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17 July 2023

Submission: Support amended Option 1 for Gurnard 3

Recommendations

1. **The Minister approves an amendment to FNZ's Option 1 for Gurnard 3**, to provide for an increase in the TAC, and to increase the allowance for fishing related mortality to equate to 10% of the TACC.
2. **The Minister rejects FNZ's Option 1 (status quo) and Option 2 for Gurnard 3**, on the basis that a TACC increase cannot be justified and a precautionary approach is required.
3. **The Minister acknowledges** the need to resist any changes that will result in an increase in inshore trawling due to the adverse effect on biodiversity and the aquatic environment, especially in the 10 m to 30 m depth range where a high proportion of gurnard and flatfish catch is taken.
4. **The Minister makes a precautionary decision given that** the 2022 survey that indicates pre-recruit biomass of gurnard has declined, indicating that recruitment to the Gurnard 3 fishery will decline in future.

The Submitters

5. The New Zealand Sport Fishing Council (**NZSFC**) appreciates the opportunity to submit on the review of management measures for Gurnard 3 (**GUR 3**) for 2023/24. Fisheries New Zealand (**FNZ**) released their Discussion Paper No: 2023/04 on 7 June 2023, with submissions due by 17 July 2023.
6. 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.
7. 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.
8. 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].
9. 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.

Discussion

10. The submitters are concerned that Fisheries New Zealand (**FNZ**) is again proposing the Minister uses section 13(2)(c) of the Fisheries Act 1996 to justify an increase to a Total Allowable Catch (**TAC**), this time for Gurnard 3 (**GUR 3**).
11. About 80% of commercial catch of red gurnard comes from the inshore, multi-species trawl fishery. This mixed trawl fishery also catches flatfish, elephant fish, red cod, tarakihi, blue moki, rig, barracouta and leatherjackets. Maximising the catch of the most productive species will have a negative impact on all the less productive species in the area fished. Tarakihi is already subject to a time-bound rebuild plan. Until the impacts on other species is assessed and taken into account, any increase in the TAC and Total Allowable Commercial Catch (**TACC**) cannot be justified.
12. The only justified increase is to amend FNZ's Option 1, to increase the TAC to provide for an increase in the allowance for fishing related mortality to equate to 10% of the TACC in this trawl fishery.

Table 1: Proposed management options (in tonnes) for GUR 3, from 1 October 2023.

Option	TAC	TACC	Allowances		
			Māori customary	Recreational	Other mortality
FNZ Option 1 (status quo)	1695	1575	3	6	111
FNZ Option 2	1779 (+84)	1654 (+79)	3	6	116 (+5)
Submitters	1741	1575	3	6	157 (+46)

13. GUR 3 landings regularly exceeded the TACC between 1988/89 and 1995/96. The TACC was increased to 900 t in 1996 and landings dipped over the next 5 years. In 2002/03 the TACC for GUR 3 was reduced from 900 t to 800 t. Since 2000, commercial catches have steadily increased. Landings have consistently exceeded the TACC since 2004 despite 6 increases to the TACC over that time.

14. **The submitters do not support over-catch of the TACC as a valid reason to increase the TACC.**

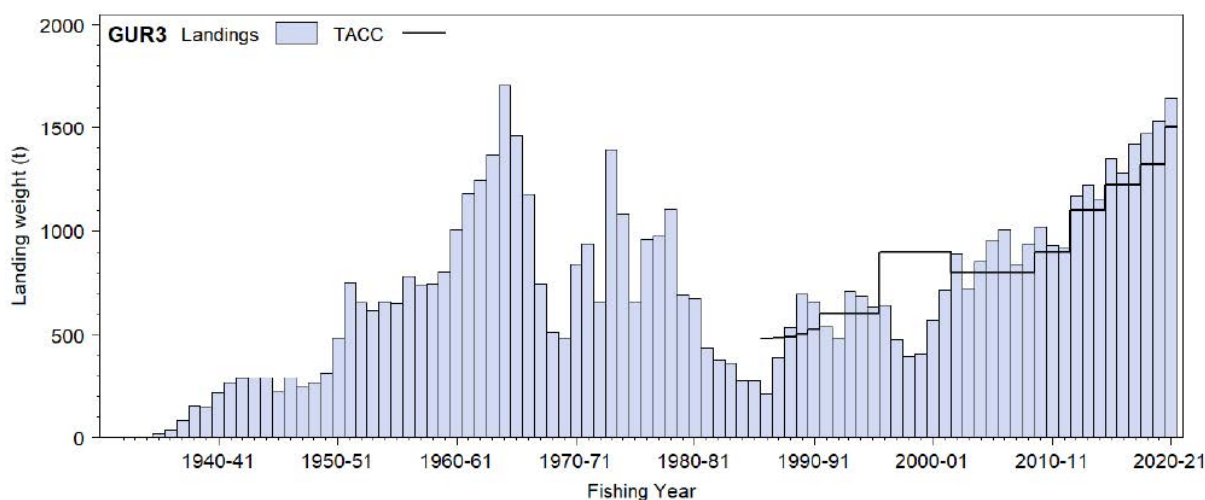


Figure 1: GUR 3 landed and reported commercial catch history to 2020/21 and the TACC since 1986.

