of the changes to the modelling so an informed response to this statement is not possible.
36. Given the accuracy of the models, the submitters are interested to know from FNZ when was the last time the east coast tarakihi stock was at B40?
37. Tarakihi is classified as a low productivity species and there is a paucity of biological information to inform its management. Female tarakihi can take six years to sexually mature. Given the few years it takes for tarakihi to reach legal minimum harvest size, there is an estimated two year window where tarakihi can be harvested without having an opportunity to spawn. It is widely accepted that the main spawning grounds are off the east coast of the South Island and North Island, and that tarakihi move north as they age. The oldest fish are found off the northeast coast of the North Island.
38. FNZ has agreed to manage tarakihi on the east coast of New Zealand, from Northland to Otago as one stock, separated into east and west portions for TAR 1 & 7 (1E & 7E), and the whole of TAR 2 & 3. In this submission we refer to these areas as ‘east coast tarakihi’. Different catch settings have been proposed for each management area or sub-area. The current target biomass for the east coast tarakihi stock is 40% of unfished biomass, B40, though that an alternative, species-specific target maybe considered if supported by scientifically robust and peer-reviewed information.
39. To meet the standard of ecosystem based management the submitters consider that –
- Maximum Economic Yield (MEY) occurs at 60% of the unfished biomass;
  - Maximum Sustainable Yield (MSY) occurs at 50%;
  - 40% is the appropriate soft limit; and
  - 20% is the appropriate hard limit<sup>7</sup>.

This approach closely aligns with some Australian harvest strategies and incorporates strong ecosystem management and precautionary principles. In meeting these standards, the strategy avoids the boom/bust cycles experienced in New Zealand by not defending stocks when they pass through the 40% status when being overexploited.

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<sup>7</sup> Rainer Froese, Henning Winker, Didier Gascuel, U Rashid Sumaila, Daniel Pauly (2015). Minimizing the impact of fishing. Fish and Fisheries. 7 December 2015.

40. The USA employs a bright line strategy of defining Bmsy as a stock above 50% of the natural unfished biomass, what we refer to as Bzero. When stocks fall below this level they must be rebuilt within 10 years, unless it is biologically impossible. This has, by and large, succeeded in defending fish stocks from overfishing in all regions except New England where the fisheries management agency has weakened the rebuild time to reduce the impacts of reduced catches on industrial fishers.
41. In these fisheries, for example Atlantic cod, stock recovery has been slow and uncertain, and after 40 years of prevarication many stocks show few signs of recovery. The lesson is that placing the economic wellbeing of a fishing fleet that overfishes ahead of maintaining stocks above Bmsy achieves neither long term economic wellbeing nor replenished fish stocks. **New Zealand is routinely making this same error and ignoring the costs of lost production, profitability and ecosystem functionality.**
42. Allowing these costs to be externalised with many pushed onto future generations displays the dysfunction of our current management regime. We are still searching for a Minister who will both square up to the systemic issues and not simply treat the annual sustainability round as an inconvenience to be managed; a Minister bold enough to adopt a long term value creation and capture lens by placing some fundamental bright line ecosystem defences into the Fisheries Act along the lines of the Magnuson Stevens Act in the USA<sup>8</sup>.
43. In alignment with the Government's ecosystem-based policy, **the submitters support east coast tarakihi being managed to a minimum target level of 50% of unfished biomass, that is B50.**
44. B50 is accepted by credible international scientists as being the level where fish populations are still likely to be able to fulfil their ecosystem functions as prey and predator<sup>9</sup>. The Ministry's Harvest Strategy Standard (HSS) was published in October 2008 and is overdue for review. On page 1 of the HSS it states:

"It is intended that the core standards will not change substantively in the short term, but should be subject to review in a period not exceeding five years, based on the evolution of fisheries plans and fisheries management strategies in New Zealand, and the evolution of international best practice. However, the Operational Guidelines will continually evolve as new data, analyses and insights become available."
45. Managing east coast tarakihi at B50 will give some level of protection for associated species in the mixed trawl fishery, whose information varies in quality and quantity. And, FNZ has already highlighted concerns that changes in trawling effort may have a detrimental and undetected effect on these species.
46. It must be noted that when setting rebuild targets and rates the matter of probability has been raised in the tarakihi proceedings, and the Judge had difficulty settling the matter. We propose that a 50% probability of achieving the target does not ensure the rebuild target is achieved, which is the test. A 50% probability means that it is as likely as not that the target has not been achieved. That is why the Harvest Strategy Standard recommends 70% probability - to provide more

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<sup>8</sup> Magnuson–Stevens Fishery Conservation and Management Act 1976.

