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Submission: Proposed technical amendments to fisheries regulations January 2022

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The Submitters

1. The New Zealand Sport Fishing Council (NZSFC) appreciates the opportunity to submit on proposals for technical amendments to fisheries regulations, and daily bag limits.
2. 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.
3. 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.
4. The New Zealand Underwater Association is comprised of 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.
5. 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].
6. 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.

Governance framework

7. On 26 June 2021 the Hon. David Parker, the Minister of Oceans and Fisheries, announced the Government had adopted an oceans vision, objectives and principles for the Oceans and Fisheries portfolio¹, 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*
- *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.*

8. 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.

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

9. 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 contested².

10. On 28 May 2009 the Supreme Court issued its judgment in regard to the appeal taken by recreational interests involved in the Kahawai Legal Challenge³. 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.***

11. 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.

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

³ http://www.option4.co.nz/kahawai/documents/KLC_SC_decision_28_05_09.pdf

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 afresh⁴.

12. It is with these comments in mind that we make these submissions.

⁴ Wellington International Airport Limited and others v Air New Zealand [1993] 1 NZLR 671, at p. 675.

Submission: Amendment to method of measurement for packhorse rock lobster (Proposal 8)

Recommendations

13. **The Minister replaces** the current tail length measure of 216 mm for packhorse rock lobster with tail width measures of 84 mm for male packhorse rock lobster and 90 mm for females as the minimum legal size for amateur and commercial fishers, contingent upon—
 - a. **Changes to minimum legal size for rock lobster** must not differ between commercial and amateur fishers.

Background

14. Packhorse are large rock lobster generally caught in Northland. Packhorse are known to move or migrate long distances at times. In recent years there has been an increase in the number of Packhorse (PHC) in northern New Zealand with increased catch in CRA 1, CRA 2 and CRA 3 red rock lobster management areas.
15. Currently, packhorse have one national Quota Management Area. A single tail length size limit of 216 mm applies for both male and female packhorse. There are a few (specialist) commercial fishers that target them as they aggregate for spawning in northern waters from October to January. About half the annual commercial catch is landed by the target fishery, the rest are landed as bycatch, or released if no Annual Catch Entitlement (ACE) is available.

Proposal

16. To replace the current tail length measure of 216 mm for packhorse rock lobster with tail width measures of 84 mm for male packhorse rock lobster and 90 mm for females as the minimum legal size for amateur and commercial fishers. The intention is to retain the current size limit but improve the accuracy and consistency of measurement.

Submission

17. **We the submitters support** the proposed change is contingent upon the condition that minimum legal size for packhorse tail width must not differ between commercial and amateur fishers. This statement is in line with ongoing tail width issues in the rock lobster fishery, CRA3:
 - a. The submitters and NZSFC member clubs in CRA 3 have made it clear repeatedly that the concession that allows commercial fishers to take male rock lobster with a tail width of 52 mm or 53 mm is unfair and must be removed. The recreational minimum tail width size limit is 54 mm. In 2014 these groups developed a Crayfish 3 policy that aims to increase the size and abundance of rock lobster in CRA 3 and ensure the needs of customary and amateur fishers are met. Since 2014 that policy has been shared with FNZ and the NRLMG.
18. The tail width method of measurement is less damaging to packhorse than the tail length method.
19. **We the submitters support** this method of measurement to minimize handling of packhorse lobster, a creature that can be blinded if exposed out of water for too long.

Submission: Amendment to definition of certain categories of prohibited rock lobster (proposal 9)

Recommendations

20. **The Minister exempts** lobsters clearly larger in weight and/or carapace length than the minimum legal size (MLS) requirements from provisions prohibiting landing rock lobster with damage to the tail that could make them unmeasurable.

Background

21. Rock lobster is an important species and fishery for all Quota Management sectors. In the past rock lobster were abundant and played a significant role in coastal ecosystems. Large catches were taken out of some ports in the 1920s for canning and export to Europe. Widespread commercial rock lobster fishing has occurred since

1945. Updated estimates of recreational harvest are available from the 2017–18 National Panel Survey. Few of the 7000 New Zealand residents on the panel caught rock lobster, so the estimates are best in areas where most fishing occurred.

