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8 February 2022

Submission: Review of Scallops Northland (SCA 1) and Coromandel (SCACS) for 2022-23

Recommendations

1. **The Minister acknowledges** that the biomass of scallops in SCA 1 and SCACS is close to the lowest recorded level in the main commercially targeted beds, and that non-commercial only areas in the Bay of Islands, around Kawau Island and Mercury Cove are also at, or close to, historical lows.
2. **The Minister acknowledges advice from Fisheries New Zealand** that existing biomass of scallops cannot support fishing at current levels.
3. **The Minister makes precautionary decisions for scallops by:**
 - a. Closing the Northland (SCA 1) and Coromandel (SCACS) fisheries for a minimum of three years under section 11 of the Fisheries Act 1996;
 - b. Reducing the Total Allowable Catch (TAC) in SCA 1 and SCACS to zero while the fishery is closed under s11 of the Fisheries Act 1996; and
 - c. Closing SCA 1 and SCACS to all harvesting while these stocks are subject to closure on sustainability grounds under s11 of the Fisheries Act 1996.
4. **The Minister prohibits the use of dredges to harvest scallops** for commercial or non-commercial purposes in any New Zealand scallop fishery.
5. **The Minister initiates a survey** of the SCA 1 and SCACS within 3 years to determine the abundance of scallops prior to any future management review of these stocks.

The submitters

6. The New Zealand Sport Fishing Council (NZSFC) appreciates the opportunity to submit on the review of New Zealand scallops (SCA 1 and SCA CS) for 2022-23. Fisheries New Zealand's (FNZ) Discussion paper 2021/26 was received on 14 December 2021, with submissions due by 8 February 2022.
7. 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. legasea.co.nz.
8. 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.
9. The New Zealand Underwater Association comprises three distinct user groups including Spearfishing NZ, affiliated scuba clubs throughout the country and Underwater Hockey NZ. Through our membership we are acutely aware that the depletion of inshore fish stocks has impacted on the marine environment and the wellbeing of many of our members.
10. 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].
11. Our representatives are available to discuss this submission in more detail if required. We look forward to positive outcomes from this review and would like to be kept informed of future developments. Our contact is Helen Pastor, secretary@nzsportfishing.org.nz.

Background

12. In 2020 the Minister reduced the TAC and TACC in the [Northland scallop fishery \(SCA 1\)](#) from 40 to 10 tonnes per annum due to sustainability concerns. The NZSFC supported the reduction in its [2020 submission](#) on the basis that commercial dredging inshore was reviewed and that low impact methods such as commercial hand gathering is permitted. Dredging has continued.
13. In September 2020 the NZSFC adopted a scallop dredging policy to promote low impact harvesting methods such as hand gathering for commercial and non-commercial fishers. The NZSFC acknowledges there may be deeper areas where dredging may be the only feasible option until innovative low impact methods are developed. Our broader [Rescue Fish policy](#) seeks to have all mobile bottom contact fishing methods banned from inshore waters, within 12 nm of the coastline.
14. In June 2021 the Government released the Revitalising the Gulf action plan which seeks to prohibit recreational dredging in the Hauraki Gulf, but allow commercial dredging to continue in designated corridors. This is not an acceptable outcome of the Sea Change process.
15. On 17 January 2022 Fisheries New Zealand (FNZ) issued a raft of proposed technical Submission. Northland & Coromandel scallops. Joint recreational. 8 February 2022.

amendments to fisheries regulations. One of the proposals is to permit commercial fishers to use SCUBA to gather scallops. Responding submissions are due with FNZ by 4 March 2022. In our previous submissions we have supported the concept of commercial diving for scallops in selected areas only, to avoid any potential spatial conflicts.

Need for change

- The 2021 abundance surveys carried out in Northland and Coromandel shows an overall decline in scallop abundance. Biomass is close to the lowest recorded levels in the main commercially targeted beds. Non-commercial-only areas in the Bay of Islands, around Kawau Island and Mercury Cove are also at or close to historical lows. FNZ advise action is required as the existing biomass cannot support fishing at current levels.

