



# In-season Total Allowable Catch increase for Flatfish 3 (FLA 3) and Red Cod 2 (RCO 2)

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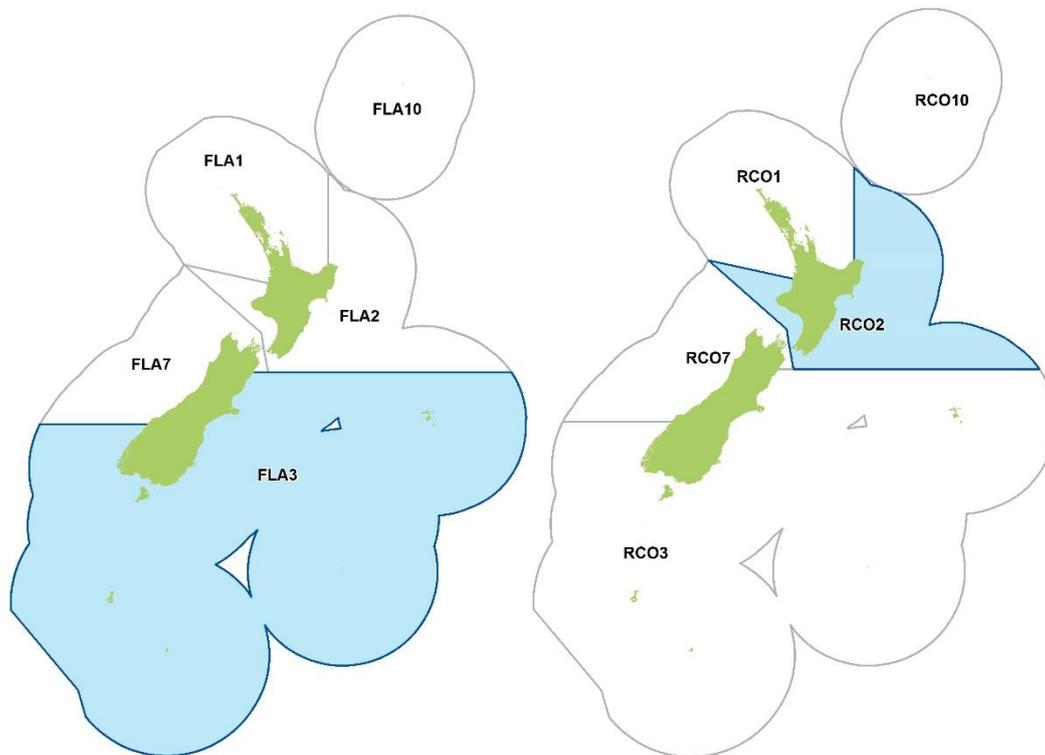


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# 1. Summary

1. The Ministry for Primary Industries (MPI) has undertaken consultation and sought input from tangata whenua on proposals to allow for increased catches of flatfish in FLA 3 and red cod in RCO 2 during the 2016/17 fishing year.



**Figure 1: Quota Management Areas for flatfish (left) and red cod (right) stocks. FLA 3 and RCO 2 are highlighted in blue.**

2. The current management settings for FLA 3 and RCO 2 are shown as the *status quo* in Table 1 and are referred to as ‘baseline settings’ in this paper. The increases proposed in Option 2 would only be created for the current fishing year and the settings would revert to the baseline settings on 1 October 2017.
3. This type of “in-season” management approach is only available for species such as flatfish and red cod that have been identified in the Fisheries Act 1996 (the Act) as highly variable. To support operation of the approach science-based decision rules have been developed specifically for FLA 3 and RCO 2.

**Table 1: TAC, TACC and allowances in tonnes for FLA 3 and RCO 2 and proposals for increases in 2016/17**

Stock	Option	Total Allowable Catch (t)	Total Allowable Commercial Catch (t)	Annual Catch Entitlement <sup>1</sup> under s68 (t)	Allowances <sup>2</sup>		
					Māori Customary (t)	Recreational (t)	All Other Sources of Mortality Caused by Fishing (t)
Flatfish FLA 3	Option 1 ( <i>Status quo</i> )	1,617	1,430	0	5	150	32
	Option 2 (MPI preferred)	2,335	1,430	635	7	217	46
Red cod RCO 2	Option 1 ( <i>Status quo</i> )	500	500	0	-	-	-
	Option 2 (MPI Preferred)	807	500	233	1	36	37

4. After considering the 2016/17 results of the respective management procedures, key considerations for each fishery and submissions and input received, MPI recommends you approve Option 2 for both FLA 3 and RCO 2.