22. Sexual maturity in female rock lobster is reached from a tail width of 34–77 mm, depending on the area of New Zealand found. For example, in CRA 3 off Southern East Cape, 50% maturity is said to be closer to a tail width of 40 mm, while female rock lobster in the south and south-east of the South Island do not breed before reaching MLS⁵.
23. Increased scarcity of rock lobster in many areas make them subject to regular review. This means when rock lobster is fished, it's important that minimal damage occurs to rock lobster, which are delicate by nature. Handling damage is known to easily result in mortality.

Proposal

24. Large lobsters that are clearly above MLS requirements are not subject to these provisions prohibiting landing rock lobster with damage to the tail that could make them unmeasurable, which is consistent with the intent of the regulations. The existing regulations prohibit the landing of all rock lobster with damage to the tail that that could make them unmeasurable, including large lobsters. This has created ongoing problems for both commercial and recreational fishers.

Submission

25. **We the submitters support** having an alternative measurement that clearly shows that a fish or lobster is clearly larger than the minimum legal size (MLS) is a sensible change to the regulations. There are other instances where this could be applied to improve outcomes for recreational fishers and enforcement staff, such as in the blue cod fishery.

⁵ https://fs.fish.govt.nz/Doc/24022/13-ROCK%20LOBSTER_FINAL.pdf.ashx

Submission: Enable spearfishing by commercial fishers (proposal 11)

Recommendations

26. **The Minister pause** this proposal for the time being contingent upon—

- a. There is no clarification of any areas or non-QMS species that would be allowed to be caught under this proposal and;
- b. Reef-dwelling fish species are long living and vital for New Zealand's marine ecosystems. It is dangerous to allow limitless commercial fishing of reef species, most of which are not in the QMS, as there is increased risk of localised depletion and;
- c. This proposal could reduce indigenous biodiversity of reefs and while spearfishing is a method that would work under ecosystem-based management, lack of clarity and planning in this proposal is not in line with ecosystem-based management approaches.

27. **The Minister bans** set netting for reef species, such as butterfish.

28. **The Minister conditionally support** commercial spearfishing, a highly selective fishing method, contingent upon—

- a. **The Minister publicizes** commercial butterfish spearfishing trial results.
- b. **Fisheries NZ clarifies** whether commercial spearfishing for butterfish would overlap areas where non-commercial fish, and whether safeguards would be placed in areas of high public use.
- c. **Fisheries NZ clarifies** which areas and which species this proposal would impact, and carry out an impact assessment of fishable species, **before** allowing consultation on this proposal.
- d. **Fisheries NZ clarifies** whether commercial spearfishing is snorkel spearfishing or UBA spearfishing.
- e. **Fisheries NZ produces** a mitigation plan of areas and species to minimise risk of local depletion that would occur by commercial use of spearfishing.
- f. **Fisheries NZ commissions** research on sustainability and biomass of areas and species that would fall under the proposal.

- g. **Fisheries NZ includes** additional at-risk reef species to the 'sale of reef fish' schedule (Schedule 20E Fisheries Regulations, 1986).

Background

29. Spearfishing is a common form of fishing on shallow reef habitats, with little known about commercial spearfishing impact on ecosystems⁶. Spearfishing is a highly selective fishing method in terms of size and species caught, mitigating bycatch risks completely. Breath-holding/snorkel spearfishing is limited to shallower waters, thus reducing variation of target fishes available in proportion to other shallow water fishing methods.
30. Butterfish is commercially fished by setnet in shallow high-productive reef or kelp forest areas. Highest landings and TAC of butterfish is off the East Coast of the lower North Island, BUT 2. Only 45% of the TACC for BUT 2 is caught on average, leaving a large amount of ACE readily available for new entrants. There are many recreationally important areas for butterfish, and there is risk of further depletion of butterfish if commercially spearfishing allowed fishing out of unused ACE and fishing out of easily accessible grounds important to recreational fishers. **The TACC has never been caught so it is an unconstrained fishery.**
31. While competitive Spearfishing as sport in New Zealand is highly regulated by national and international competition rules, there are no regulations for most non-competitive, casual spear fishers. However, this sector tends to fish in shallow reefs that are non-accessible to a variety of commercial fishing methods. Often diving from the shore, weather, visibility, and skill level limit their impact on reef fish abundance with an insignificant bycatch fish mortality rate than other fishing methods.

