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NZ Sport Fishing Council submission on the review of management controls for the John dory 7 fishery (JDO7) for 1 October 2016

Recommendations

1. The Minister varies current settings for John dory 7 to ensure fishing mortality is retained within the Total Allowable Catch, as follows:
 - a. Increases the Total Allowable Catch (TAC) from 161 tonnes to 163 tonnes;
 - b. Retains the Total Allowable Commercial Catch (TACC) at 150 tonnes;
 - c. Increases the allowance for Maori customary non-commercial interests, from one to 2 tonnes;
 - d. Increases the allowance for recreational interests, from two to 3 tonnes; and
 - e. Retains the allowance for other sources of fishing related mortality, at 8 tonnes.
2. The Minister acknowledges that:
 - a. A cautious approach needs to be taken for this highly variable JDO7 fishery;
 - b. Despite periods of lower abundance, there has never been a TACC decrease, only increases in response to above average survey results;
 - c. Increases in abundance of John dory on the west coast are not reflected in Tasman and Golden Bays, which are showing signs of overfishing;
 - d. The current recreational allowance does not account for increasing recreational catch due to increasing abundance, or best available information; and
 - e. The information on current levels of Maori customary catch is uncertain.
3. MPI work with all stakeholders in the JDO7 fishery to develop management targets and a harvest strategy.

NZ Sport Fishing Council - LEGASEA

4. The New Zealand Sport Fishing Council and our outreach LegaSea (the submitters) appreciate the opportunity to submit on the review of management controls for John dory 7. The Ministry for Primary Industries (MPI) advised of their Discussion Paper on 10 June 2016 with submissions due by 11 July. Any changes will apply from 1 October 2016.
5. The NZ Sport Fishing Council is a national sports organisation with over 32,000 affiliated members from 57 clubs 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. We 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. The submitters continue to object to the Ministry’s tight consultation timetable, in this instance, 21 working days. In our view this timeframe does not allow for adequate consultation, it is particularly offensive for non-commercial organisations such as ours that need to consult with a range of interests and volunteers. This is unacceptable consultation and, in our opinion most likely unlawful as per ss 12 and 13 of the Fisheries Act and as judged by the Court of Appeal¹.
8. NZSFC 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 Dave Lockwood, secretary@nzsportfishing.org.nz.

John dory

9. John dory are serial spawners, spawning more than once in a season. The eggs are large and stay near the surface for 12-14 days before hatching. Initially John dory grow rapidly, reaching 12 to 18cm after the first year. Females then grow larger than males. Females mature at 29 to 35cm. Males mature at 23 to 29cm. John dory are considered to have a maximum age of 12 years.

John dory 7 management

10. MPI is reviewing the Total Allowable Catch (TAC), Total Allowable Commercial Catch (TACC) and allowances for John dory 7 (JDO7). The commercial catch limit has been increased three times since 2003/04 and is currently at 150 tonnes (set in 2012/13).
11. Recreational harvest is most likely to have increased with abundance. Maori customary harvest is unknown. MPI is unable to quantify the level of fishing related mortality, but acknowledges there could be discarding to avoid deemed value payments.
12. The proposed options for the future management of JDO7 follows –



Option	Total Allowable Catch	Total Allowable Commercial Catch	Allowances		
			Customary Māori	Recreational	Other sources of fishing-related mortality
Option 1 (<i>Status quo</i>)	161	150	1	2	8
Option 2	185	170	2	4	9
Option 3	206	190	2	4	10

¹ International Airport Ltd and Air New Zealand (CA 23/92, 73/92[1993] 1 NZLR 671).
JDO7 submission. New Zealand Sport Fishing Council. 9 July 2016.

13. JDO7 was introduced into the Quota Management System (QMS) in 1986 and the Total Allowable Commercial Catch (TACC) was set at 70 tonnes (t). By 1992 the TACC had increased to 91 tonnes. It was increased again in 2004/05, to 114 t, and to 125 t in 2009/10. The current 150 t TACC was set in 2012/13. Although we note the MPI 2015 Plenary report states the TACC in 2013/14 was 151 t².
14. MPI advises that most of the john dory catch is taken by bottom trawlers targeting flatfish (25%), barracouta (23%) and tarakihi (18%).
15. No minimum legal size (MLS) applies to john dory caught by commercial fishers so the Fisheries Act requires all captures to be landed.
16. There are a variety of customary area closures and controls applying to customary harvest in Area 7. MPI note there have been no customary authorisations issued in JDO7 and reported to MPI in the last five years.
17. Recreational fishers take john dory by rod and reel, spearfishing and set net. A minimum mesh size of 100mm applies to recreational nets. Recreational fishers can take john dory as part of their daily bag limit of 20 mixed species.