## 2. Management Approach for FLA 3 and RCO 2

5. Provisions have been made within the Act for identifying stocks with a “highly variable” characteristic (Schedule 2) and for increasing the total allowable catch (TAC) of stocks listed on this schedule within a fishing year (Section 13(7)).
6. Red cod and many flatfish species are fast-growing and abundance can increase rapidly when a good year of fish reaches harvestable size. However, because the species are also short-lived the increased abundance may only occur for a relatively short period of time.
7. In the case of both FLA 3 and RCO 2, which are included on Schedule 2, management procedures have been developed to provide science-based decision rules to inform decisions on in-season adjustments of a “baseline” TAC. Following a decision to increase the TAC and consideration of allowances for non-commercial fishing, section 68 of the Act provides for the creation of additional annual catch entitlement (ACE) for commercial fishing. This management approach is designed to enable responsiveness to increases to overall abundance while maintaining a baseline setting for stock sustainability over the longer term.

<sup>1</sup> Annual Catch Entitlement is used for balancing commercial catch under the Quota Management System

<sup>2</sup> Baseline allowances have not been set for RCO 2

8. The management procedures predict the full-season for each fishing year based on information on relative abundance obtained from standardised commercial catch per unit effort analysis from fishing in the first months of the year. Commercial catch limit recommendations produced by the procedure are based on achieving an agreed target exploitation rate (a fixed proportion of abundance) that maintains abundance at or above a sustainable level.
9. Although the management procedures rely on data from the commercial fishery, MPI considers it reasonable to assume that the outputs reflect the increased overall abundance and greater availability to all fishing sectors.
10. Further details for each stock including the recommendations for 2016/17 are provided in the stock-specific sections that follow.

### 3. Flatfish 3 (FLA 3)

11. Since 2010, a management procedure<sup>3</sup> has been applied annually to inform decisions on in-season adjustments to the FLA 3 TAC. This management procedure was reviewed and updated by the Southern Inshore Working Group (the Science Working Group) in 2015.<sup>4</sup>
12. Based on previous FLA 3 TAC increases under the management procedure (2009/10, 2011/12, 2012/13), the procedure has about a 90% confidence in forecasting an appropriate end of season commercial catch level.
13. The most recent increase to the settings for FLA 3 was an in-season TAC increase of 250 tonnes in the 2015/16 fishing year (resulting in a TAC of 1,867 tonnes). This was used to generate an additional 220 tonnes of Annual Catch Entitlement (ACE).
14. In January 2017, the results of the assessment for the 2016/17 fishing year were presented to the Science Working Group.<sup>5</sup> Based on these results, the in-season management procedure concludes that the TAC could be increased to provide for additional commercial catch of 635 tonnes above the baseline setting for the 2016/17 fishing year.

#### 3.1 CONTEXT

##### 3.1.1 Biological Characteristics

15. The “flatfish complex” of eight species<sup>6</sup> is managed together under a single stock, referred to as FLA. This provides flexibility for fishers, as the abundance of different species within the complex can vary from year to year.
16. The catch of flatfish species in the FLA 3 complex is composed primarily of lemon sole, New Zealand sole, and sand flounder. The catch per unit effort (CPUE) indices from commercial fishing of these species are the key indicators used to monitor and inform management of FLA 3.
17. Soles and flounder are fast-growing and short-lived, generally only surviving 3-4 years of age, with very few reaching 5-6 years. Other species in the flatfish complex, such as brill and turbot, are longer lived, reaching a maximum of 21 years and 16 years, respectively. Juvenile survival of all species is highly variable, and adult mortality of soles and flounders is high. Nonetheless, fecundity is high in FLA 3 species. For example, sand flounders produce from 0.2 million to over 1 million eggs.

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<sup>3</sup> A management procedure in this context is a set of agreed science-based decision rules to inform advice on the adjustment of current management measures.

<sup>4</sup> Bentley N. In Prep. An examination of alternative approaches for in-season increases in total allowable catch for FLA 3. Ministry for Primary Industries Draft Fisheries Assessment Report.

<sup>5</sup> Starr P J, Kendrick T H, Bentley N, 2017. Prediction of 2016/17 FLA 3 CPUE and Operation of FLA 3 Management Procedure. Draft Report to the Southern Inshore Stock Assessment Working Group. SINSWG-2017-04. Trophia Ltd. 23p.

<sup>6</sup> FLA 3 comprises: yellow-belly flounder, *Rhombosolea leporina*; sand flounder, *Rhombosolea plebeia*; black flounder, *Rhombosolea retiaria*; greenback flounder, *Rhombosolea tapirina*; lemon sole, *Pelotretis flavilatus*; New Zealand sole, *Peltorhamphus novaezeelandiae*; brill, *Colistium guntheri*; and turbot, *Colistium nudipinnis*.

