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Submission: Review of management procedures for spiny rock lobster (CRA 7 & 8), and review of CRA 8 sustainability measures for 2024/25

Recommendations

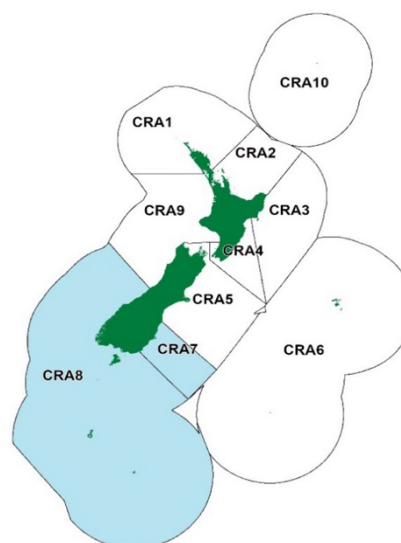
1. **The Minister supports Option 1 in relation to CRA 7**, rejecting the use of the Catch Per Unit of Effort (CPUE) based proposed management procedure.
2. **We insist the Minister revokes the concession in CRA 7** which permits commercial fishers to take female and male rock lobsters at or above 127 mm tail length (TL) (equivalent to 47 mm TW for males and 48 mm TW for females) and restores the minimum legal size (MLS) of 54 mm TW for males and 60 mm TW for females year-round.
3. **The Minister supports Option 1 in relation to CRA 8**, rejecting the use of the proposed CPUE based management procedure and sets the Total Allowable Catch at 1,459 tonnes which includes a 6 t increase to the recreational allowance.
4. **We insist the Minister revokes the concession in CRA 8** which permits commercial fishers to take female rock lobsters at or above 57 mm TW year-round and restores the MLS of 60 mm TW year-round.
5. **The Minister acknowledges that** an agreed management target and agreed reliable index of abundance are required before selecting a management procedure for CRA 7 & 8.

The submitters

6. The New Zealand Sport Fishing Council (**NZSFC**) appreciates the opportunity to submit on the review of sustainability measures for rock lobster (*Jasus edwardsii*), in Quota Management Area CRA 7 & 8 for 2024-25. Fisheries New Zealand's (FNZ) Discussion paper was received on 18 December 2023, with submissions due by 2 February 2024.
7. 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.
8. 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.
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. Rock lobster are an important species and fishery for all sectors in New Zealand. Historically, rock lobster were abundant and played a significant role in coastal ecosystems. Large catches of rock lobster 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.



13. Fisheries New Zealand (**FNZ**) with input from the National Rock Lobster Management Group (**NRLMG**) is reviewing the use of management procedures for spiny rock lobster in Quota Management Areas (**QMA**) CRA 7 (Otago) and CRA 8 (Stewart Island, Southland and Fiordland). FNZ is also reviewing the Total Allowable Catch (**TAC**) in CRA 8 for the 1 April 2024 fishing year.
14. CRA 7 and 8 are assessed in conjunction because they are thought to be one biological stock. The most recent rapid assessment update at the end of the 2022/23 fishing year (31 March 2023) estimated the current biomass of the combined stocks is estimated to be at 54% of the SSB_0 (unfished spawning stock biomass¹) above the interim target of 40% SSB_0 . Individually, CRA 8 is estimated to be above the interim management target (40% SSB_0) at a level of 62% SSB_0 . The status of CRA 7 in relation to the default management target of 40% SSB_0 cannot be reliably estimated.

Management proposals

15. FNZ and the NRLMG have released a [Discussion Document](#) to review the management procedures for rock lobster in CRA 7 and 8. The review also proposes changes to the TAC in CRA 8.
16. FNZ are proposing two options for CRA 7 (Table 1). Option 1 rejects the use of the proposed management procedure, whereas Option 2 reinstates the management procedure that was used prior to it being dropped in 2020. There are no proposed changes to the TAC in CRA 7.
17. For CRA 8 FNZ are proposing two options (Table 2). Option 1 rejects the use of the new management procedure and increases the TAC by 6 t to 1,459 t, which includes an increase

¹ SSB_0 , the spawning stock biomass, is the biomass of sexually mature females only. This includes females that are sexually mature but smaller than the minimum legal size (i.e., not able to be caught). SSB_0 is the estimated original biomass.

to the recreational allowance. Option 2 confirms the use of the new management procedure. Increases the TAC to by 148 t to 1,601 t, including an increase to the Total Allowable Commercial Catch (TACC) and allowances for recreational and All Other Mortality caused by fishing for rock lobster.

Table 1: Proposed management procedure options for CRA 7.

CRA 7 management procedure options	
Option 1	<i>Reject the use of the proposed management procedure.</i>
Option 2	<i>Confirm the use of the proposed management procedure.</i>

Table 2: Proposed management procedure and TAC options for CRA 8 from 1 April 2024 (figures are all in tonnes).