Proposal

32. The proposal is that the prohibition on spearfishing by commercial fishers is revoked.

⁶ <https://journals.plos.org/plosone/article/file?id=10.1371/journal.pone.0051938&type=printable>

Submission

33. **We the submitters support** spearfishing as an alternative fishing method. It is highly selective and sustainable. However, we would like to clarify we **only support commercial spearfishing** if there are adequate spatial and risk management plans.
34. **We the submitters argue** there is no sense in bringing in a sustainable harvest method into a flawed QMS. There is also little sense in introducing at-risk reef species into the QMS to allow further depletion.
35. **We the submitters request** clarification by Fisheries New Zealand on areas, species, and spearfishing types (snorkel or SCUBA) to be used in commercial spearfishing **before** allowing consultation on this proposal.
- i. An impact assessment is needed to make better informed decisions.
 - ii. International studies demonstrated clear results that SCUBA spearfishing has ongoing long-term impacts on reef fish communities.
36. **We the submitters support** Fisheries New Zealand in creating a mitigation plan of areas and species to minimise risk of local depletion that would occur by commercial use of spearfishing.
- i. Commercial spearfishing is unsustainable for many resident reef species that are long lived and slow growing.
 - ii. A mitigation plan would incorporate relevant stakeholders from the first instance.
37. Due to the selectivity of spearfishing, and the proportion of at-risk reef species **not included** in the 'sale of reef fish' schedule, we are concerned keystone reef species and more productive (larger) species could become primary commercial spearfishing targets.
38. **We the submitters ask** for clarification as to whether there will be intention of phasing out gill netting of butterfish to replace with commercial spearfishing.

Submission: Prohibit use of 'J' hooks by surface longline fleet (proposal 15)

Recommendation

39. **The Minister prohibits** use of 'J' hooks by the New Zealand surface longline fleet.

Background

- 40. In preventing bycatch, hook-pods were approved for use in New Zealand in 2019 to mitigate seabird bycatch risk during line setting. If measures can be taken above water to mitigate seabird catches, they can be taken underwater to prevent sea species bycatch.
- 41. The number of hooks set by tuna longline vessels is decreasing and the winter fishery for southern bluefin tuna generally does not encounter turtles. Leatherback and green turtles are the two species most encountered by commercial fishers in New Zealand. Between the 2011/12 fishing year and the 2019/20 fishing year, New Zealand's surface longline fishers reported an average of 18 incidental captures of sea turtles per year. The majority were released alive.
- 42. Most New Zealand fishers in the surface longline fleet already use circle hooks exclusively (Fisheries NZ).
- 43. Marlins are non-commercial species in New Zealand and some years several hundred are caught and released from surface longlines. In New Zealand, broadbill swordfish and striped marlin are two common bycatch species by tuna fisheries⁷.
- 44. Exclusively using circle hooks will help maximise survival of marlin caught on longline and released. Southern bluefin tuna and pelagic sharks can also be released by longline fishers if they are likely to survive.

Circle hooks

- 45. International studies show use of large (18/0) Circle hooks reduced CPUE of striped marlin by about 42% compared to standard tuna longline hooks. What's more,

⁷ https://fs.fish.govt.nz/Doc/17320/2003%20FARs/03_57_FAR.pdf.ashx

combined effect with removal of shallow hooks (#1 and #2 adjacent to floats) is estimated to reduce striped marlin CPUE by about 70%⁸.

46. A New Zealand study reported that striped marlin (and other species of fish) caught by Circle hooks without an offset were found to be less likely to lodge in areas other than the mouth, and less likely to damage fish⁹.
47. International studies also show different catch compositions between use of 'J' hooks and circle hooks. A study with 2292 fish (19 species) and 30 turtles (3 species) showed bigeye tuna was caught more on Circle hooks, and turtles were more frequently caught on 'J' hooks¹⁰.
48. The same study as above also showed use of 18/0 Circle hooks in pelagic longline fisheries increased bycatch survival rates versus use of 'J' hooks.
49. An Australian study trialling the use of Circle hooks in longline fisheries showed use of Circle hooks (compared to 'J' hooks and Japanese tuna hooks) resulted in larger total catches, therefore resulting in higher financial returns¹¹. The study acknowledged with larger rates of catches means higher bycatch rates, although as above, bycatch survival rates are higher with Circle hook use.
50. The same study as above compared average fish sizes caught by the three hooks, with results showing no difference in average size caught on the different hook types.