## 3.2 FISHERY CHARACTERISATION

### 3.2.1 Fishery

18. The largest volumes of FLA 3 catch occur in the target commercial trawl fishery on the open coast from Pegasus Bay south. The peak catches in the trawl fishery occur in spring to autumn for most of the areas within FLA 3. The average annual commercial landings of FLA 3 over the last ten fishing years is approximately 1415 tonnes.
19. Annual estimates are not available for recreational catches of FLA 3. The 2011/12 recreational estimate<sup>7</sup> of 21.9 tonnes is significantly lower than the 1510.8 tonnes reported by the commercial fishery in that year. An updated recreational survey is scheduled in 2017/18. Information on levels of Maori customary catch is uncertain.
20. Further information on fishing activity, other fishing-related mortality and customary fishing areas is provided in Appendix 2.

## 3.3 CONSULTATION AND SUBMISSIONS

21. A consultation document was released on 1 June 2017. Prior to consultation the Te Waka a Māui me Ōna Toka Forum (TWAM) was approached for tangata whenua's view on FLA 3. No specific view was provided by TWAM on changes to Māori customary allowances, nor on the current management approach for FLA 3.
22. MPI received six submissions in response to the consultation document. The submissions were received from:
  - a) Michael Thomas
  - b) New Zealand Sport Fishing Council (NZSFC)
  - c) Chisholm Associates, on behalf of Pullan Enterprises Limited (Pullan Enterprises)
  - d) Sanford Limited (Sanford)
  - e) Southern Inshore Fisheries Management Company Limited (SIFMC)
  - f) Talley's Group Limited (Talley's)
23. Full submissions are attached in Appendix 5.

### 3.3.1 Comments on Management Approach

33. Sanford, SIFMC and Talley's criticise the prolonged process for proposing and recommending options under the current in-season management approach. To mitigate any lost utilisation opportunity, both SIFMC and Talley's propose MPI undertake a review to increase the baseline TACC for FLA 3.

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<sup>7</sup> Wynne-Jones J, Gray A, Hill L, Heinmann A (2014) National Panel Survey of Marine Recreational Fishers 2011-2012: Harvest Estimates. New Zealand Fisheries Assessment Report 2014/67. 139p.

34. SIFMC explains that the current in-season process does not suit the seasonal nature of the fishery or the needs of fishers to forward plan targeting of catches. SIFMC notes the TAC has been increased annually on a near consistent basis each year since 2010/11 and submits that an increase to the baseline FLA 3 TACC to 1,800 tonnes could be made (an approximately 26% increase), while still ensuring the long-term sustainability of the stock. SIFMC further advocates retaining the in-season review management approach if able to be conducted in a timely manner, to enable allocation of additional ACE in years of high abundance that indicate end of season FLA 3 catches above a proposed 1,800 tonnes.
35. NZSFC consider that the public is poorly informed of the FLA 3 fishery and the management procedure, and the two-week consultation period unfairly limited the opportunity for the public to consider and consult upon the proposals. Further, NZSFC note that the in-season management procedure can only adjust a TAC to a level above the current baseline settings, and propose a provision to adjust the TAC below the baseline that would allow fishing activity to be further constrained in years of low abundance. Further, NZSFC submit that access to the fishery by recreational and Māori customary fishers would be better provided for by managing FLA 3 with a higher overall abundance.

### 3.4 EVALUATION OF OPTIONS

36. MPI's final proposals for FLA 3 remain unchanged following consultation. A discussion of each option is provided below. Further discussion of your statutory considerations is provided in Appendix 2.

#### 3.4.1 Option 1 (*Status quo*)

37. Option 1, the *status quo*, proposes no changes to the TAC, TACC or allowances for customary Māori, recreational, or other sources of mortality caused by fishing, and no additional ACE generated under section 68 of the Act.
38. Michael Thomas, a commercial fisherman that owns FLA 3 quota considers that the catch limit under the *status quo* is appropriate for the fishery, and any additional ACE provided would lead to increased commercial effort which could impact on other fish stocks.
39. NZSFC also support Option 1 and submit that the FLA 3 stock assessment does not adequately take into account species specific information for sustainability considerations of the FLA 3 stock complex. Due to the low information nature of the FLA 3 stock, NZSFC submit that a more cautious management approach should be applied to this fishstock, noting, that due to the allowance of an up to 10% ACE carry-forward from the previous year, a significant amount of ACE above the baseline settings has already been made available to fishers in the 2016/17 fishing year.