15. Clearly, the TACC is not constraining landed catch of red gurnard, and the settings in the mixed trawl fishery are creating an economic advantage for commercial fishers to continually exceed the TACC. There is no minimum legal size for gurnard, yet illegal dumping has been tolerated by officials and the Minister since the QMS was introduced. FNZ acknowledge *“there is a commercial preference for red gurnard over 27 cm in length, with issues identified regarding discard of small red gurnard in the commercial inshore trawl fishery”*. [At 11].

16. The south-eastern mixed trawl fishery has a [history of dumping and wastage](#). This illegal behaviour was highlighted in 2016 by the [Sea Around Us report](#) and subsequent [Heron inquiry](#) into at-sea behaviour by commercial fishers. Despite the findings, successive Ministers have seen fit to increase the TACC for species within the mixed trawl fishery, without any substantive efforts by officials to constrain commercial catch to the legal limit set by the Minister. The acknowledgement and acceptance of this ongoing behaviour by

commercial fishers, from FNZ and successive Ministers, is not good enough and not acceptable.

17. An increase to the TACC for GUR 3 will just encourage more of these practices that are clearly wasteful. Any increase in retention rates of small gurnard will increase CPUE, which is routinely misinterpreted as increased abundance. A precautionary decision of no TACC increase must be applied to this review of GUR 3.
18. Another contributing factor the Minister must take into account is that the trawl survey results show an increase in gurnard abundance in the last survey year only. In the 10 years prior to that survey results have not increased (FNZ discussion document Figure 6). A high proportion of gurnard catch was recorded in the 10 m to 30 m depth range off the South Island's east coast. If the government is serious about taking an ecosystem based fisheries management approach the Minister cannot justify increasing the GUR 3 TACC given that –
 - a. Leatherjacket in LEA 3 are caught in the same trawl fishery as red gurnard. The LEA 3 TACC has been exceeded 11 out of the past 13 years, so any increase to the GUR 3 TACC will impact on LEA 3 catches and other trawl species, including MOK 3 catch. Also, this is an area where a high proportion of flatfish catch is taken.
 - b. The targeting of red gurnard within the east coast mixed trawl fishery has increased from 10% to around 25% since 2017/18.
 - c. The inshore waters, including between 10m and 30m, off the South Island are productive grounds for many species including blue cod. The management of blue cod has been fraught, with recreational catch plummeting due to the unfair Traffic Light System (TLS) introduced by officials, applying only to recreational harvest. This has essentially created a blue cod fishery almost exclusive to commercial interests. This has, and will continue to, cause friction amongst the different sectors and east coast communities. Canterbury fishers have been harshly penalised by the TLS and the submitters continue to advocate for a fairer system for east coast fishers.
 - d. More trawling inshore is counter-productive to ecosystem based fisheries management and the Fisheries Act 1996. In the CRA 1 ELI v The Minister, Justice Churchman highlighted the statutory duty on the Minister to take into account any effects of fishing on any stock and the aquatic environment as per s8 of the Act. In the Act, 'Effect' means the direct or indirect effect of fishing, including any positive, adverse, temporary, permanent, past, present, future, and/or cumulative effect¹.
 - e. The 2022 survey indicates pre-recruit biomass has declined, indicating that recruitment to GUR 3 will decline in the future.
 - f. The GUR 3 Quota Management Area (QMA) is ridiculously large, encompassing FMAs 3, 4, 5 & 6, from the South Island's Clarence River on the northeast coast, down around the south coast and up to and including Fiordland.
 - g. The FNZ discussion document (Figure 2) shows that most of the gurnard fishing effort occurs in the South Canterbury Bight and the trawl survey results from 2022

¹ The Environmental Law Initiative v Minister for Oceans and Fisheries [2022] NZHC 2969 [11 November 2022] At 22.

show the lowest gurnard catch rates in this area (FNZ discussion document Figure 9). The exploitation rate in this fishery is already high. And the stock assessment model projections show a decline in abundance over the next 5 years (Fisheries Assessment Plenary Report 2023).

19. **Given the available information, the Minister is obliged to make a precautionary decision** for GUR 3. To meet the statutory obligations to account for all catch within the TAC, the Minister must increase the TAC and the allowance for fishing related mortality to equate to 10% of the TACC in this mixed trawl fishery.