Proposal

51. Fisheries New Zealand proposes that the use of J hooks in New Zealand's commercial surface longline fisheries is prohibited. This would bring New Zealand in line with current sea turtle mitigation measures that other countries are using throughout the western and central Pacific Ocean. Research has shown that circle hooks reduce sea turtle bycatch and mortality.

^{8 3} https://bluewatermarine.co.nz/wp-content/uploads/2013/09/STM-Characterisation-11_22_FAR.pdf

¹⁰ <https://www.sciencedirect.com/science/article/pii/S0165783610002511>

¹¹ https://www.bmis-bycatch.org/system/files/zotero_attachments/library_1/H8PSD6NN%20-%20circlehooks1.pdf

Submission

52. **We the submitters support** prohibition of use of 'J' hooks by surface longline fleet based upon—

- a. The fact circle hooks reduce the mortality rates of sea turtles.
- b. The fact circle hooks are better for live release of fish, including marlin and southern bluefin tuna.

Submission: Reducing amateur daily limit for quinnat salmon in marine waters to one fish per day (proposal 19)

Recommendation

53. **The Minister retains** the current amateur daily limit contingent upon—

- a. Information on the source of decline of quinnat salmon is unclear and different stakeholders point the decline to many different sources. There needs to be justification that changing the daily limit will solve the issue.

54. **The Minister advises** Environment Canterbury Regional Council to carry out research on quinnat salmon including—

- b. Quinnat salmon stock status and the primary factors for declining stocks
- c. Salmon amateur angler surveys

Background

55. Quinnat salmon, also known as chinook/king/spring salmon, are one of five species of Pacific salmon. Quinnat salmon fishing occurs both inland and out at sea, with inland fishing occurring during spawning (February to April) when salmon ascend rivers.

Quinnat salmon, on average, are New Zealand's largest freshwater fish. In New Zealand, quinnat salmon is both a wild fishery and farmed¹².

Differing perspectives

56. Local sources¹³ report the use of ineffective fish screens and non-compliance of fish screen upkeep, for irrigation used in agriculture may be the main cause of salmon population decline.
- i. Environment Canterbury reports majority of fish screens are deemed non-compliant¹⁴.
57. In 2021, a seasonal bag limit of two sea-run salmon per angler was introduced in the Central South Island and North Canterbury Fish and Game regions.
58. Fish & Game New Zealand has advised anglers are catching too many salmon and that is the main cause of decline of the fishery. However, angler salmon catch rates have been reasonably consistent over the last 30 years as a percentage of the run for each river.
59. New Zealand Salmon Anglers Association has advised the decline of the salmon fishery is due to 'sea conditions. They are sceptical as to whether a change in amateur limit would improve the fishery.
60. Environment Canterbury research states land use intensification with stressors such as increased nitrogen concentrations and fine sediment deposition can negatively impact macroinvertebrates (salmon food source) in spring-fed salmon spawning streams¹⁵.

Proposal

61. Fisheries New Zealand proposes that amendments are made to the relevant parts of the Fisheries (Amateur Fishing) Regulations 2013 to set a daily limit of one quinnat

¹² <https://www.mpi.govt.nz/dmsdocument/17464-Seafood-Watch-Chinook-salmon-New-Zealand-report-Marlborough-salmon-relocation-proposal-presentation>

¹³ <https://www.rnz.co.nz/news/national/326776/shoddy-irrigation-canals-killing-wild-salmon>

¹⁴ Fish Screens Update 2018/19. *Environment Canterbury Regional Council Progree report*. Report No. E19/7677.

¹⁵ Gray, D. (August 2018). High country spring-fed streams: effects of adjacent land use, *Environment Canterbury Regional Council Technical Report*. Report No. R18/32.

salmon. The proposal would apply nationwide and would reduce the existing daily limits of either two (east and south coasts of the South Island) or four (all remaining areas). The outcome of this proposal is that the same daily limit would apply to waters both within and outside Fish and Game New Zealand jurisdiction.

Submission

62. **We the submitters do not support** the proposed amateur daily limit decline as information on salmon fishery decline is limited. There needs to be more research in quinnat salmon population declines and recreational surveys, to verify if there is any validity and usefulness in changing daily bag limits.
- i. It is unnecessarily costly to amateur anglers to make long-term impactful changes to daily limits without sufficient information to verify the cause of declines.
63. **We the submitters acknowledge** there is evidence of decline in the salmon fishery and action needs to be taken across the full range of factors that are contributing to this.