40. NZSFC submit that an increase would lead to increased fishing effort in low-catch months in the later part of the fishing year and will put greater sustainability risk on FLA 3 and other less abundant stocks. They also consider that increased trawl effort targeting FLA 3 will lead to greater environmental impacts and other mortality of FLA 3, higher than the proposed allowance for other sources of mortality.
41. The output of the management procedure predicts a full-season catch of FLA 3 based on a standardised CPUE and reflects the increased abundance of flatfish species in FLA 3. MPI notes the FLA 3 fishery is principally composed of three flatfish species and the management procedure considers their varying productivity. MPI considers that other flatfish species in the FLA 3 complex will not be put at adverse sustainability risk due to an increase to the FLA 3 TAC.
42. MPI does not consider that a significantly increased level of fishing effort targeting FLA 3 will result from increasing the commercial catch allowance, as catch rates should be higher. Abundance is considered greater than in previous years and, based on the 2016/17 FLA 3 port price of \$3.32/kg, MPI considers Option 1 as a missed opportunity for increased utilisation, while ensuring the long-term sustainability, with a loss of potential revenue up to \$2,108,200.
43. Option 1 would be a departure from the management procedure informed approach that has been in place since 2010 and would signal that a different and a more cautious approach to managing FLA 3 should be developed.
44. Given the multi-sector interest in FLA 3, MPI proposes to initiate further discussions with stakeholders about how to manage the stock over the longer term. In the interim however, MPI considers the impact of allowing for increased catch for the remainder of the fishing year is likely to be low as the new limits will only be in place for a short period of time and are based on best available science.

### **3.3.2 Option 2 (MPI Preferred)**

45. The best available information suggests that the 2016/17 in-season CPUE is high, relative to the CPUE used in setting the baseline FLA 3 TACC, suggesting that stock abundance is relatively high in the current fishing year. MPI considers there to be opportunity for increased utilisation from FLA 3, at least in the short-term.
46. Option 2 proposes that for the remainder of the fishing year:
  - The TAC be increased from 1,617 t to 2,335 t;
  - Additional ACE of 635 t to be provided, increasing total ACE for the 2016/17 fishing year from 1,430 t to 2,065 t (an approximately 44% increase);
  - Additional allowance of 2 t and 67 t to be provided to Māori customary and recreational sectors, respectively, increasing the allowance for Māori customary to 7 t, and for recreational to 217 t; and
  - The allowance for other sources of mortality caused by fishing to be increased from 32 t to 46 t.

47. The four submissions supporting Option 2 are all from the commercial sector.
48. Pullan Enterprises commercially fishes Lake Ellesmere for flatfish and supports Option 2. They note that their annual catches have been relatively consistent but abundance throughout the year can be seasonal. Pullan Enterprises perceive the proposed in-season TAC increase for the 2016/17 fishing year as having no significant effect on the sustainability of the FLA 3 fishery. No submission was provided on the proposed increases to the recreational and Māori customary allowances.
49. SIFMC represents quota owners throughout the South Island and Taranaki regions (including FLA 3) and is a member of Fisheries Inshore New Zealand (FINZ). SIFMC support the proposed increase in ACE under Option 2.
50. Sanford and Talley's own FLA 3 quota and supply ACE to commercial fishers. Both Sanford and Talley's support the proposed increase in ACE under Option 2. Sanford notes that the commercial fishers that they supply ACE to are reporting good catches with favourable flatfish abundance in FLA 3, and believe that the stock could sustain an in-season increase in commercial catches.
51. MPI considers that an in-season increase in the TAC to 2,335 tonnes under Option 2 provides for increased utilisation while ensuring long-term sustainability. The recommended in-season increase is based on an accepted peer reviewed analysis.
52. Option 2 recommends additional ACE be provided under s 68(1) of the Act. The best available information suggests that catches at current levels would be unlikely to cause the stock to decline and provides for increased utilisation. As the catch of flatfish species in the FLA 3 complex is primarily composed of lemon sole, New Zealand sole and sand flounder, MPI considers that there is low risk to the sustainability of other flatfish species in the FLA 3 stock complex.
53. Based on the 2016/17 FLA 3 port price of \$3.32/kg, full commercial utilisation of the fishery under Option 2 could potentially generate an additional \$2,108,200 of revenue compared to Option 1 (*status quo*).
54. The main bycatch species in the FLA 3 fishery is red cod and numerous other low volume species. MPI considers that the in-season provision of additional ACE is not likely to lead to an increase in fishing effort (as catch rates should be higher) and so is not likely to adversely affect the sustainability of these species, nor the availability to non-commercial fishers.
55. NZSFC contested the proposed recreational allowance, submitting that it was overly high and did not reflect the current abundance of flatfish in FLA 3 that are available to recreational fishers, or the actual recreational catch of flatfish in FLA 3.
56. There is potential for catches to increase for all sectors during periods of increased FLA 3 abundance. MPI considers it appropriate to increase the recreational and Māori customary allowances, above the best available information on non-commercial harvests, in proportion to the increase to the commercial ACE (approximately 44%). The recommended increases for the recreational and Māori customary are 67 tonnes and 2 tonnes, respectively, above the baseline allowances for the 2016/17 fishing year.

