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12 May 2023

Submission: Proposed changes to the mandatory seabird mitigation measures for commercial fishers using surface longlining

Recommendation

1. The Highly migratory species and Pacific fisheries team support FNZ Option 4 - a mandate on use of 'three out of three' measures, or hook-shielding devices, on all Surface longline (SLL) vessels in all areas at all times.

The Submitters

- The New Zealand Sport Fishing Council (NZSFC) appreciates the opportunity to submit on the review of mandatory seabird mitigation measures for commercial fishers using surface longlining. Fisheries New Zealand's (FNZ) Discussion paper 2023 was received on 27 March 2023, with submissions due by 28 April 2023. On 26 April FNZ extended the submission deadline to 12 May.
- 3. The NZ Sport Fishing Council is a recognised national sports organisation of 50 affiliated clubs with over 36,700 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.

- 4. The New Zealand Angling and Casting Association (NZACA) is the representative body for its 24 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.
- 5. 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.
- 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 this review and would like to be kept informed of future developments. Our contact is Helen Pastor, <u>secretary@nzsportfishing.org.nz</u>

Proposed Changes

8. FNZ propose four options in response to the 2022 review of the Mitigation Standard to reduce incidental seabird capture on Surface Longline Fleet (SLL) vessels operating within New Zealand waters.

Option 1 - Retaining the regulatory status quo, which under the current SLL circular requires use of **either** hook-shielding devices, **or** a tori line **and either** night setting, **or** line weighting.

Option 2 - Regulating additional seabird mitigation measures, which includes the addition of some measures to the SLL circular to better align with the mitigation standard. The measures could include; regulating discharge management during hauling, regulating tori line position over bait entry point, clarifying colour and durability specifications on tori line streamers, or amending line weighting specifications.

Option 3 - Spatial and/or temporal mandated use of 'three out of three' measures, meaning these measures would be used only in high-risk times and in locations with seabirds.

Option 4 – Mandate 'three out of three' always, noting that hook-shielding devices would continue to be an alternative option to 'three out of three' measures.

Discussion

- 9. The submitters support option 4, as all the 'three out of three' mitigation devices are effective in different ways and mitigation is most effective with combined use of all three.
- 10. Research and associated recommendations clearly suggest 'three out of three' or hookshielding devices as best practice measures for reducing seabird capture in longline fisheries. For example,
 - a. A study involving the comparison of line weighting as a sole mitigation measure and in use with other mitigation measures showed that with combined use of tori lines, line weighting and night setting (three out of three), there were no seabird captures in the combined measures trial¹.
 - b. Another study looking at best practice to avoid seabird capture found that 'three out of three' using tori lines, line weighting and night setting had the lowest rate of seabird capture in South African tuna fisheries².
- 11. It is strongly suggested that line weighting is an effective tool to reduce seabird capture. By increasing sink rates of baited hooks, it makes it more difficult for some seabird species to dive after hooks³. The FNZ compliance team states most SLL fishers do not provide or keep sink rate records. However, it is an obligation to keep sink rate records. We object to this non-compliance and urge MPI officials to make more effort to ensure sink rate records are kept and reported.
- 12. Since SLL fishers are not keeping sink rate records, and line weighting may be an effective tool to mitigate impacts on seabird capture from slow sink rates of baited hooks, we expect FNZ to insist to the Minister that line weighting must be one of three mitigation measures, as per Option 4.
- 13. FNZ state in their discussion document that 'Seabird capture rates in the fleet are relatively similar between day and night...night setting does not totally mitigate risk of seabird captures there is evidence of increased captures during full and partially full (gibbous) moon phases'. This could be because there is a lot of evidence suggesting that seabird species such as albatrosses, petrels and shearwaters rely strongly on olfactory senses to forage food underwater⁴. However, multiple studies show night setting is effective when used in conjunction with other measures. Given the available evidence we expect night setting to be one of the three mitigation measure as, per Option 4.
- 14. Research shows compelling evidence that use of more than one bird scaring/tori line which are well-designed and correctly deployed, are highly effective at preventing seabird attacks with or without branch line weighting⁵. We totally support tori lines to be one of the three mitigation measures, as per Option 4.

Joint recreational submission on seabird mitigation measures for Surface longline vessels. 12 May 2023.

¹ Jiménez, S., Domingo, A., Forselledo, R., Sullivan, B. J., & Yates, O. (2018). Mitigating bycatch of threatened seabirds: the effectiveness of branch line weighting in pelagic longline fisheries. *Animal Conservation*. doi:10.1111/acv.12472 ² Melvin E.F., Guy T.J., & Read L.B. (2014). Best practice seabird bycatch mitigation for pelagic longline fisheries targeting tuna and related species. *Fisheries Research* 149:5–18. https://doi.org/10.1016/j.fishres.2013.07.012

³ Jiménez, S., Domingo, A., Forselledo, R., Sullivan, B. J., & Yates, O. (2018). Mitigating bycatch of threatened seabirds: the effectiveness of branch line weighting in pelagic longline fisheries. *Animal Conservation*. doi:10.1111/acv.12472 ⁴ Nevitt, Gabrielle A. "Olfactory foraging by Antarctic *procellariiform* seabirds: life at high Reynolds numbers." *The Biological Bulletin* 198, no. 2 (2000): 245-253.