<sup>9</sup> Rainer Froese, Henning Winker, Didier Gascuel, U Rashid Sumaila, Daniel Pauly (2015). Minimizing the impact of fishing. Fish and Fisheries. 7 December 2015.



certainty that the target has been reached. We supported this [precautionary approach for tarakihi in our 2018 submission](#) and [2019 tarakihi submission](#). We continue to support the Minister taking a precautionary approach, as maintaining a stock at or above the biomass that will produce the maximum sustainable yield is a statutory duty under the Fisheries Act 1996.

47. It is interesting to note that Queensland, Australia, has committed to managing their prime fish stocks to achieve B60 while setting management thresholds for associated, low information species<sup>10</sup>. Having a higher target offers more protection that the stock will not fall below B50 given natural fluctuations.
- 48. The submitters urge the Minister to take a precautionary approach and make decisions based on achieving, as a minimum, B50.**
49. The submitters reject outright any suggestion that B35 is acceptable. **B35 is not acceptable** as an interim or long term management target for east coast tarakihi.
50. We have known for years that east coast tarakihi was in trouble, the 2018 assessment of the stock at B17 was the first official acknowledgement of the depletion. As the Supreme Court noted in 2009, while there is discretion how fisheries can be used and by whom, the Minister has a statutory obligation to ensure sustainability<sup>11</sup>. **The Hon. David Parker must meet that obligation by setting the TACs at precautionary levels and TACCs at conservative levels.**

## Rebuild timeframe

51. In 2018 LegaSea campaigned to gather public support for the previous Minister to cut commercial catches of tarakihi by 65%, to rebuild the stock from its all-time low point of 17% of unfished biomass. (The following year the stock was assessed at 15.9% of unfished biomass). LegaSea initiated a petition supporting the Minister to rebuild the eastern tarakihi stock within 10 years or less. The [Time Out for Tarakihi](#) petition drew 9100 responses in six weeks, a good indication of how important tarakihi is to the wider public and people fishing on the east coast of the North and South Islands.
52. In September 2018 the Minister agreed to the fishing industry's proposal to limit the catch reduction to 20%, a 25% reduction in the combined TACCs.
53. The Minister's 2018 decision to spread the TACC reductions over two years has delayed the time bound rebuild. So based on the projections provided during the last review, **a 45% reduction this year is needed** to reach the abundance target in twice the time it would take to rebuild the stock to the target in the absence of fishing ( $2xT_{min}$ ). In the case of east coast tarakihi that period is 10 years.

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<sup>10</sup> <https://www.daf.qld.gov.au/business-priorities/fisheries/sustainable/sustainable-fisheries-strategy-overview>

<sup>11</sup> New Zealand Recreational Fishing Council Inc And Anor V Sanford Limited And Ors SC 40/2008 [28 May 2009] at 39.

**Table 1: Revised table of management options for east coast tarakihi from the time the Minister agreed to a time constrained rebuild plan in 2018.**

	Option 1	Option 2	Option 3	Option 4
<b>Proposed by</b>	Fisheries NZ	Fisheries NZ	Fisheries NZ	The submitters
<b>Target biomass</b>	40% SSB <sub>0</sub> by 2031	40% SSB <sub>0</sub> by 2031	40% SSB <sub>0</sub> by 2036	40% SSB <sub>0</sub> by 2028
<b>Rebuild timeframe from 2018</b>	13 years	13 years	18 years	10 years
<b>Rebuild rate</b>	2 x T <sub>min</sub> from 2021	2 x T <sub>min</sub> from 2021	3 x T <sub>min</sub> from 2021	2 x T <sub>min</sub> from 2018
<b>Method of achieving target</b>	A 30% reduction of the TACC	A phased reduction of the TACC 10% in 2021, 25% in 2022	A 20% reduction of the TACC	A 45% reduction of the TACC
<b>Probability of achieving target</b>	52%	54%	67%	<b>70%</b>

54. **The submitters reject all three FNZ proposed options** for the future management of east coast tarakihi based on rebuild time frames of either 10 or 15 years, from 2021. Any rebuild timeframe must be based on a starting year of 2018 because that is the first year that a formal rebuild plan was required.
55. The recent High Court decision on tarakihi directed the Minister to determine a time to target that is appropriate for the stock<sup>12</sup>. The response from FNZ officials is to describe a range of methods adopted in different jurisdictions to determine T<sub>tar</sub>, the time allocated for the stock to be rebuilt to target biomass levels. There is a mixture of T<sub>min</sub>, the time to reach target in the absence of all fishing, and multiples of T<sub>min</sub>. Then a generation time is introduced as a possible factor to use in the formula to determine rebuild times, a measure that is sometimes used in the USA.
56. Fish stock management in the USA is based on the Magnuson-Stevens Act<sup>13</sup>. Under this Act fisheries managers are required to rebuild overfished stocks and set a firm deadline to achieve success.
- “If a stock is found to be overfished or approaching an overfished condition, the National Marine Fisheries Service (NMFS) **must** put a rebuild plan into effect within two years. Once such a plan is in place, it must rebuild the stock in **no more than 10 years**, unless it is biologically impossible to do so, or the stock is managed pursuant to an international agreement. In any event, rebuilding must be completed in as short a time as possible, given the prevailing circumstances.”
57. What is immediately apparent is that introduction of generation times has the effect of extending the time to target. It could more than double rebuild times that are determined by 2xT<sub>min</sub>, in the

<sup>12</sup> Royal Forest and Bird Society of New Zealand Incorporated v Minister of Fisheries [2021] NZHC 1427 at 92.