Option	TAC	TACC	Allowances		
			Customary Māori	Recreational	Other mortality caused by fishing
Current settings	1,453	1,251	30	33	139
Option 1 (<i>Reject the use of the new management procedure. Set the TAC, allowances, and TACC as follows</i>)	1,459 (↑ 6)	1,251	30	39 (↑ 6)	139
Option 2 (<i>Confirm the use the new management procedure. Set the TAC, allowances, and TACC as follows</i>)	1,601 (↑ 148)	1,392 (↑ 141)	30	39 (↑ 6)	140 (↑ 1)

CPUE based management procedures

18. The purpose of the proposed CRA 7 and CRA 8 management procedures (**MPs**) is to relieve decision makers of considering any other information than catch per unit of effort (**CPUE**) when adjusting the TAC. However, simply relying on CPUE as a reliable index of stock abundance is problematic, and something that cannot be true except for very small areas.
19. CPUE indices do not allow for changes in market demands, fishing operations, increased efficiency, shifts in areas fished, and changes in discard rates or reporting rates. This is particularly relevant given that commercial fishers are now harvesting larger rock lobster, whereas historically those larger animals were returned to the water.
20. The TAC must be set having regard to Part 2, the Purpose and Principles of the Fisheries Act (**the Act**) 1996. To take a simple measure of commercial CPUE and craft a rule that adjusts the TAC in response to changes in CPUE is not contemplated in the Act.
21. This process of determining catch settings using a single species assessment as the best available information has been rejected by the High Court². In the 2022 CRA 1 High Court decision, Churchman J confirmed that the Act ***requires the Minister to act in a accordance with New Zealand's international obligation to favour a precautionary approach where***

² Environmental Law Initiative v Minister for Oceans and Fisheries [2022] NZHC 2969 [11 Nov 2022].

*information is uncertain, unreliable, or inadequate*³. As such, there is an obligation to enquire and report on environmental risks arising from the degree of depletion of the rock lobster stock, and the gaps and deficiencies in the information being used. Kina barrens are one obvious consequence of removing predators that provide necessary ecosystem services. While kina barrens are not prolific when compared to Northland waters, there are likely more consequences that are not so obvious or simply not reported.

22. The submitters do not support the use of management procedures designed to maintain vulnerable biomass at low levels that are estimated to maximise yield. The Minister must acknowledge that current management procedures do not adequately consider efficiency gains made by rock lobster fishers since 1980 or the downward trend in productivity of all rock lobster stocks in New Zealand and are arguably ultra vires.
23. Retention rates and reporting behaviour have changed over time yet this is not reflected in the previous MPs or previous stock assessments. In 2018, efficiency gains were factored into the CRA 2 stock assessment and that proved to be a turning point, showing that previous estimates of current and future abundance were too optimistic. We are concerned that There are no iwi and stakeholder agreed management targets that take account of the wider impacts of high exploitation rates of rock lobster.
24. To make a lawful decision, the Minister must now consider the matters raised by Churchman J, including the quality of information, and take into account any past, present and cumulative effects of fishing on rock lobster and other species within the marine ecosystem.

Rock lobster - Proposals

Crayfish 7 (CRA 7) Otago

25. CRA 7 supports relatively small commercial, customary and recreational fisheries. Most of the rock lobster available in the fishery are young fish that tend to migrate into areas in CRA 8 after a few years. Catch rates tend to fluctuate with strong and weak years of recruitment.
26. CRA 7 is a concession area. Commercial fishers are permitted to land male and female rock lobsters at or above 127 mm tail length (TL). Approximate TW measures are 47 mm TW for males and 48 mm TW for females.⁴ This is significantly less than the estimated size of 50% female maturity in CRA 7 of 58.2 mm TW.

³ At [17 & 44]

⁴ Fisheries Assessment Plenary - Introductory Section to Yellowfin Tuna. November 2023. Fisheries New Zealand. At [p. 450]

CRA 7 management

27. FNZ are proposing to reinstate the CRA 7 MP used prior to 2021, which was dropped after the Electronic Reporting System was introduced. The new system changed the way catch was reported which adversely affected CPUE in most QMAs. CRA 7 is believed to be the exception and reporting of estimated catch improved (matched land catch better).
28. FNZ have stated in their Discussion Document that the status of CRA 7 in relation to the default management target of 40% SSB₀ cannot be reliably estimated.⁵
29. **The submitters recommend the Minister supports Option 1 in relation to CRA 7, rejecting the use of the Catch Per Unit of Effort (CPUE) based proposed management procedure.**
30. **The submitters request the Minister acknowledges that an iwi and stakeholder agreed management target and agreed reliable index of abundance are required before selecting a management procedure for CRA 7.**

Crayfish 8 (CRA 8) South Coast/Fiordland

31. The CPUE for CRA 8 was at its lowest point in the 1990s and early 2000s. Since then, it has increased steadily, despite increases in the TACC. CRA 8 now supports by far the largest commercial rock lobster fishery, with the highest catch rates per potlift. Recent recruitment has been high and if this remains above the long-term average the stock will continue to increase.
32. CRA 8 is also a concession area which permits commercial fishers to land female rock lobsters at or above 57 mm TW at any time of year. This is less than the estimated size of 50% female maturity in CRA 8 of 58.2 mm TW. The male MLS is 54 mm TW. The MLS for non-commercial fishers is 60 mm TW for females and 54 mm TW for males.
33. The concession or differential size limit is not being reviewed by FNZ; however, FNZ are welcoming feedback on the CRA 8 MLS.⁶

CRA 8 management

34. FNZ are proposing to reinstate a CRA 8 MP which will use standardised annual CPUE from logbook data to set the TACC. There is also a proposal to review the current setting of the TACC and recreational allowance.