⁵ Melvin E.F., Guy T.J., & Read L.B. (2014). Best practice seabird bycatch mitigation for pelagic longline fisheries targeting tuna and related species. *Fisheries Research* 149:5–18. https://doi.org/10.1016/j.fishres.2013.07.012

- 15. If made mandatory, hook shielding devices are an effective alternative for fishers who cannot deploy 'three out of three' due to health and safety concerns. Trials in Australia and New Zealand show they're effective at mitigating seabird capture. FNZ advise they can be costly to implement and note in the discussion document that they will consider redistributing more hook shielding devices to fishers if necessary. We submit that this is a cost of fishing that ought to be attributed to the fisher or fishing company, and FNZ ought to make every effort to recover the cost of any device distributed to fishers.
- 16. FNZ state in the discussion document that;

'birds are attracted to SLL vessels because of the availability of food from baits near the surface and by discarded bait and offal (fish waste). Some birds dive down to retrieve the bait from hooks. The incidental capture of seabirds by SLL gear primarily occurs due to birds becoming hooked or tangled in the line as they attempt to forage on baited hooks, fish or **discharged fish waste**.'

- 17. Compliance around waste discharge during hauling is poor for SLL fishers seemingly due to health and safety barriers. The above statement alone should be enough to confirm research and a review around waste discharge measures is required. We encourage FNZ to commission research for waste discharge measures that do not compromise vessel crew health and safety. This research would then provide measures complying with the Mitigation Standards to reduce incidental seabird captures in the SLL fishery, with an aim **to review** waste discharge measures.
- 18. Currently, observer coverage is low and compliance by fishers to agreed measures is also poor. FNZ must increase their monitoring and enforcement efforts.
 - *a.* The FNZ discussion document states observer coverage on SLL vessels is low, with around 5-10% effort observed per year dependent on target species.
 - *b.* Observer coverage rates are decreasing, and cameras on vessels won't be able to monitor seabird mitigation devices.
 - *c.* FNZ must increase observer coverage to ensure compliance with standards, and adequate data is collected on interactions with vulnerable seabird populations.
 - *d.* We support FNZ's Option 4 on the basis that it will help clarify mandatory or voluntary standards applying to longline fishing operators.

Need for substantial changes

- 19. As food availability declines, this has an impact on seabird foraging behaviour. We have received reports of seabirds exhibiting more aggressive and persistent behaviour when attacking baits deployed from recreational vessels. We are concerned that interactions with seabirds will increase over time if forage fish species continue to decline and birds become more prone to attacking baits.
- 20. Neither of FNZ's option 1 nor 2 address the point of the proposal, which is to reduce seabird capture on SLL vessels.
- 21. In 2022, the Mitigation Standard was reviewed by FNZ, showing low uptake of voluntary mitigation measures including 'three out of three', or use of hook-shielding devices, and low 'adherence to discharge management practices.' This is a major concern because seabird

captures on SLL vessels remain high, and there is clear evidence that many seabird species are becoming increasingly vulnerable due to many external pressures, including fishing capture. The evidence shows that seabird captures often results in injury or death.

- 22. Currently during setting of hooks, fishers are required to use hook-shielding devices on all hooks *or* deploy a legal tori line while setting at night *or* line weighting to legal specifications, which is known as 'two out of three'. However, 'three out of three' measures are seen as best practice and are currently being used voluntarily by some vessels. The 'three out of three' measures propose mandatory use of all the above, except for hook shielding devices, which would be an alternative to using tori lines, setting at night, and line weighting.
- 23. We acknowledge option 3 could be somewhat effective considering that higher rates of seabird capture in different locations occur seasonally, differ from one another, and are able to be tracked based on seabird foraging and movement data. However, if FNZ is serious about ecosystem-based management, it is important to understand these distribution patterns are likely to change in the future due to changes in climate-related indicators (such as seasonal food availability, and sea surface temperature shifts). All these factors affect seabird movement and foraging behaviour.
- 24. In the 2021/2022 fishing year, just under 1500 SLL fishing events were recorded with 1.2 million hooks deployed.
- 25. For this same year, 17 SLL vessels reported a total catch of 210 seabirds. Most of these seabird captures came from hauling lines in.
 - a. Data states all SLL fishing events in this period has used some form of mitigation device. Around 40% of these recorded events used one mitigation device, but it remains unclear as to what devices were used.

International Obligations

- 26. In 2021, New Zealand signed the Agreement on the Conservation of Albatrosses and Petrels (ACAP). One of ACAP's founding concerns was incidental seabird capture in longline and other commercial fisheries. In their most recent research about seabird mitigation devices (2021), they recommended the use of 'three out of three', tori lines, line weighting and night setting, or use of hook-shielding devices as best practice to mitigate seabird capture⁶. It is clear the FNZ proposals include the ACAP advice, yet for New Zealand to fulfil its ACAP agreement, the only option that can be considered here is Option 4.
- 27. Most seabird species are protected in New Zealand, meaning the Department of Conservation has statutory obligations to provide for their conservation. Internationally, in addition to ACAP, New Zealand has also signed onto the Convention on Migratory Species (CMS). Domestically, in addition to the Wildlife Act 1953, the Fisheries Act 1996 contains mandatory environmental bottom lines which includes the acting Minister having an obligation to protect all associated species affected by fishing, including seabird species.

⁶ ACAP Review of mitigation measures and Best Practice Advice for Reducing the Impact of Pelagic Longline Fisheries on Seabirds. 2021. https://www.acap.aq/resources/bycatch-mitigation/mitigation-advice/3956-acap-2021-pelagic-longlines-mitigation-review-bpa/file

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