

Mark Connor
President
NZ Sport Fishing Council
PO Box 93
Whangarei
secretary@nzsportfishing.org.nz



Inshore Fisheries Management
Ministry for Primary Industries
PO Box 2526
Wellington 6140
FMSubmission@mpi.govt.nz

19 April 2013

NZ Sport Fishing Council submission on the review of commercial access restrictions in the PAU 5D fishery

The New Zealand Sport Fishing Council supports the status quo and rejects any amendment to the existing commercial paua harvest prohibitions, as specified in regulation 10 of the Fisheries (South-East Area Commercial Fishing) Regulations 1986 and regulation 14 in the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986.

NZ Sport Fishing Council

1. The New Zealand Sport Fishing Council appreciates the opportunity to submit feedback on the review of commercial access restrictions in the PAU 5D fishery. The Ministry for Primary Industries (MPI) released their proposals on 11 March 2013, with submissions due by 19 April.
2. 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 Roz Nelson, secretary@nzsportfishing.org.nz.
3. The New Zealand Sport Fishing Council is a National Sports Organisation with over 32,000 affiliated members from 56 clubs nationwide. Paua are highly valued by members of clubs affiliated to the Council and LegaSea supporters.
4. The New Zealand Sport Fishing Council supports and advocates for the local Otago and Southland communities' environmental, customary and recreational fishing interests in PAU 5D. It is a fishery of paramount importance. Paua is a taonga [treasure].

Decision sought

5. **Option 1, Status quo** - No change to the regulations prohibiting commercial paua harvest in limited areas of the Otago Peninsula, Clutha River mouth, Waipapa Point and Bluff Hill.

Purpose & principles of the Act

6. The New Zealand Sport Fishing Council is committed to ensuring that sustainability measures and management controls in PAU 5D are designed and implemented to achieve the purpose and principles of the Fisheries Act 1996 (the Act).
7. Pursuant to sections 9 and 10 of the Fisheries Act, a precautionary approach needs to be taken in this highly valued fishery, which is managed using uncertain and incomplete information, and because a healthy paua fishery contributes to a thriving coastal ecosystem.

8. The paua fishery must be sufficiently abundant to enable us, the public, and Maori customary fishers to provide for our social, economic and cultural wellbeing, pursuant to section 8(2)(b) of the Fisheries Act.
9. The PAU 5D fishery must be maintained to meet the reasonably foreseeable needs of future generations, as per section 8(2)(a) of the Fisheries Act.

Paua stock management

10. The PAU 5D stock management target is the default Harvest Strategy Standard of 40% of unfished biomass (B₀). The soft limit is 20% B₀ and the hard limit is 10%. It is unknown where the stock is in relation to the target biomass or these limits. The 2012 Working Group report notes the next stock assessment is due this year.
11. The Working Group report also notes as questionable the assumption that Catch Per Unit of Effort (CPUE) is an index of abundance. Stock modeling results are considered optimistic. The report highlights overseas experience, where recruitment failure is a common observation and commercial catch rates can be maintained while the biomass is decreasing.
12. Another concern is the uncertainty surrounding the effects of fishing and potential bias in the research diver survey index. Research quoted in the Working Group report indicates that fishing may cause spatial contraction of populations, and that some populations may have become relatively unproductive after initial fishing. The Group cautions against relying on outputs from stock assessments that used research diver survey data as an input into the model.

PAU 5D fishery

13. Commercial fishing for paua dates from the mid-1940s where the shell was sold and the meat was dumped. Markets were found for the meat in the late 1950s.
14. Paua 5 (PAU 5) was introduced into the Quota Management System in 1986 with a provisional quota of 390 tonnes. Due to appeals the TACC increased to 492 t by 1994.
15. In 1995 PAU 5 was divided into three sub-areas 5A, 5B and 5D and the TACC was split equally. Each area was assigned 149 t. This was a convenient split and no account was given to the reality that more than half the historical catch had been taken from 5B (Stewart Island). Subsequently, PAU 5A and 5D stocks have been depleted.
16. In 2002 the PAU 5D TACC was reduced from 149 to 114 t. From 2003 the TACC has been 89 tonnes.
17. In 2002 the Minister set aside tonnages to allow for non-commercial interests and other mortality caused by fishing, as per s21 of the Act.
18. We note that estimated annual harvest of paua by recreational fishers ranges from 20 to 121 tonnes. We accept the real harvest probably lies somewhere in between these figures. Harvest will fluctuate from year to year, as recreational effort is highly dependent on weather and local conditions.