Future management

18. As submitters we are concerned there is no management strategy in place for john dory, aside from regular TACC increases. We submit there needs to be annual monitoring measures applied to JDO7.
19. We note the next trawl survey is planned for 2017 and it would be 2018 before any change is likely to apply to the TAC and TACC. This response timeframe is inadequate if a TACC increase is to apply from 1 October this year. Annual monitoring is essential because the 2015 trawl survey result cannot be used to predict what will happen over the next three years.
20. MPI are keen to project a modicum of responsiveness by saying that, "*large fluctuations in stock biomass also mean management measures are required to rapidly reduce catches at times of persistent low recruitment*". However, we note that there have been years of low abundance in JDO7 yet there has never been a decrease in the TACC, only increases in response to higher survey results.
21. MPI note that john dory populations can fluctuate widely as a result of varying levels of recruitment. While there are some wide fluctuations in the standardised trawl Catch Per Unit of Effort (CPUE), there are many other variables that need eliminating before variations can be attributed to real changes in abundance. As noted in the discussion document, JDO7 catch is a bycatch whose capture is dependent on fishing effort applied to other species, and without understanding how these fisheries have been prosecuted it is difficult to be certain of what is being measured.
22. The submitters note the information on JDO7 is poor. Biomass seems to be okay on the west coast, but there is less fishing pressure in that area. The john dory stock in the Tasman/Golden Bays seem to be lower, have more effort applied and is showing signs of growth overfishing.
23. We submit it goes against all reasonable expectations and environmental principles for the Minister to grant a TACC increase in JDO7 based on west coast biomass estimates; surely management is most needed in Tasman/Golden Bays where stocks are depleted and few adult fish are present (blue bars in Figure 1 greater than 35 cm). A precautionary approach ought to be applied in JDO7.

² Ministry for Primary Industries (2015) Fisheries Assessment Plenary May 2015: Stock assessments and stock status. JDO7 submission. New Zealand Sport Fishing Council. 9 July 2016.

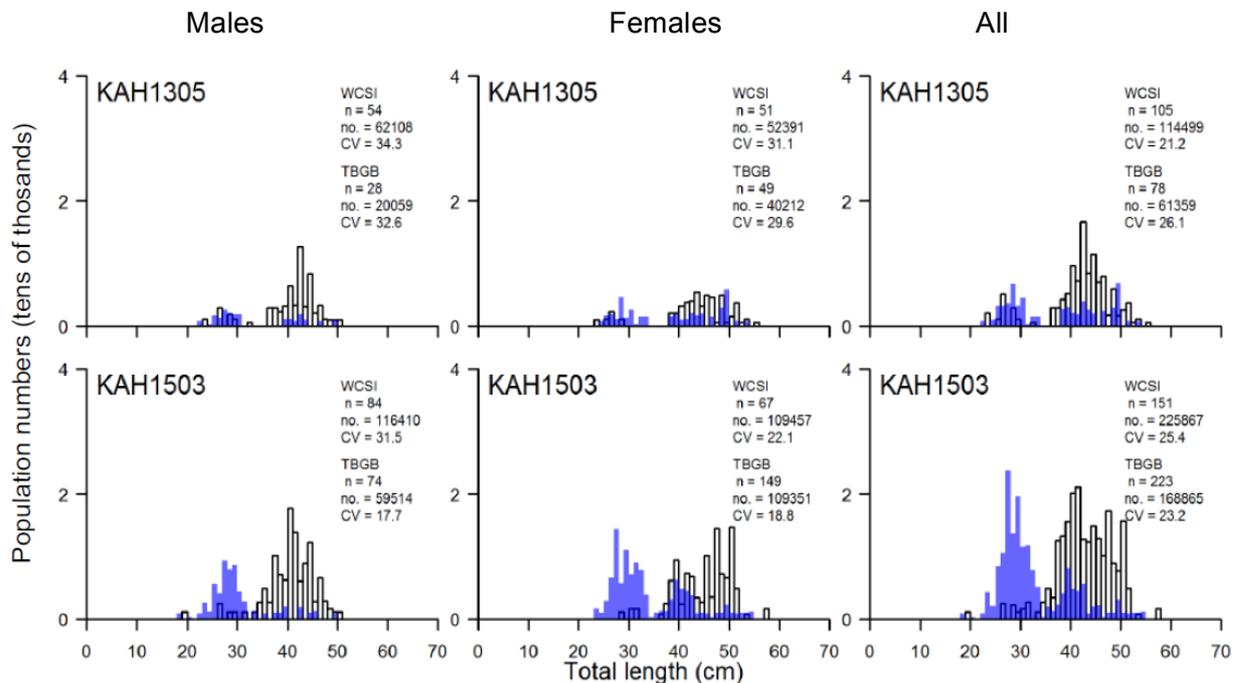


Figure 1: Scaled population lengths from trawl surveys in 2013 (top row) and 2015 (bottom row) for John dory from the West Coast (white bars) and Tasman Bay/Golden Bay (blue bars), n = number of fish measured, no. = scaled population number.