Submission: Amendments to Chatham Islands amateur daily limit provisions (proposal 20)

Recommendation

64. **The Minister rejects** the proposed changes to the amateur bag limits and accumulation limits in Chatham Island waters until there is wider community engagement.
65. **The Minister requires** that the recent Fisheries New Zealand Chatham Island residents survey methods and results be peer reviewed and published to clarify what options were offered in the survey and what level of consensus was achieved.

66. **The Minister recommends** to Fisheries New Zealand that the current practice by amateur fishing charter operators (such as catch per fisher) be looked at before making blanket decisions that are difficult to change.
67. **The Minister advises** Fisheries New Zealand to contract a new recreational harvest survey in FMA 4. We know—
- a. The fisheries assets of the Chatham Islands are a common pool resource. Experience has shown local estimates of what is taken from an area is usually unreliable, which is why we invest in well-designed harvest surveys over ‘stakeholder’ questionnaires.
68. **The Minister expands** the consultation process for the changes in proposal (20)—
- a. Large bag limit reductions, with no accumulation at all, are squarely aimed at visiting anglers that contribute to jobs and the economy in the Chatham Islands. While reduced catch limits help address concerns about excessive catch, a wider community discussion is needed to set appropriate limits by species in the Chatham’s, and any other region where they are proposed.
 - b. These are massive changes and cannot be tucked quietly amongst all the proposed technical changes, especially in light of events [in 2020](#)¹⁶ and [in 2021](#)¹⁷.

Background

69. The Chatham Islands are unique in their geographic isolation and ability to support a rich ecosystem due to carbon sinks formed by the meeting of Northern and Southern currents. The Chatham Islands displays a high level of endemism amongst fish species, and the uniqueness of the Chatham Islands is recognised in fisheries legislation¹⁸
70. There is little research on amateur fishing in the Chatham Islands. Subsistence fishing (fishing for food, including commercial fishers taking home recreational catch under s111 of the Fisheries Act 1996) and tourist fishing are the main amateur fisheries. The main species for amateur catch include hapuku, pāua, rock lobster, and blue cod. The

¹⁶ <https://www.mpi.govt.nz/news/media-releases/chatham-islands-fisherman-sentenced-for-paua-and-crayfish-quota-fraud/>

¹⁷ <https://www.mpi.govt.nz/news/media-releases/1-05-million-fine-for-seafood-company-owner-behind-chatham-islands-illegal-fishing-operation/>

¹⁸ <https://fs.fish.govt.nz/Doc/16428/Chatham%20Islands%20Fish%20Plan%20Part%201%202007.pdf.ashx>

most recent charter vessel survey in 2020 reported in FMA 4. Interestingly, since 2017, there have been no reported retained catches of rock lobster in CRA 6 by charter vessels¹⁹.

71. Fishing is a major industry in the Chatham Islands, supporting over 135 jobs²⁰. The main commercially fished species are rock lobster, pāua and blue cod – Which are all species coincidentally facing the prospect of large daily bag limit cuts and are all important amateur species.

72. There are confusing statements in the Fisheries New Zealand discussion paper for the 2022 technical changes. For example—

a. Statement 384 (pg. 58)²¹:

“Fisheries New Zealand supports the community’s aspirations to manage their amateur fisheries and recently encouraged them to progress a solution that addresses the issues they had identified. The community came up with the idea of undertaking a survey that asked people to set out their preferences for what daily limits should be, and whether there should be provision for accumulating daily limits”.

b. In response to the above statement, we ask where in the Fisheries Act does it state that a survey of one segment of stakeholders to get their thoughts, is considered sufficient to lock in figures for bag limits which are unlikely to change again.

c. We ask if Fisheries New Zealand would do the same for TACC settings.