57. MPI recommends an allowance for other sources of mortality caused by fishing of 46 tonnes, pro-rated at 2.25% of the 2016/17 ACE, consistent with its current setting relative to the TACC.
58. If increased, the TAC would revert to existing base levels at the close of the 2016/17 fishing year on 30 September 2017. ACE for 2017/18 will be based on the TACC at 1 October 2017. This paper does not propose changes to the TACC.

### 3.5 OTHER CONSIDERATIONS

59. MPI notes that a substantial amount of under-caught FLA 3 ACE from the 2015/16 fishing year has been carried forward to the current fishing year. This is provided for under s 67A of the Act. For stocks not listed on Schedule 5A of the Act, including FLA 3, at the end of each fishing year, MPI must allocate to ACE holders for the next fishing year the lesser of:
- the difference between the stock's ACE and reported catch from that preceding fishing year; or
  - 10% of the amount of the stock's ACE from that preceding fishing year.
60. Given that the current management procedure uses information about in-season abundance to estimate a full-season sustainable catch limit, MPI considers that the output of the management procedure should provide for the full extent of the fishing-year catch. Providing for the carry forward of ACE in addition to the increase indicated by the management procedure is not generally appropriate. MPI is planning to review the ACE carry forward provisions for FLA 3 and other stocks managed with in-season reviews to address this. However, MPI does not consider the carry-forward provisions to pose risks in determining a possible in-season increase of the FLA 3 TAC for the 2016/17 fishing year.

### 3.6 CONCLUSIONS

61. Flatfish in FLA 3 are experiencing a period of high abundance. A management procedure that has been designed specifically for the FLA 3 fishery supports an increase in catch to the proposed levels for the short term.
62. MPI has consulted on a proposal to increase the TAC for the remainder of the 2016/17 fishing year by creating additional ACE of 635 tonnes, and additional allowances of 2 tonne for customary Māori, 67 tonnes for recreational and 14 tonnes for other sources of mortality caused by fishing, above the baseline settings.
63. If increased, the TAC and allowances would revert to existing levels at the close of the 2016/17 fishing year on 30 September 2016, under s 13(8) of the Act. ACE for 2017/18 will be set on the baseline FLA 3 TACC at 1 October 2017.
64. Two submissions opposed the increase and indicated broader concerns about the management approach for FLA 3.
65. Four submissions supported the proposal, however, frustration was also noted about the in-season review process and lack of certainty that this provides. These concerns were raised in the previous FLA 3 in-season consultation for the 2015/16 fishing year.
66. MPI acknowledges these concerns and considers that it would be beneficial to have discussions involving all sectors to further discuss and confirm a long-term management approach that addresses the process for reviewing or adjusting allowances.

67. In the interim, a TAC of 2,335 tonnes for the remainder of the fishing year based on best available science is considered to be low risk. The increased TAC would allow for increased utilisation for the all sectors, and a potential additional economic benefit of \$2,108,200 to the commercial sector given the current port price for FLA 3.
68. MPI considers the two options presented are consistent with your statutory obligations.
69. MPI notes that you have broad discretion in exercising your powers of decision making, and may make your own independent assessment of the information presented to you in making your decision.

## 4. Red Cod 2 (RCO 2)

70. Since 2013, a management procedure<sup>8</sup> has been applied annually to inform decisions on whether to make in-season adjustments to the RCO 2 TAC. This management procedure was reviewed and updated by the Northern Inshore Working Group in 2014.<sup>9</sup>
71. One in-season increase has occurred since 2013, (in the 2012/13 fishing year), generating additional RCO 2 ACE of 119 tonnes, resulting in an in-season TAC increase to 619 tonnes.
72. In February 2017, the results of the assessment of abundance for the 2016/17 fishing year were presented to the Southern Inshore Science Working Group (the Working Group).<sup>10</sup>Based on these results, the in-season management procedure concluded that the TAC could be increased to provide for additional commercial catch of 466 tonnes above the baseline setting for the 2016/17 fishing year.
73. During discussion prior to consultation the Fisheries Inshore New Zealand organisation, representing commercial fishing interests, indicated a preference for a more cautious approach to the in-season management for RCO 2 for 2016/17 and proposed half the increase, 233 tonnes. The proposal to only allow for half of the increase was consistent with the approach put forward by members of the commercial fishing industry in the 2012/13 fishing year's in-season pre-consultation.

