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11 October 2022

Submission: Draft Fisheries Plan for the southern pāua fisheries (PAU 5A, 5B and 5D)

Summary

1. **The submitters recommend** the Minister does not approve the draft Fisheries Plan for the southern pāua fisheries (PAU 5).
2. **The submitters support** the objectives of the draft Fisheries Plan for the southern pāua fisheries (PAU 5). (see 13 below).
3. **The submitters do not support** the application of harvest control rules or the practice of ACE shelving in the pāua fisheries (PAU 5).

The submitters

4. The New Zealand Sport Fishing Council (NZSFC) appreciates the opportunity to submit on the draft Fisheries Plan for the southern pāua fisheries (PAU 5). Fisheries New Zealand (FNZ) advice of consultation was received on 13 September 2022 with submissions due by 11 October 2022.
5. The NZSFC is a recognised national sports organisation of 53 affiliated clubs with over 38,000 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.

6. The New Zealand Angling & Casting Association (NZACA) is the representative body for its 28 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.
7. The New Zealand Underwater Association is comprised of 43 clubs nationally who represent a cohort of approximately 160,000 participants in underwater activities in New Zealand. These activities include diving, snorkelling, freediving, fin swimming, underwater hockey, spearfishing, underwater photography, underwater rugby, ghost diving marine clean up and Experiencing Marine Reserves. Through our membership we are acutely aware that the depletion of inshore fish stocks has impacted on the marine environment and our members' wellbeing.
8. Collectively we are '*the submitters*'. The submitters are committed to ensuring that sustainability measures and environmental management controls are designed and implemented to achieve the Purpose and Principles of the Fisheries Act 1996, including "maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations..." [s8(2)(a) Fisheries Act 1996].
9. 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

Proposal

10. In November 2021 PāuaMAC5, the industry group representing commercial interests in Fiordland (PAU 5A), Stewart Island (PAU 5B) and Southland/Otago (PAU5D), [presented a draft](#) Fisheries Plan to the Minister of Oceans and Fisheries for approval.
11. Fisheries New Zealand (FNZ) released the [draft Fisheries Plan](#) in September 2022 with submissions due by 11 October 2022.
12. PāuaMAC5 seek to have this Plan approved under section 11A of the Fisheries Act 1996, so that it is taken into account when sustainability measures are under consideration. If approved, PāuaMAC5 acknowledge the Plan is not binding however it

will be “one of the matters that will influence decision-making for the PAU 5 fisheries”.

13. The Fisheries Plan objectives are:
 - a. Support and enhance the sustainability of the pāua stocks.
 - b. Protect important pāua habitat.
 - c. Enhance industry performance.

14. The Fisheries Plan seeks to maintain the PAU 5 stocks above the default management target of 40% B₀ (B40) for pāua fisheries. Current estimates of stock biomass are:
 - a. PAU 5A – B51.
 - b. PAU 5B -B47.
 - c. PAU 5D – B42.

Discussion

15. The submitters support the Plan’s intention to maintain the PAU 5 stocks above B40, however, we note that B40 is the default specified by the approved Harvest Strategy Standard (2008).

16. The submitters support the objectives of the Fisheries Plan. As always, the devil is in the detail. The Plan is simply a shareholder agreement to engage in catch spreading and finer spatial control over harvest volumes. The only engagement with Government is the desire to legalise ‘shelving’, the practice of insufficient landing to utilise all the available Annual Catch Entitlement (ACE). There is no need to inveigle the Government into accepting shelving as equivalent to a reduction in the Total Allowable Commercial Catch (TACC).

17. The PAU quota holders are perfectly able to achieve their purpose with or without adjustments to the TACC. The Total Allowable Catch (TAC) will be adjusted when informed by stock assessments and are expected to change as the stock size and age structure change. If there is a TACC reduction to increase stock size and that at a future time harvest may be increased, the TAC and TACC can be adjusted accordingly. It doesn’t require a s.11 Plan.

18. Plan Strategy 1.2. “Timely adjustments to catch levels: Adjust commercial catch levels in a responsive manner by implementing harvest control rules (HCR) and ACE shelving.” What is asked for is to retain catching rights by redefining uncaught ACE as ‘shelved’. This ACE can be unshelved and used at some future time determined by a HCR. We submit decisions regarding catch levels needs to remain with the Minister who makes his/her decisions in the national interest.

19. There is nothing stopping the PAU quota holders from agreeing to a HCR to vary their catch, provided it doesn't exceed the TACC. A special s.11 plan is unnecessary for this purpose and we can only assume it has the unspoken intention of limiting non-commercial catch.
20. We do not accept harvest control rules (HCR) as a legitimate way to adjust the TACCs or TACs.
 - a. HCR are a form of pre-set decision rule, a concept we have rejected strongly in our recent [Fisheries Amendment Bill submission](#).
 - b. HCR removes Ministerial discretion from the annual decision-making process.
 - i. Currently the Minister is obliged to consider best available information, apply the Fisheries Act information and environmental principles, weigh all the factors and make a decision in the national interest that conforms to the purpose of the Act.
 - ii. Ministerial discretion to act in a precautionary manner has been the primary factor in saving precious fish stocks from collapse or overfishing.
 - c. HCR must not be applied in a fish stock that has no TAC or allowances set aside to 'allow for' Māori customary or recreational fishing interests, or fishing related mortality. Currently, PAU 5A has no TAC or allowances, only a TACC.
21. We reject ACE shelving as a legitimate form of managing fish stocks. If catches need to be reduced due to a sustainability concern it is the Minister who is obliged to act in the national interest. We cannot expect quota holders to be motivated to act in the national interest, they can only be expected to act in their own economic interests.
22. Similarly, shelving ACE leaves the decision-making to the quota holders who then decide when the shelved ACE will be released. Not acceptable.
23. We accept the intention is to maintain the stocks above B40, however, responsibility for catch levels and maintaining the pāua stocks in the national interest lies squarely with the Minister. Only the Minister has a **statutory duty** to act in the national interest.
24. We note the most recent Plenary reports for PAU 5A that, "If shelving is reduced to 10%, spawning stock biomass is projected to decline to 50% B₀ over 3 years and to 41% B₀ in the long term". This demonstrates how abundance levels can change with

just a change to the available catch limit. The Minister must remain in charge of managing catch limits.