Table 1: Current Total Allowable Catch (TAC), allowances for non-commercial interests and fishing related mortality, and the Total Allowable Commercial Catch (TACC) for PAU 5D, in tonnes (t).

TAC (t)	Customary allowance (t)	Recreational allowance (t)	Other mortality (t)	TACC (t)
134	3	22	20	89

19. Paua is a discrete fishery and the most easily accessible areas will be targeted first. Having access to these areas enables the public to harvest this delicacy in a reasonable timeframe. However, more efficient commercial harvesting can lead to localised depletion in a relatively short time.

20. The Minimum Legal Size (MLS) for paua is 125mm. In 2010 the industry adopted a voluntary 128mm and 130mm MLS in specific areas. This increased MLS seems to have little impact on harvest levels, as over the past 10 years commercial catch in PAU 5D has been maintained, ranging from 99 to 101% of the TACC.

Management proposals

21. Around 165km of the Otago and Southland coastline is closed to commercial harvest of paua. Industry has proposed a regulatory change to enable commercial access to some of this area. The Ministry for Primary Industries (MPI) does not specify the area involved, in the Initial Position Paper (IPP). The Ministry for Primary Industries supports the proposal.
22. The New Zealand Sport Fishing Council (NZSFC) objects to any regulatory change, and is concerned that this proposal is a calculated step to gaining more quota in the future, while depleting existing non-commercial only areas.
23. MPI note in the Initial Position Paper (IPP) an alternative approach is to open all the 165km closed area to commercial harvest, but are not consulting on this possibility. Any such proposal would be vigorously opposed.
24. There are many risks associated with excessive exploitation of PAU 5D, a fishery with limited productivity. The NZSFC advocates for that productivity to be maintained, for environmental and public interests firstly. Export sale for private profit comes after these local needs have been met.
25. It is unreasonable to suggest in the IPP that re-opening the currently closed areas will not have a negative impact on non-commercial fishers. In 2002 the Ministry advised that 23% of non-commercial harvest was from the areas closed to commercial fishing. This percentage is likely to have increased over time as other areas have been depleted by commercial exploitation.
26. If commercial fishers are given access to these closed areas it is only naturally that their catch effort will be concentrated on the easier-to-access areas before they target more remote regions. Localised depletion is likely and the public will be denied access to their fishery. Increased conflict is inevitable.
27. The Council acknowledges that industry representatives, PAUMAC 5, has proposed to harvest at a voluntary 132mm Minimum Legal Size compared to the 125mm minimum. In some areas this may contribute to less spatial interaction, but as the fishery declines increased competition is likely.
28. The NZSFC submit that there *will be* adverse effects on non-commercial fishing and environmental interests if the current closed areas are opened to commercial harvest.

Current controls

29. MPI note that the 1986 closures were due to, in part, food safety concerns. While food safety may have been part of the reason, the NZSFC submits that these closures were required more to address the historic mismanagement of the PAU 5 fishery. Today, it seems this reference is merely a smokescreen to justify an increase in commercial access to PAU 5D.
30. Ministry also suggests that utilisation of PAU 5D and subsequent benefits for commercial fishers are artificially constrained due to the harvest prohibitions. We submit that non-commercial utilisation will be constrained by depletion caused by commercial exploitation.
31. The NZSFC submit that commercial utilisation ought to be constrained by the TACC, as this is the intention of the Fisheries Act 1996, the Quota Management System and the last Ministerial sustainability decision to reduce the TACC. (As noted by MPI, TAC and TACC setting is another conversation.)
32. While MPI and industry may argue the economic benefits of regulatory change, the Council submits these benefits are not exclusive to commercial fishing interests. Non-commercial marine-based

activities encourage tourism, support local businesses, communities, and maintenance and hospitality services. These enterprises in turn often support their local communities through sponsorship and joint projects.

33. The NZSFC submit that not all areas of our coastline need to be privatised. It is reasonable for the Minister to maintain public access to these areas for existing communities, and for future generations.
34. Given the importance of PAU 5D to the Otago and Southland people it is far better to maintain the health of the fishery and the interests of the people than to take unnecessary utilisation risks to make a few bucks!