### 4.1 CONTEXT

#### 4.1.1 Biological Characteristics

74. Red cod enter the fishery at approximately two years of age. Trawl surveys and catch sampling of red cod have shown that the fishery is based almost exclusively on two and three year old fish and is highly dependent on recruitment success. Recruitment appears largely controlled by climactic variability that prevails during early life history. This results in large pulses in recruitment and biomass.

#### 4.1.2 Fishery

75. The largest volumes of RCO 2 catch occurs in the commercial trawl fishery targeting species such as tarakihi, flatfish and gurnard. Approximately 2/3 of the RCO 2 commercial landings are reported as being taken in and around Hawke Bay in recent years. The average annual commercial landings of RCO 2 over the last ten fishing years is approximately 314 tonnes.

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<sup>8</sup> A management procedure in this context is a set of agreed science-based decision rules to inform advice on the adjustment of current management measures.

<sup>9</sup> Bentley N and Langley A D, 2014. Development and evaluation of management procedures for red cod fisheries in RCO 3, RCO 7 and RCO 2. Draft Report to the Southern Inshore Stock Assessment Working Group. SISWG-2014-39. Trophica Ltd. 22p.

<sup>10</sup> Bentley N, 2017. Start of season catch per unit effort and management procedure operation for RCO 2 in 2016/17. Draft Report to the Southern Inshore Stock Assessment Working Group. SINSWG-2017-09. Trophica Ltd. 23p.

76. Annual estimates are not available for recreational catches of RCO 2. The 2011/12 recreational estimate<sup>11</sup> of 23.7 tonnes is significantly lower than the 550 tonnes reported by the commercial fishery in that year. An updated survey is scheduled to occur in 2017/18. Information on levels of Maori customary catch is uncertain.
77. Further information on fishing activity, other fishing-related mortality and customary fishing areas is provided in Appendix 3.

## 4.2 CONSULTATION AND SUBMISSIONS

78. A consultation document was released on 1 June 2017. Prior to this, relevant iwi forums in the RCO 2 QMA were approached for their collective views on the proposed allowances and the management approach for RCO 2. No specific view was provided by iwi forums on provision for Māori customary allowances at this stage in consultation, nor on the current management approach for RCO 2.
79. MPI received six submissions in response to the consultation document. The submissions were received from:
  - a) Fisheries Inshore New Zealand Limited (FINZ)
  - b) Iwi Collective Partnership (ICP)
  - c) LegaSea Hawkes Bay (LegaSea)
  - d) New Zealand Sport Fishing Council (NZSFC)
  - e) Ngāi Tūmapūhia-a-Rangi ki Mōtūwairaka Inc (NTKM)
  - f) Sanford Limited (Sanford)
80. Full submissions are attached in Appendix 5.

### 4.2.1 Comments on Management Approach

81. FINZ and Sanford criticise the prolonged process for proposing and recommending in-season increases for RCO 2. FINZ note that due to this, the performance of the management procedure has been severely compromised and both FINZ and Sanford consider this unnecessarily constrains the opportunity for increased utilisation of RCO 2 within sustainable limits.
82. ICP proposed an alternative management approach to the current in-season review, and proposed a TACC increase to a level that would allow for increased utilisation in seasons of high red cod abundance. ICP further propose a deemed value schedule that reflects the nature of the red cod fishery in RCO 2, under an appropriate TACC setting.
83. NZSFC consider that the public is poorly informed of the RCO 2 fishery and the management procedure for consultation purposes, and the two-week consultation period unfairly restricts the opportunity for the public to consider and submit upon the proposals.

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<sup>11</sup> Wynne-Jones J, Gray A, Hill L, Heinmann A (2014) National Panel Survey of Marine Recreational Fishers 2011-2012: Harvest Estimates. New Zealand Fisheries Assessment Report 2014/67. 139p.

## 4.3 EVALUATION OF OPTIONS

84. MPI's final proposals for RCO 2 remain unchanged following consultation. A discussion of each option is provided below. Further discussion of your statutory considerations is provided in Appendix 2.