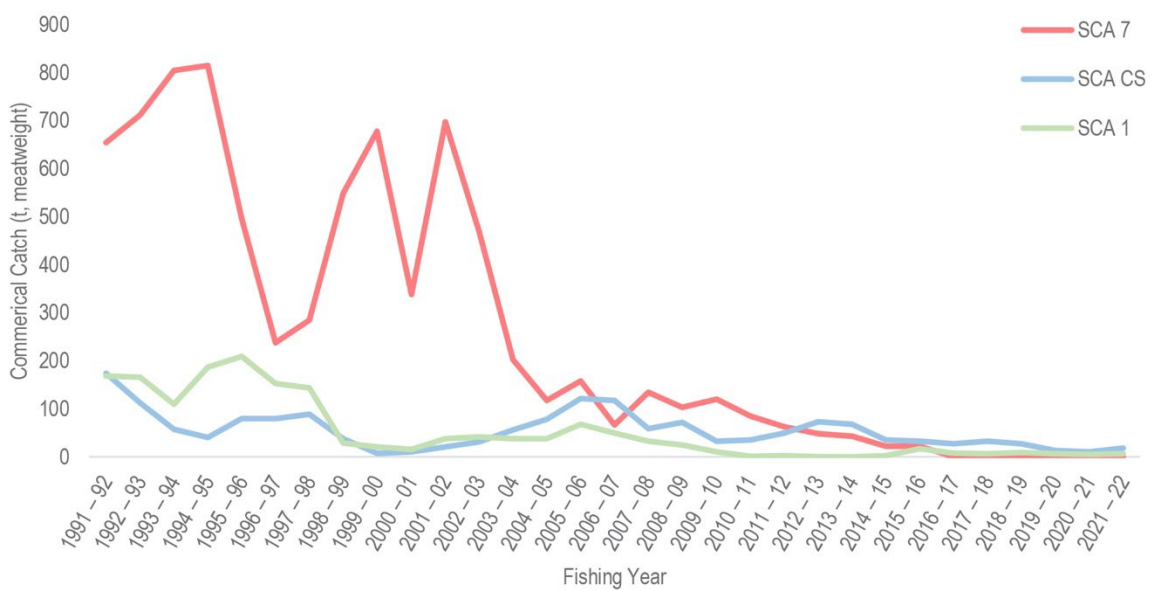


Figure 1: Historical commercial catch in the 3 main scallop fisheries, SCA 1 (Northland), SCACS (Coromandel) and SCA 7 (Southern), from 1991 to 2022 in tonnes meat-weight. The 2021-22 fishing year for SCA 1 & CS is incomplete. (Source: FNZ)

- Communities from Northland to the Bay of Plenty have expressed their concerns about scallop depletion on the east coast for many years. In the past year alone Ngāti Hei, Ngāti Pāoa and hapū in and around Whangaroa Harbour have placed rāhui to prevent the harvest of scallops in their local areas. The Minister has since approved the applications by Ngāti Hei and Ngāti Pāoa for a 2-year temporary closure to all harvest, under section 186A of the Fisheries Act 1996. The Whangaroa Harbour s186A application is pending approval.
- Most recently, the Ngāti Manuhiri Settlement Trust and local communities between Mangawhai and Whangaparaoa collaborated in support of a rāhui to protect scallops in the northern Hauraki Gulf, around Little Barrier Island and out past Great Barrier Island. A s186A 2-year temporary closure application has been sent to the Minister for approval.
- Several scallop beds within the Whangarei Harbour have become popular for scalloping due to the depletion of traditional beds elsewhere in Northland. Tangata kaitiaki of the Te Renga Paraoa (Whangarei Harbour) rohe moana are concerned about the state of the beds within the Harbour and have requested a closure to enable scallop stocks to rebuild.

FNZ proposals

20. FNZ proposals are informed by the 2021 survey of scallop abundance in Northland (SCA 1) and Coromandel (SCACS) conducted by NIWA. FNZ is concerned that low densities of scallops pose a risk to successful recruitment in the future.
21. FNZ propose the full closures in Option 1 are applied under section 11 of the Fisheries Act for an indefinite period. FNZ expect to have new information available on stock status within 3 years. If new surveys indicate abundance has been restored, the closure will be reviewed.
22. It is not known how many mature scallops are required to sustain each population, or which beds are producing or receiving the spat. In our view, this means a precautionary decision by the Minister to close SCA 1 and SCACS now is required if these scallop stocks are to rebuild to levels that will enable future use.