Recreational interests

24. MPI advise ramp surveys indicate an increase in recreational fishing effort since the 2011/12 National Panel Survey. MPI estimate current recreational harvest is likely to exceed the existing allowance of 2 tonnes. MPI notes there is uncertainty in using the 2011/12 result to estimate or predict current catches. An updated estimate of recreational catch is expected from the National Panel Survey in 2019, though the boat ramp and aerial survey currently underway will collect some information on john dory.
25. We submit the Minister cannot knowingly ignore current information on the extent of recreational harvest. The Minister must act in a precautionary manner, apply s21 of the Fisheries Act 1996, and 'allow for' recreational harvest in JDO7 to ensure all mortality is retained within the TAC.
26. Given the uncertainty and likelihood that recreational catch of john dory has increased, the Minister needs to allow for a modest increase for recreational interests, from two to 3 tonnes.
27. The submitters accept that recreational harvest is likely to increase with abundance. The updated recreational harvest estimate in 2019 ought to give a good indication whether catch has changed over time.

Customary interests

28. The submitters note the South Island customary fishing regulations cover some parts of JDO7, but not the Tasman Bay, Golden Bay and Marlborough Sounds areas. We also note that it is not mandatory to report on permits issued or catch taken under regulations 50 and 51 of the Fisheries (Amateur Fishing) Regulations 2013.
29. MPI are unsure the actual level of customary catch and note that there have been no customary authorisations issued in JDO7 and reported to MPI in the last five years.
30. Given the uncertainty around customary harvest, the increase in abundance of john dory, the need to account for all mortality within the TAC, and the Minister's statutory obligation to provide for customary interests in JDO7 we submit the allowance set aside for customary non-commercial fishing interests is increased from one to 2 tonnes as of 1 October 2016.

Other mortality

31. Given the paucity of information it is difficult to make an informed comment on whether the allowance set aside for fishing related mortality is adequate. The allowance of 8 tonnes, being 5% of the TACC, seems low given that john dory are taken as a bycatch in a mixed species trawl fishery.
32. The submitters request from MPI any information regarding the mortality of small john dory in JDO7. There is no commercial minimum legal size limit so all caught john dory must be landed. We know from earlier reports that commercial fishers are reluctant to land fish below a certain length. A recent report estimated the minimum economic size for john dory is 30cm. A large proportion of the trawl survey catch in Tasman and Golden Bays were smaller than this (Figure 1).
 - a. What is the length frequency of john dory commercial landed catch in JDO7?
 - b. What are the differences between length frequencies of landed john dory catch compared to:
 - i. Trawl survey catch; and
 - ii. On-board observed catch?

Deemed values

33. MPI notes that one source of fishing related mortality could be discarding to avoid deemed value (DV) payments. Given recent revelations of discarding of unwanted catch and small fish from inshore trawlers on the east coast of the South Island we assume that some discarding occurs in JDO7 as well.
34. MPI notes that, *“deemed values are an economic tool that incentivises commercial fishers not to catch in excess of their individual annual catch entitlements”*. In some fisheries that may be true, but for some stocks deemed values are not effective. We have made plenty of comments on the failure of the deemed value regime in earlier submissions, suffice to say that we do not believe deemed values are an effective tool to regulate commercial catch, but they may influence what is landed³.
35. In the case of JDO7, MPI has reviewed the deemed value rates of \$2.62 (interim) and \$5.25 (annual) and decided no changes are required. Given that the port price is \$6.22 per kilo and the annual DV rate is \$5.25 we submit there is an incentive for commercial fishers to land john dory in excess of their ACE.

Mixed trawl fishery

36. MPI advise that because john dory is a bycatch species they do not anticipate any significant increase in JDO7 targeting as a result of a TACC increase. While targeting is unlikely we do expect commercial catches to increase in concert with a TACC increase for JDO7.
37. For a start, the TACC in JDO7 has never constrained commercial trawl effort. Since 2003/04 catch has ranged from 170% to 85% of the TACC. It seems market demand is more influential on this fishery than the TACC.
38. Secondly, john dory is caught by bottom trawlers targeting flatfish (25%), barracouta (23%) and tarakihi (18%) in Area 7. Trawling for flatfish has never been limited by the TACC, with catches since 2003/04 ranging from 68% of the TACC to 25%. Trawling for barracouta is similarly unconstrained, with catches ranging from 132% to 55% of the TACC. Tarakihi seems to be the only one of these three target species that is managed around a TACC, with catches ranging from 108% to 90% of the Total Allowable Commercial Catch.

Environmental interests

39. If there is a TACC increase for JDO7 it is inevitable that trawling will increase and there will be environmental impacts from this increased effort. The highly dynamic west coast may be able to withstand increased trawl effort, but there could be serious consequences if more trawl effort was applied in the Tasman/Golden Bays, because those areas are already showing signs of overfishing. Given that our understanding of the marine environment is so poor it is incumbent on the Minister to

³ <http://goo.gl/Encflq>

act in a precautionary manner when setting or varying the TAC and TACC, as per s9 of the Fisheries Act 1996.