### 4.3.1 Option 1 (*Status quo*)

85. Option 1, the *status quo*, proposes no changes to the baseline TAC, TACC or allowances for Māori customary, recreational, or other sources of mortality caused by fishing, and no additional ACE generated under section 68 of the Act.
86. Abundance of red cod is considered greater than in previous years. Option 1 could result in additional costs to fishers to cover unavoidable over-catch of RCO 2 with deemed value payments (or could incentivise illegal discarding of RCO 2). Based on the 2016/17 RCO 2 port price of \$0.71/kg, Option 1 may lead to a missed opportunity for increased commercial revenue of up to \$165,430.
87. NZSFC and LegaSea support Option 1. NZSFC submit that the most recent RCO 2 stock assessment is outdated and, in absence of any recent stock assessment with adequate estimates of sustainable yield, question the legality of setting an in-season TAC on the basis of the management procedure output.
88. Due to the low information nature of the RCO 2 stock, NZSFC submit that a more cautious management approach should be applied to this fishstock, also noting that due to the allowance of an up to 10% ACE carry-forward from previous years, a significant amount of ACE above the baseline settings has already been made available to fishers in the 2016/17 fishing year.
89. Due to the nature of the fishery, specifically regarding bycatch issues and the potential for illegal discarding, both NZSFC and LegaSea also question the reliability of RCO 2 CPUE as a measure of relative abundance for use in the management procedure, noting that in the pre-consultation stages the commercial sector also proposed a more cautious and lower in-season catch allowance than the management procedure's output.
90. NZSFC and LegaSea further note that a major commercial fishing company operating in Hawke Bay is currently under criminal investigation for illegal discarding and falsifying catch reporting, and submit that it is unjust for MPI to provide for increased RCO 2 commercial catch allowance that is potentially based on alleged misreported catch information and anecdotal commercial information that may be imbalanced.
91. NZSFC acknowledge that the proposed increase to the commercial catch limit may help to address RCO 2 bycatch issues, but submit that as red cod is principally a bycatch species in RCO 2, an in-season RCO 2 TAC increase will lead to increased trawl fishing effort and will not ensure the sustainability of other associated target stocks.

92. Both NZSFC and LegaSea submit that they have made collaborative efforts with MPI to address concerns about commercial fishing effort in Hawke Bay, in particular in regard to reducing inshore trawling activity. NZSFC and LegaSea submit that any increased trawl effort that may result from an increased in-season RCO 2 commercial catch allowance would be counter-productive to positive outcomes already achieved in this region.
93. As red cod in RCO 2 is primarily taken by bottom trawl fishing, and approximately two-thirds of commercially caught RCO 2 has been taken in and around Hawke Bay in recent years, MPI acknowledges there are ongoing specific local area concerns that are being discussed in that region, and a desire for improved management of inshore fishstocks in Hawke Bay.
94. As identified by NZSFC, MPI acknowledges the absence of a recent comprehensive stock assessment for RCO 2, but due to the highly productive nature of the red cod species considers any increase in commercial catch allowance for the remainder of the 2016/17 fishing year to be low risk to the long-term sustainability of the RCO 2 stock. Given there is little targeted commercial fishing for RCO 2 and it has a relatively low market value, an increase to the current TAC under Option 2 reflects the current catch of RCO 2 and is unlikely to result in any significant increases in commercial effort targeting RCO 2, or new vessels entering the fishery.
95. LegaSea also contested the proposed recreational allowance, submitting that it was overly high and did not reflect the current abundance of red cod in RCO 2 that are available to recreational fishers, or the actual recreational catch of red cod in RCO 2.
96. A review of the RCO 2 in-season management procedure is planned for 2018. Given the multi-sector interest in RCO 2 MPI proposes that it would be beneficial to further discuss this and other concerns about the RCO 2 management approach with stakeholders to consider what adjustments could be made over the longer term. In the interim however, MPI considers the impact of allowing for increased catch for the remainder of the fishing year is likely to be low as the new limits will only be in place for a short period of time and are based on best available science.

#### **4.3.2 Option 2 (MPI Preferred)**

97. The best available commercial catch information suggests that the 2016/17 in-season CPUE is high, relative to the CPUE used in setting the baseline RCO 2 TACC, suggesting that stock abundance is high in the current fishing year. MPI considers there to be opportunity for increased utilisation from RCO 2, at least in the short-term.
98. Option 2 proposes that for the remainder of the fishing year:
  - a) The TAC be increased from 500 t to 807 t;
  - b) Additional ACE of 233 t to be provided, increasing total ACE for the 2016/17 fishing year from 500 t to 733 t (an approximately 47% increase);
  - c) An allowance of 1 t and 36 t to be provided to Māori customary and recreational sectors, respectively, and