⁵ Review of management procedures for spiny rock lobster (CRA 7 & 8), and review of CRA 8 sustainability measures for 2024/25. Fisheries New Zealand. At [8]

⁶ Review of management procedures for spiny rock lobster (CRA 7 & 8), and review of CRA 8 sustainability measures for 2024/25. Fisheries New Zealand. At [199d]

35. Currently, there is no agreed management target for CRA 8. Given the statutory requirement for precautionary management, we insist the Minister requests FNZ to work with the NRLMG to set ecosystem-based fisheries management targets before any increases to the TACC.
36. The current allowance for recreational fishers is 33 t with a proposal to increase by 6 t. The increase is based on the combined 2017/18 National Panel Survey results (14.7 t), 2022/23 section 111 landings by commercial fishers (15.1 t), and the 2022/23 amateur charter vessel reports (9.1 t). Given that this is currently the best available information, the submitters support an increase to the recreational allowance to allow for recreational catch.
- 37. The submitters recommend the Minister supports Option 1 in relation to CRA 8, rejecting the use of the Catch Per Unit of Effort (CPUE) based management procedure. Set the TAC at 1,459 t including an increase to the recreational allowance by 6 t.**
- 38. The submitters request the Minister acknowledges that an agreed management target and agreed reliable index of abundance are required before selecting a management procedure for CRA 8.**

CRA 7 & 8 differential minimum legal size

39. When setting an MLS for a fishery it must be made in the context of sustainability regarding sexual maturity. As outlined above, this is clearly not the case for CRA 7 & 8.
40. The differential MLS in CRA 7 was introduced in the mid-1900s to support a market for canned rock lobster tails. This is a classic example of what happens when you allow concessions to continue when the original purpose is no longer valid. At the time it was also suspected that CRA 7 rock lobsters did not grow any larger than the MLS applied in other QMAs, and large number of small-sized lobsters moved out of the CRA 7 fishery at certain times of the year.
41. FNZ have acknowledged that there is no biological justification for the CRA 7 concession and rock lobsters do grow larger than the 54/60 mm TW.⁷
42. The CRA 8 concession is the only rock lobster concession fishery with some biological logic offered for the introduction of the differential MLS. Best available information suggests the concession was implemented on an assumption that mature female rock lobsters in CRA 8 had a narrower tail width than equivalently mature fish in northern QMAs.⁸

⁷ Review of Rock Lobster Commercial Area Regulations – Initial Position Paper. 2011. Ministry of Fisheries. At [96]

⁸ Review of Rock Lobster Commercial Area Regulations – Initial Position Paper. 2011. Ministry of Fisheries. At [29]

43. The estimates size at which 50% of females mature in CRA 8 is 58.2 mm TW, larger than the current MLS concession.⁹ FNZ have stated historically that a female MLS of 60 mm TW in CRA 8 could allow more rock lobster to breed before being vulnerable to the fishery.¹⁰
44. Landing concession fish results in a larger number of crayfish being caught per tonne of Annual Catch Entitlement (**ACE**), fishing down new recruits before they have a chance to grow, so reducing yield per recruit. In a stock that has increased as much as CRA 8 has over recent years there is no need for a differential MLS.
45. There is no statutory requirement for the commercial sector to separately report the weight or number of landed concession rock lobster. **The Minister must insist** that there is comprehensive reporting on the numbers and weights of concession fish being landed into LFRs, and that this information is made publicly available in a machine-readable format.
46. In 2023, the submitters adopted a [National Rock Lobster Policy](#) that aims to increase the size and abundance of rock lobster in New Zealand and ensure the needs of customary and amateur fishers are met. [At 5.9 b]
47. **We the submitters insist the Minister removes the concession in CRA 7 permitting commercial fishers to land male and female rock lobsters at or above 127 mm TL (47 mm TW for males and 48 mm TW for females) and reinstates the MLS of 54 mm TW for males and 60 mm TW for females.**
48. **We the submitters insist the Minister removes the concession in CRA 8 permitting commercial fishers to land female rock lobsters at or above 57 mm TW at any time of year and reinstates the MLS of 60 mm TW for all fishers.**

⁹ Review of management procedures for spiny rock lobster (CRA 7 & 8), and review of CRA 8 sustainability measures for 2024/25. Fisheries New Zealand. At [20]

¹⁰ Review of Rock Lobster Commercial Area Regulations – Initial Position Paper. 2011. Ministry of Fisheries. At [107]