25. We also note that the Plenary assessed the probability of current catch or the TACC causing overfishing to continue or to commence in PAU 5D. The probability of overfishing occurring is as likely or not (40-60%) for current catch, and very likely, **(above 90%) for catch at the current TACC**. The Plenary reports that PAU 5D landings matched the TACC until 2012-13 and declined to an average of 56 tonnes (t) in 2018-19 and 2019-20. This suggests a TACC review is required and that shelving ACE will not be sufficient to meet the obligation on the Minister to “ensure sustainability” as required by the Act.
26. We submit that it is not possible for the Minister to comply with his statutory obligations if both HCR and ACE shelving are permitted in the PAU 5 stocks. Together, these constructs threaten the Minister’s obligation under s8(2) of the Act to ensure sustainability by - maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations; and avoiding, remedying or mitigating any adverse effects of fishing on the aquatic environment.
27. Timeliness in decision-making has become a catch cry recently for those seeking to enhance the benefits of harvest control rules or pre-set decision rules. As if there are major benefits to be had from faster decision-making. The submitters had serious concerns about HCRs (management procedures) used in the many rock lobster stocks prior to 2018. The Catch Per Unit of Effort (CPUE) index used to drive the HCR made no allowance for increases fishing efficiency or shifting effort into new or lightly fished areas. In stocks that were declining, hyperstability in CPUE did not reflect changes in abundance and overfishing continued under the HCR. In stocks that were increasing there was less of a problem. Pāua are even more sedentary and likely to aggregate than rock lobster, also sea conditions and visibility across a season varies, making CPUE unreliable as an annual index of abundance. Even stock assessments that integrate catch, CPUE, and size of pāua across seasons are problematic.
28. We submit there are no obvious, tangible or beneficial outcomes for fish stocks that can be attributed to speedier decisions based on uncertain data. Quite the opposite. A Minister that takes his/her time to consider all available information, the submissions from stakeholders, and other sources, can come to a robust decision that meets all statutory requirements.
29. HCR are being promoted as a means to enable timely management decisions, implying that current processes are too slow. We agree with the general sentiment that the process to review stock management could be improved to respond to local concerns.

Some stocks have never been reviewed since being introduced into the Quota Management System in 1986.

30. MPI advise they only have the capacity to adjust catch limits for around 30 stocks annually, out of a total of 642 stocks. Also, that increased demand for integrated, ecosystem based management will increase pressure to provide greater certainty that stocks are being harvested sustainably at a stock level¹.
31. We submit that the review system is constrained by a lack of resources available for regular stock assessments and management reviews. Non-commercial fishers have developed their own Fisheries Management Plan, [the Rescue Fish Policy](#), that proposes a remedy for this by applying a resource rental to every kilo of fish landed by commercial fishers.
32. We are often told how valuable commercial fishing is to the national economy. FNZ officials advise that commercial fishing contributes \$4.2 billion per year in total economic activity including \$1.35 billion in export revenue to year ending June 2021. Pāua is one of the most valuable exports. If this is true, then why are fisheries managers struggling to find enough resources to do their job?
33. Clearly, there is not enough recognition of the need to charge a resource rental that delivers a return to the nation from the commercial exploitation of pāua, a national resource, for personal gain.
34. This fisheries plan was developed by industry representative body PāuaMAC5 on behalf of all PAU 5A, PAU 5B and PAU 5D quota owners, ACE holders and harvesters. Obviously, it is in their interest to oppose the closure of areas to commercial pāua harvesting. Where areas are large enough to prevent the catch of the TACC, there are clauses in the Fisheries Act 1996 that address this. In small areas, our view is that it is the ACE fisher that is most affected by displacement of effort and we do not see any obligation under the Act to provide compensation to the quota owner or access to an equivalent area.
35. The submitters also do not agree that area closures for mātaimai and taiāpure are for “non-fisheries purposes” and that these areas do not “safeguard sustainability”. Clearly these customary fishing areas are primarily established to rebuild stocks in areas that have traditionally been fished by iwi/hapū.
36. Increasing the minimum legal size for recreational fishers is problematic. It could significantly reduce the availability of legal size pāua in areas that are accessible to the

¹ MPI Departmental Report to the Primary Production Select Committee. 25 July 2022. [45]

public. In more remote areas or in deeper water recreational fishers may have the opportunity to be more selective and fish voluntarily to a larger size. In marine species egg production is not often the limiting factor for future recruitment. The bottlenecks are often the amount of suitable juvenile habitat and food supply. With the spawning stock biomass maintained above 40% of the unfished level egg production is unlikely to be limiting recruitment. And, with the recreational catch about 5% of the TAC we don't see much, if any, benefit to recruitment if the minimum legal size for pāua harvested by recreational fishers is increased.