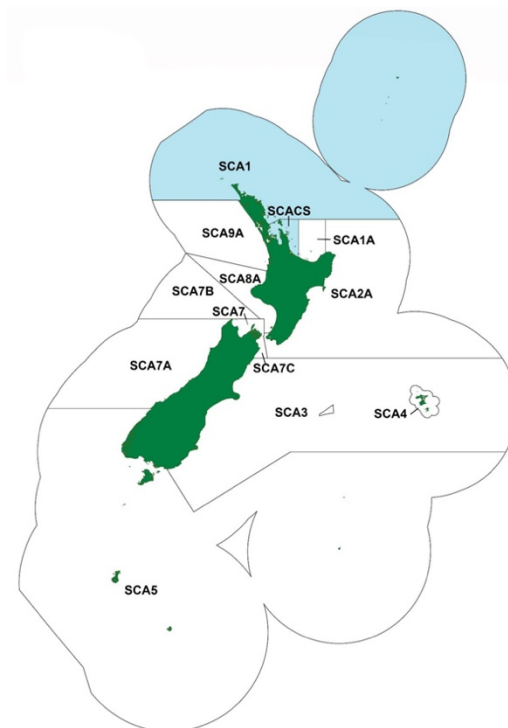


Table 1: Proposed changes to the Total Allowable Catch (TAC), Total Allowable Commercial Catch (TACC) and allowances for SCA 1 (Northland) and SCACS (Coromandel), in tonnes. Source: Fisheries New Zealand.

SCA 1						
Option	TAC	TACC	Allowances			Management
			Customary Māori	Recreational	Other mortality	
Current settings	30	10	7.5	7.5	5	
Option 1	30	10	7.5	7.5	5	Full closure (s11)
Option 2	9.5 ↓ (20.5 t)	0 ↓ (10 t)	7.5	1 ↓ (6.5 t)	1 ↓ (4 t)	Partial Spatial closure (s11) and TAC, TACC and allowances Recreational dredging prohibited
Option 3	16 ↓ (14 t)	0 ↓ (10 t)	7.5	7.5	1 ↓ (4 t)	TAC, TACC and allowances
SCA CS						
Option	TAC	TACC	Allowances			Management
			Customary Māori	Recreational	Other mortality	
Current settings	81	50	10	10	11	
Option 1	81	50	10	10	11	Full closure (s11)
Option 2	19 ↓ (62 t)	5 ↓ (45 t)	10	3 ↓ (7 t)	1 ↓ (10 t)	Partial Spatial closure (s11) and TAC, TACC and allowances
Option 3	14 ↓ (67 t)	0 ↓ (50 t)	10	3 ↓ (7 t)	1 ↓ (10 t)	TAC, TACC and allowances Recreational dredging prohibited

Discussion

FNZ options for SCA 1 & SCACS

23. FNZ note that the status quo in either SCA 1 or SCACS is not an option. Māori customary harvesting of scallops is permitted under all options.

Options 1 & 3

24. Option 1 represents a full closure with no changes to existing catch settings.
25. Both options 1 and 3 have provision for an in-season increase to the commercial catch limits following a survey and public consultation process. Presenting the information in this manner may attract public support, because on the face of it this seems like a reasonable approach. However, given our experience, options 1 & 3 seem like a cynical way to put the fishery on hold and reopen the fishery as soon as there are any signs of rebuild. This is a major concern given the low scallop stock status in both Northland and Coromandel.
26. It is well understood that scallop populations fluctuate between years and during seasons. It is significant that FNZ has made it clear there are sustainability concerns for both SCA 1 and SCACS. We expect FNZ to advise the Minister that he has a statutory duty to “ensure sustainability” and that obligation has been confirmed by the Supreme Court (2009).
27. There is no legal justification for the Minister to retain the existing catch settings in SCA 1 or SCACS if the stock is closed under s11 of the Fisheries Act 1996 (the Act). We note that:
 - a. Section 11(3)(a) of the Act provides statutory support for the Total Allowable Catch (TAC) to be reduced.
 - b. The Supreme Court (2009) confirmed the Minister is required to set a TAC “at a figure which maintains the stock at or above a level which can produce the maximum sustainable yield”. There is no estimate of MSY.
 - c. FNZ advise the latest survey results show that overall the biomass has declined and remains close to lowest recorded levels. Also, in many areas the biomass is substantially lower than in previous surveys.
 - d. If new information becomes available that suggests the stock has recovered in the future a new round of consultation will be required. That will be the time when a new TAC, allowances and Total Allowable Commercial Catch (TACC) can be debated because a TAC cannot be set without some understanding of stock status and management objectives.
28. We submit that, given the best available information, **the Minister must close the fishery** for a period of time and not reopen the fishery until new information becomes available that suggests the stocks have recovered to levels that will provide for our social, economic and cultural wellbeing. Adequate consultation must also be undertaken with the public and local iwi/hapū before either stock is reopened.