73. The fact the Fishers New Zealand survey is not included in the consultation document results in submitters being unable to know if the proposals are an accurate reflection and more importantly **what the questions were and the number and range of answers.**

74. If depletion is the concern, we suggest looking toward all stakeholders – tourists are too easy a blame.

¹⁹ <https://fs.fish.govt.nz/Doc/24802/FAR-2020-15-Amateur-Fishing-Charter-Vessel-Review-4009.pdf.ashx>

²⁰ <https://www.cic.govt.nz/assets/CIC/Documents/Chatham-Islands-Economic-Profile-Report-2017.pdf>

²¹ [Consultation-document-2022-technical-regulations-package-FINAL-v2.pdf](#)

Species bag limits

75. For amateur fishers, especially in an area such as the Chatham Islands where residents rely heavily on natural resources for food subsistence, it is unfair for daily bag limits to be cut so hastily only for seafood to become monopolised by the commercial sector. Until comprehensive consultation is undertaken with a broad range of fishers to better understand its uses, **we reject FNZ's daily bag limit recommendations.**
76. There are species in this proposal that we are puzzled as to why they are included, hence highlighting the danger of blanket changes for many species across one area—
77. For example, stargazer is a fish outlined in the proposal is a deep-sea dweller caught by bottom trawl, and as economically unviable bycatch in the Chatham Islands fishery (STA 4). The TACC is unconstrained, yet Fisheries New Zealand have stated concerns of depletion if fishing is to occur in areas close to the Chatham Islands. They also state recreational catch for stargazer is negligible²², and we confirm this is a fish that amateur fishers seldom target. Yet in the proposal the 2022 Fisheries New Zealand recommendation is to drop the daily bag limit from 30 to 2. The last national panel survey including stargazer was in 2017/18. Where is the science for this recommendation coming from?
78. Since ~2003, commercial catches for blue cod in BCO 4 have increased, and since 2012 there have been a few instances where catch has exceeded the TACC²³.

²² <https://www.mpi.govt.nz/dmsdocument/45376-Fisheries-Assessment-Plenary-May-2021-Stock-Assessments-and-Stock-Status-Volume-3-Red-Cod-to-Yellow-Eyed-Mullet>

²³ <https://fs.fish.govt.nz/Doc/25010/08%20BCO%202021.pdf.ashx>

Proposal

79. The proposed amateur daily limits that would apply to Chatham Island waters are in the table below. These changes to the amateur daily limit for each species represent the most frequent response in a recent survey of Chatham Island stakeholders.

Table 10. Proposed amendments to amateur daily limits for Chatham Island waters

Species	Current amateur daily limit	Proposed amateur daily limit
Finfish		
Blue cod	15	5
Blue moki	15	5
Bluenose	5	2
Butterfish	15	5
Freshwater eels	6	2
Elephantfish	5	5
Flatfish	30	10
Grey mullet	30	5
Hapuku and bass	5	2
Kingfish	3	1
Kahawai	15	5
Lamprey	30	5
Ling	30	5
Marblefish	30	5
Gurnard	30	5
Red cod	10	5
Red moki	15	5
Rig	5	5 (no change)
Sand flounder	30	10
School shark	5	1
Skates	5	1
Salmon	2 ⁷⁵	2 (no change)
Snapper	10	5
Stargazer	30	2
Tarakihi	15	5
Trevally	30	5
Trumpeter	15	5
Spiny dogfish	15	15 (no change)
Blue warehou	15	5
Wrasse	30	5
Mussels	50	50 (no change)
Dredge oyster	50	50 (no change)
Paua (blackfoot)	10	5
Paua (yellowfoot)	10	5
Pipi	150	50
Rock lobster	6	2
Scallops	20	20 (no change)
Tuatua	150	50
Cockles	150	50
Kina	50	10

80. Fisheries NZ also proposes to remove the ability to accumulate amateur daily limits for fish and shellfish taken in Chatham Island waters.

Submission

We acknowledge the concerns expressed by Chatham Island ‘stakeholders’ that visiting amateur fishers may be taking too many fish. However, we are sceptical of this information relayed by Fisheries New Zealand—

- a. It is strange that the process for adjusting bag limits is based on a survey of ‘stakeholders’, who are affected by these changes, and then letting those answers be the basis of management intervention.
- b. This basis by the Fisheries New Zealand survey does not make sense. Amateur fisheries on the Chatham Islands are much more in the hands of locals than by visiting tourists. **Who are the ‘stakeholders’ and ‘community’ in the survey?**
- c. Visitation by tourists has not been high recently – even more so in the past couple of years with ongoing COVID-19 restrictions. It is a strange statement to make and does not seem to have any validity.

81. **We the submitters support** Fisheries New Zealand in carrying out a new recreational harvest survey in FMA 4.