<sup>13</sup> Magnuson-Stevens Fishery Conservation and Management Act 1976.

New Zealand Harvest Strategy Standard. This allows for fishing to continue at a higher rate and thus serves the short term interests of the commercial fishing industry.

58. There is nothing in the literature to suggest that a longer and less certain rebuild time is more appropriate to the stock than the current standard of  $2xT_{min}$ . It is advanced only to provide for higher immediate harvest.
59. We note there is no right answer for the question of what rebuild time is appropriate for the tarakihi stock. If the Minister was to ignore what rebuild time is best for the industry and focus purely on what rebuild time is best for tarakihi and the ecosystem in which it is embedded, then it would be obvious that any decision favours a shorter rather than longer rebuild time.
60. We submit there has not been a compelling case made for extending the rebuild time beyond  $2xT_{min}$  and there has been no explanation of how the generation time was calculated.
61. FNZ suggest that a 15 year rebuild timeframe is “more appropriate”. Appropriate to what? In whose interests are such suggestions made, particularly given it contradicts the accepted position of the Harvest Strategy Standard, the Ministry’s own creation?
62. Also, given that the east coast tarakihi stock has been below the soft limit since 2005 **a 15-year rebuild timeframe is not acceptable under any circumstance.**
63. **We find the case for extending the rebuild time beyond  $2xT_{min}$  to be disingenuous and a shallow attempt to invoke science in the service of maintaining depletion.** It is similar to the argument that B35 is a better target. We petition the Minister to be alert to this type of submission made by both officials and industry lobbyists. They are not made in the service of fisheries management or the wellbeing of the inshore ecosystem.
64. We also reject FNZ’s suggestions for phased TACC reductions and we strongly object to the suggestion that once the stock is over the soft limit that the Minister can slow down the rebuild timeframe. The Harvest Strategy Standard is clear - the time-constrained rebuild plan triggered by a stock that is below the soft limit must rebuild the stock to the target. The target for tarakihi is B40. The soft limit of B20 is not a target.
65. FNZ propose that a longer rebuild period for east coast tarakihi may be needed because recruitment is variable. There are just two main spawning areas known for this stock, both of which have been heavily fished during the spawning season in the past. The submitters ask the Minister and FNZ to close these areas to fishing methods that can both disrupt spawning behaviour and reduce the number of fish spawning. These areas could be designated as ‘habitats of particular significance for fisheries management’ that must be protected in accordance with the environmental principles in the Fisheries Act 1996.

## Allocation of the TAC

66. We submit in support of the Minister setting a precautionary TAC for east coast tarakihi and then setting aside allowances for Māori customary and recreational fishing interests, and other fishing related mortality, before setting the TACC.

67. We submit in support of the Minister setting aside a tonnage of fish equivalent to 10% of the TACC to allow for other fishing related mortality.
68. We submit that under s21 of the Fisheries Act 1996 the Minister **must** set aside adequate allowances to cover the expected mortality caused by Māori customary and recreational fishing. FNZ do not propose any changes to the existing non-commercial allowances.
69. We are concerned that FNZ propose no change to the recreational allowance in TAR 2 even though the last harvest estimate of 110 tonnes is 51% more than the current allowance of 73 tonnes and it is likely that the five year average is in this range. The Minister must include all mortality within the TAC so either the allowance has to be increased to cover the expected mortality or controls on recreational fishing need to change. The stock assessment and model projections have used the survey results as current and future catch so changing the allowance will not affect the scientific advice. The Minister has a statutory duty to 'allow for' recreational fishing and include all mortality within the TAC. There is no escape, a change is required. Our proposed Option 4 with appropriate TACs, TACCs and allowances are set out in Table 2 below.

**Table 2: The submitters propose Option 4 TACs, TACCs, and allowances by whole quota management area and for eastern tarakihi only, in tonnes.**

Stock	TAC	TACC	Māori		All other mortality	TACC for eastern TAR
			Customary	Recreational		
TAR1	1095	829	73	110	83	250
TAR2	1030	745	100	110	75	745
TAR3	597	515	15	15	52	515
TAR7	1076	953	5	23	95	90
<b>Total</b>	<b>3798</b>	<b>3042</b>	<b>193</b>	<b>258</b>	<b>305</b>	<b>1600</b>