Maori customary fishing

29. FNZ advise that under all options that Māori customary fishers can continue to harvest scallops if the fishery is closed to recreational and commercial harvesting.
30. FNZ has already advised the stocks are close to historic low levels. A closure under s11 of the Act is a sustainability measure. Northland and Coromandel coastal communities have an interest in their local scallop population rebuilding to more natural levels.
31. From our previous discussions in the Hokianga Accord, the Mid-North Iwi Fisheries Forum, we understand that authorised kaitiaki are some of the first people to be aware of any local depletion issues. Often kaitiaki will not issue permits for particular species if they know they are scarce. We would encourage a similar precautionary approach by kaitiaki who have authority to issue permits for harvesting of scallops in SCA 1 and Coromandel during any closure under s11 of the Fisheries Act 1996.
32. There was universal condemnation in August last year when commercial fishers flying a pirate flag dragged their Victorian Box Dredges through the Ngāti Hei rāhui area off the eastern Coromandel. This behaviour by commercial fishers outraged the local community, set the social media world alight and led to widespread conflict. The pain felt by the community was intense because there had been widespread public support for the rāhui banning the harvest of scallops from Opito Bay since 17 December 2020. A voluntary ban on the recreational harvest of scallops from Opito Bay was applied on the same day Joe Davis, Ngāti Hei Rangatira, declared the rāhui.
33. The rāhui was later extended to encompass the entire rohe of Ngāti Hei. Recreational and community groups including the submitters supported the subsequent application for a 2-year temporary closure of the Ngāti Hei rohe to all scallop harvesting under s186A of the Act. The Minister's approval for the 2-year closure was announced on 8 September 2021.
34. In solidarity with the community and in the interests of rebuilding depleted scallop abundance, Ngāti Hei has agreed that no customary scalloping will be permitted from their rohe while the s186A closure is in place. Most recently, Ngāti Manuhiri Settlement Trust has agreed that while their rāhui in the northern Hauraki Gulf waters is in place they will not issue permits for the customary harvest of scallops within their rohe.
35. Ngāti Pāoa has successfully implemented a 2-year temporary closure around Waiheke Island to all harvesting of scallops, pāua, crayfish and mussels (except farmed mussels). [The submitters supported this application](#) and related Ministerial decision.
36. In March 2021 Nga Hapū of Karangahape marae, Whānau pani, Ngāti Kaitangata and Ngāti Kauwau applied for a s186A 2-year temporary closure of the scallop fishery in and around the Whangaroa Harbour. [The submitters supported this application](#). A Ministerial decision on this application is pending.
37. Tangata kaitiaki of Te Renga Paraoa (Whangarei Harbour) rohe moana have requested FNZ close the local Harbour scallop fishery to enable the depleted scallop beds to recover. As scallop abundance has declined in the wider Northland area the Harbour has been targeted by more fishers seeking a bag of scallops.
38. The submitters acknowledge mana whenua for the proactive stance in protecting scallop beds for future generations.

Option 2

39. In Northland (SCA 1) FNZ has proposed in option 2 that the Minister applies a partial closure banning all commercial harvest under s11 of the Act, and bans recreational dredging while permitting recreational diving in selected areas and retaining Māori customary harvest, and:
- a. Retains the 30 tonne (t) Total Allowable Catch (TAC);
 - b. Reduces the Total Allowable Commercial Catch (TACC) to zero;
 - c. Retains the Māori customary allowance of 7.5 t;
 - d. Reduces the recreational allowance from 7.5 to 1 tonne per annum to reflect lower catch levels; and
 - e. Reduces the allowance for other mortality from 5 to 1 tonne.
40. Two selected areas at the Whangarei Harbour entrance would remain open to recreational diving. There are mixed views on the abundance of scallops in these areas.
41. Closing all other areas in SCA 1 to recreational fishing means some effort will be displaced into these designated inner Harbour sites. This is a major concern. We have previously argued against displacement of effort given the detrimental effects and depletion caused by concentrating effort in the remaining open areas.
42. For example, the downstream effect of the eastern Coromandel 2-year temporary closure has meant commercial effort has shifted into waters around the northern Hauraki Gulf. This has caused conflict and concern in communities around Kawau Island, Little Barrier Island (Te Hauturu-o-Toi) and Whangaparaoa. This is not an outcome we want replicated in the Whangarei Harbour.
43. To avoid conflict and the detrimental effects of displacing fishing effort into concentrated areas **we do not support FNZ option 2 for SCA 1.**
44. Option 2 in the Coromandel fishery makes no sense for several reasons. There are two designated areas where recreational and commercial dredging will be permitted, with all other areas closed. Dredging is permitted because no “viable alternative” exists for commercial fishing.
45. FNZ propose a TACC cut from 50 to 5 tonnes per annum, a 90% cut, however this must be considered in context that actual commercial catch has been reducing each year. A cut to 5 tonnes per annum is half of the 10 tonnes taken in 2020/21.
46. The submitters highlight the irony of FNZ proposing a dredge area around Little Barrier Island (Te Hauturu-o-Toi) that will be adjacent to the High Protection Area (aka marine reserve) and Seabed Protection Area proposed to surround the rest of the island under the Government’s Revitalising the Gulf Fisheries Plan.
47. To reduce the environmental harm from dredging and to encourage the development of innovative, low impact methods of scallop gathering, **we do not support FNZ option 2 for SCACS.**