82. **We the submitters support** a wider the consultation process for this proposal (20).

Submission: Amend labelling requirements for amateur fishers taking rock lobster in CRA 5 (proposal 24)

Recommendations

83. **The Minister extends** the application of the ‘bag and tag’ measure to apply to all amateur fishers in CRA 5 whether they landed the rock lobster from a vessel or not.

Background

84. CRA 5 is currently the third largest rock lobster fishery in New Zealand. It is coming off a period of high abundance, particularly along the Kaikoura Coast, but there was

significant disruption to this area and access to the fishery following the Kaikoura earthquakes in 2016. The Total Allowable Commercial Catch has been held at 350 t since 1999, in contrast to many other areas where commercial fishers supported management procedures as a way of maximising catch.

Proposal

85. Fisheries New Zealand proposes that regulation 159A of the amateur fishing regulations is amended such that the 'bag and tag' requirements apply to all amateur fishers, regardless of whether the fisher landed the rock lobster from a vessel or not. In 2018 the Minister changed the amateur fishing regulations in CRA 5 setting an accumulation limit of three daily limits or 18 rock lobsters; and 'bag and tag' conditions requiring a single day's catch to be stored in a clearly labelled bag or container.

Submission

86. **We the submitters support the Minister in extending** the application of the 'bag and tag' measure to apply to all amateur fishers in CRA 5 whether they landed the rock lobster from a vessel or not.

Submission: Clarification that amateur fishers may bleed blue cod (proposal 29)

Recommendations

87. **The Minister amends** regulation 20A to clarify while blue cod must be in a whole or gutted state, fishers are able bleed blue cod.
88. **The Minister asks** Fisheries New Zealand to consult with recreational fishers and develop metrics for blue cod that are clearly larger than the minimum legal size (MLS) to provide an alternative to whole or gutted as the only legal measurable state. This is consistent with the rock lobster regulation change (Proposal 9).

Background

89. Blue cod (rāwaru) were introduced into the Quota Management System in 1986, with the TACC of blue cod exceeded in 16 of the last 20 years. They are a taonga species for tangata whenua in the South Island iwi fisheries forum. They are important ecologically and are a highly prized catch for their eating qualities. Nationwide around 293 tonnes of blue cod is harvested by recreational fishers annually. Nearly 80% of all recreational harvest is taken from three Quota Management Areas: BCO 3, 5 & 7.
90. Blue cod reach an average size of 30-40cm but can reach 60cm in length.

Proposal

91. Fisheries New Zealand proposes that regulation 20A is amended to clarify that while blue cod still must be in a whole or gutted state, fishers are able to bleed blue cod if they wish. The national blue cod strategy was poorly implemented in 2020. One of the measures was a requirement that amateur fishers could only possess blue cod in New Zealand fisheries waters in a whole or gutted state. The requirement was created to assist with fishery officers being able to determine whether fish meet minimum legal-size requirements.

Submission

92. **We the submitters support** the proposed amendment to regulation 20A to clarify that fishers are able bleed blue cod, and these fish remain in a measurable state.
93. **We the submitters support** Fisheries New Zealand in consulting with recreational fishers to develop metrics for blue cod that are clearly larger than the minimum legal size (MLS) to provide an alternative to whole or gutted as the only legal measurable state. This is consistent with the rock lobster regulation change (Proposal 9).

Submission: Amendments to defence on possession of blue cod by amateur fishers (proposal 30)

Recommendations

94. **The Minister changes** transit rules so that a defence to possessing more than the specified daily limit of blue cod would be available to amateur fishers fishing beyond the Territorial Sea and transiting through the Canterbury and North Otago cod management areas.
95. **The Minister allows** filleting of blue cod at sea contingent upon—
- a. Blue cod frames are kept in a complete (whole) and measurable state, bagged & tagged.
96. **The Minister allows** possession of blue cod frames by amateur fishers as frames can be reused and aids in blue cod research.
97. **The Minister advises** Fisheries New Zealand to work with local South Island councils to implement disposal solutions for the blue cod dumping issue, due to an inability to fillet at sea.