Benefits of fishing

35. Industry estimate there is 10 to 30 tonne of paua in the closed areas. Industry argue that opening these areas will enable catch spreading over a broader area - a worse case scenario for local non-commercial fishers.
36. We also note that MPI suggest that a future TAC and TACC increase of 10 to 30 t is worth around \$0.6 to \$1.8 million in increased exports. However, these benefits accrue to the quota shareholders, not the wider community.
37. There are 49 quota holders and 22 Annual Catch Entitlement (ACE) fishermen in the PAU 5D fishery. There are an unknown number of environmental interests, recreational and customary fishers accessing this fishery. These non-commercial interests must be allowed for, as per the purpose and principles of the Fisheries Act 1996, and the 2009 Supreme Court Kahawai ruling. That decision clarified, *“the notion of people providing for their wellbeing, and in particular their social wellbeing, is an important element of recreational interests¹”*. This can equally be applied to Maori customary interests.
38. The NZSFC suggest MPI could add some balance by putting resources into determining the value of leaving fish in the water for public access.
39. Any argument that paua is a valuable commercial fishery and export earner just adds to our submission to retain the status quo and the value that the public derives from this fishery. Many New Zealanders can no longer afford to buy paua and the only opportunity many families have to enjoy paua is by exercising their right to harvest their own seafood.
40. Non-commercial harvest is generally shared amongst family, friends and visitors; so an individual bag limit is essentially a family bag limit, given the arduous and total commitment required to get to the reef, get into the often-as-not frigid waters, and secure a rare treat when the weather and conditions allow.
41. Historic mismanagement of PAU 5 and 5D has enabled excessive commercial fishing, which has had an adverse effect on non-commercial interests, making it more difficult to gather paua for non-commercial purposes.

Ministerial obligations

42. The Ministry has clearly been tasked to look for opportunities to increase the value of commercial fisheries in New Zealand. Section 2.2 of the Paua 5D proposal paper states, *“MPI is committed to actively seeking opportunities to improve benefits and sustainable use opportunities as noted in the National Fisheries Plan for Inshore Shellfish and Fisheries 2030 strategy.”*
43. However, the Minister must be made aware that it is his duty to balance the public and customary interests in PAU 5D, in accordance with the purpose and principles of the Fisheries Act, and Court directions.

¹ New Zealand Recreational Fishing Council Inc and Anor v Sanford Limited and Ors. SC 40/2008 [28 May 2009]. Para 54. NZSFC submission. Review of commercial access restrictions in the PAU 5D fishery. 19 April 2013.

44. There are important factors omitted from the IPP. The Minister must be made aware of the following *Fisheries 2030 Strategy* objectives and strategic actions, these must be taken into account when he makes his decision:

Objective 1

Improve inter-sector allocation

- 1.1 Action = Develop and implement an allocation policy for shared fisheries
 - 1.2 Action = Develop alternative stock management targets that ensure the sustainability of fish stocks
 - 1.3 Action = Determine best option for **providing non-commercial fishing areas** [emphasis added]
 - 1.4 Action = Support the development of mechanisms that enable best-value use of marine water space
45. MPI has not provided any baseline data in the IPP on the potential impact on customary and recreational fishers, and have largely quoted anecdotal information from commercial fishers to justify the areas to open.
46. With a species like paua spatial control is a critical management tool to enable shared access, to ensure sustainability of stocks, to provide best value, and to meet the needs of future generations pursuant to the Act.
47. There are very few areas in New Zealand where commercial paua harvesting is not competing directly with non-commercial fishing interests. The Minister needs to know that if these currently closed areas are opened to commercial fishing it will be extremely difficult and most unlikely for him to ever take them back. Inevitably, they will be depleted to the same extent as all the other areas with commercial access.
48. While the Ministry have taken the role of actively seeking new sustainable use opportunities the New Zealand Sport Fishing Council highlights that the Minister has a statutory duty to balance these against the broader public interest and the reasonably foreseeable needs of future generations.
49. Let's get real. PAU 5D is not a sport fishery, the paua cannot run, nor can they hide, people gather them for food, to enhance theirs and other's wellbeing. It is a traditional harvest that honours both the people who are fortunate to be served the food and those that are giving it. Whilst these benefits may be difficult to quantify, they are genuine and ongoing, and need to be maintained for our future generations.