Let’s get serious about rebuilding abundance

48. There is a poor understanding of scallops and what causes their variability that results in boom

and bust years. The Southern (SCA 7) stock has been closed since 2016 with no sign of any recovery to exploitable levels. Fish farming and changes due to bottom fishing, farming and forestry have contributed to degrading the environment that sustains fragile benthic communities.

49. A change in land use can destroy larvae settlement and deprive species the environmental conditions they require to complete their life cycle. When coupled with sediment resuspension, filter feeding shellfish species cannot re-establish viable populations.
50. FNZ note in their proposal document that “some beds in SCA 1 and SCACS, despite experiencing no intense fishing for more than 10 years, have biomass below historic levels”.
51. The uncertainty associated with managing scallops requires the Minister to act in a precautionary manner when making decisions.
52. We do know that scallops need to be close to others during spawning to ensure that sperm concentrations are high enough to fertilise the released eggs. We also know that it only took 3 years to deplete the large deep-water bed discovered off the western Coromandel coast in 2012. The loss of productivity from wiping out this mother-bed cannot be measured, but a bed of this size is significant given the loss of scallops in historical beds around the Hauraki Gulf.
53. Successive State of the Gulf reports demonstrate that serial depletion destroyed beds until only a hardy few, deeper beds remain viable. Existing scallop beds in Northland and Coromandel must be considered broodstock, essential for the rebuild of our depleted scallop beds. They carry a high value beyond their immediate yield. Success shouldn't just be increasing abundance in those beds, but allowing previously fished beds to return to abundance.
54. We also know that scallop recruitment isn't linear, it has periods of almost no successful recruitment and periods of successful recruitment. This means that short periods of closure might not be long enough for beds to benefit from a couple of good years. Some beds will strike it lucky and populations may greatly increase in a couple of years. Given this, it would prudent to develop an index of abundance that informs discussions around reopening the fishery in the future. The current challenge is to close both Northland (SCA 1) and Coromandel (SCACS) to all harvest, give them a rest and then reopen the fishery and apply meaningful controls.

Reopening the scallop fishery in SCA 1 & SCACS

55. We recommend the Minister closes both SCA 1 and SCACS to all harvest for a minimum of three years. Prior to reopening either fish stock to harvest we recommend the Minister establishes a multi-party working group to collaboratively develop a scallop management plan. This would enable discussions around allocation of catch, commercial catch limits, allowances for Māori customary and recreational fishing, permissible fishing methods, season length, potentially a staggered reopening to non-commercial first and commercial exploitation later, and stock monitoring.
56. We also recommend the Minister initiates a randomised survey of SCA 1 and SCACS within three years to determine the abundance of scallops across both management areas, not just in the commercially targeted areas. The survey must be conducted and reported on prior to any future management review of these stocks.
57. During the 3-year closure period we recommend that dredging for the purpose of gathering scallops is designated as a prohibited activity. The Minister has the authority under s11(3)(d) of the Fisheries Act 1996 to prohibit the any fishing method, in any area. A section 11 closure of the Northland and Coromandel scallop fisheries would be the opportune time to indicate to all interests that when the area reopens for harvest that dredging will not be permitted.

58. If dredging is not banned under the Fisheries Act the Minister runs the risk that a Regional Council will exercise its authority under the Resource Management Act to ban fishing in the interests of protecting indigenous biodiversity, as has happened around Mōtītī in the Bay of Plenty and now being pursued in the Bay of Islands.
59. We recommend the Minister and FNZ retain control of fishing activity within the Territorial Sea rather than ceding that authority to a Regional Council.
60. Commercial production must pivot towards cultured scallops. There are already New Zealand based enterprises trying out new innovations to cultivate shellfish. Ongoing depletion of local scallop populations ought to be an incentive for New Zealand to follow Japan's success in producing over 400,000 tonnes of scallops every year for local consumption and high value export.
61. The scallop fisheries are taonga, a precious gift from Tangaroa, to all of us. We must do what we can to protect and enhance the scallop populations for the benefit of future generations.