Background

98. A National Blue Cod Strategy was published by Fisheries New Zealand (FNZ) in 2018. FNZ has no immediate plans to protect important spawning or benthic habitats, those measures will be addressed later, while wider habitat and ecosystem impacts will be addressed in the longer-term plan. An outcome from the planning process was the development of a traffic light system and regulation changes to manage recreational fishing in BCO 3. During 2019-20 FNZ managed a Technical Working Group process to develop the traffic light system and discuss regulatory changes. Local New Zealand Sport Fishing Council (NZSFC) club representatives and fishers contributed time and resources to the Working Group process.
99. Local representatives were expecting further consultation with FNZ on proposed regulatory measures, this did not occur and what has emerged from that process is unsatisfactory. The outcomes do not align with earlier agreements and there are serious concerns of non-compliance by recreational fishers due to the widespread perception that the traffic light system and regulations are unfair and complex.

100. Local fishers highly object to the process FNZ undertook to implementing the National Blue Cod Strategy, and, the resultant ‘Traffic Light System’, (TLS). FNZ implemented the TLS without discussing the significant changes with the Technical Working Group or engaging in the last stakeholder’s consultation process advised earlier by FNZ. Where there was general agreement to reduce daily bag limits around Canterbury, from 30 to 6 in an orange zone, that zone is now red meaning a 2-DBL applies. These daily bag limits have subsequent effects on transit through zones.

Blue cod frames

101. It is currently illegal to be in possession of Blue Cod frames to either be used as cray bait or for disposal at sea as the fish is classed as not being in a measurable state.

102. There is sense in being able to fillet blue cod at sea if frames are kept in a complete and measurable state. There have been previous discussions with MPI by stakeholders over this very proposal, but they have never been approved on the basis that it was ‘too complicated’ for compliance officers to regulate.

103. However, often, smaller vessels do not have adequate refrigerated storage to refrigerate whole fish, making filleting onboard imperative and;

104. If a blue cod frame is measurable, reasonably fresh, bagged & tagged, and the number of fillets match the frames, then compliance should not be too complex of an issue.

Recreational harvest

105. Recreational fishing for blue cod is mainly line fishing with some set netting, potting and spear fishing. The main controls are daily bag limits and size limits. In 2020 the recreational minimum legal size (MLS) for blue cod increased from 30cm to 33cm.

106. The Minister has a statutory obligation to ‘allow for’ our recreational interests not just our catch. In providing for our ‘recreational interests’ as per s21 of the Act the Court has confirmed that “people providing for their wellbeing, particularly their social wellbeing, is an important element of recreational interests”²⁴.

107. Recreational fishers do not accept the process to introduce the traffic light system was fairly implemented. There is no room for any defence of blue cod possession in transiting through management areas.

²⁴ New Zealand Recreational Fishing Council Inc and Anor V Sanford Limited and Ors SC 40/2008 [28 May 2009]. Para 54.

108. On the east coast of the South Island recreational fishing is not for the faint-hearted, a simple fishing trip takes planning and often must be cancelled due to adverse weather or sea conditions. The traffic light system certainly does not provide for people's wellbeing when considering the reality that in some red zones people must travel over 60kms offshore to blue cod fishable areas and are only permitted to return with 2 fish per person. For many people this is not a safe, practical nor reasonable expectation. It is also significantly increasing the pressure on adjacent areas, like Kaikoura and Moeraki.

Proposal

109. Fisheries New Zealand proposes that regulation changes to the Amateur Fishing Regulations be amended to include the Canterbury (Hurunui River to Rakaia River) and North Otago (Rakaia River to Taiaroa Head) blue cod management areas alongside where a defence to possessing more than the specified daily limit of blue cod would be available to amateur fishers fishing beyond the Territorial Sea and transiting through those two blue cod management areas. The proposal would not materially change the amateur daily limit regulations that apply to blue cod. Amateur fishers who fish for blue cod beyond the Territorial Sea and return to land via the Canterbury or North Otago blue cod management areas would need to be aware of what they may need to do to satisfy a court that they were not in breach of regulations.

Submission

110. **We the submitters support changes to** transit rules so that a defence to possessing more than the specified daily limit of blue cod would be available to amateur fishers fishing beyond the Territorial Sea and transiting through the Canterbury and North Otago cod management areas.

111. **We the submitters support filleting** of blue cod at sea if the frames are kept complete and measurable.

112. **We the submitters support allowing** possession of blue cod frames by amateur fishers.

113. **We the submitters support** Fisheries New Zealand working with local South Island councils to implement disposal solutions for the blue cod dumping issue.