- d) an allowance of 37 t to be provided for other sources of mortality caused by fishing.
99. ICP represents the commercial fishing interests of fifteen North Island Iwi and supports Option 2. ICP submits that RCO 2 TACC is adversely low and the stock should be managed at a higher TACC rather than by annual in-season reviews. ICP submits that as RCO 2 is principally taken as bycatch, a higher baseline TACC would best address potential discarding and help mitigate deemed value payments incurred. No submission was provided on the proposed increases to the recreational and Māori customary allowances.
100. FINZ represents commercial quota owners, fishers and affiliated commercial stakeholder organisations and is mandated by the Area 2 Committee, which represents FMA 2 quota owners and fishers. FINZ support the proposed increase in ACE under Option 2, noting that fishers are reporting higher catches of RCO 2 in the current fishing year, relative to this period in previous years. FINZ submits that as red cod is principally taken as bycatch in RCO 2, and as annual catches for other associated target stocks are relatively consistent, any increased abundance of red cod in RCO 2 has been demonstrated to not increase fishing effort in previous years. Further, an in-season increase will allow for the sustainable utilisation of RCO 2 in the current fishing year and will relieve RCO 2 bycatch constraints on other associated target stocks.
101. Sanford own 24 % of the RCO 2 quota and supply ACE to commercial fishers. Sanford supports the proposed increase in ACE under Option 2. Sanford notes that the commercial fishers that they supply ACE to are experiencing no sustainability concerns with the stock, and believe that an in-season increase in commercial catch allowance would be appropriate for this fishery.
102. MPI considers that targeting of red cod is not likely to increase in the Hawke Bay area as a result of the recommended catch limit increase and reflects the expected change in red cod catch rates within the mixed fishery. The recommended increase applies until 30 September 2017 and it does not overlap with the voluntary seasonal closures that have recently been introduced to two areas within Hawke Bay.
103. An increased catch of RCO 2 is expected at the anticipated level of fishing effort in 2016/17, and there are no known sustainability concerns for this stock. An in-season increase in the TAC to 807 tonnes under Option 2 considers the range of sources of mortality caused by fishing that may occur in the fishery. As RCO 2 is primarily taken as unintentional bycatch in the inshore bottom trawl fishery, MPI considers it reasonable to provide additional RCO 2 ACE to commercial fishers rather than fishers incurring increased deemed value payments for RCO 2 catch (and would incentivise fishers to land all RCO 2 of legal size). The recommended in-season increase under Option 2 is below the level supported by accepted peer reviewed scientific information, but is supported by the commercial fishing industry as a more cautious approach.
104. Based on the 2016/17 RCO 2 port price of \$0.71/kg, full commercial utilisation of the fishery under Option 2 could potentially generate an additional \$165,430 of revenue compared to Option 1 (status quo).

105. As there is potential for catches to increase for all sectors during the periods of increased abundance, MPI considers it reasonable to provide for recreational and Māori customary allowances. The proposed allowance of 36 tonnes for recreational fishing is based on the most recent 24 tonne estimate of recreational catch in the 2011/12 fishing year, with an additional pro-rated increase of 47% (12 tonnes), consistent with the level of the 2016/17 in-season increase for the commercial sector. This allows for an increase in recreational catch given the likely higher abundance of red cod in RCO 2 this year.
106. NTKM represent the customary interests of the Wairarapa based hapu within the iwi of Ngati Kahungunu and did not submit a preference for either Option 1 or Option 2. NTKM submit that the nominal RCO 2 Māori customary allowance proposed in both options disadvantages the fishing rights of customary fishers. NTKM notes that as no Māori customary baseline allowance has yet been established and no request for specific customary allowance was provided by MPI, Māori customary should be provided, in the least, the same allowance as the recreational sector.
107. MPI considers that an allowance of 1 tonne for customary fishing recognises that, while red cod are an important species for Māori, any take is likely to occur under recreational fishing provisions. MPI acknowledges the submission of NTKM regarding the setting of a Maori customary allowance and has considered this in setting the RCO 2 baseline allowances in the separate review of RCO 2 Quota Management Settings for 1 October 2017.
108. An allowance for all other sources of mortality caused by fishing is proposed at 5 % of the commercial catch limit, consistent with the level of allowance for the similar trawl fishery of RCO 3 (East Coast South Island).

#### **4.4 OTHER CONSIDERATIONS**

109. As discussed above a separate review of sustainability measures for 1 October 2017, MPI is currently consulting on setting the baseline non-commercial allowances for RCO 2 in the regular review of Quota Management Settings. If increased, the TAC would revert to these baseline levels at the close of the 2016/17 fishing year on 30 September 2017. ACE for 2017/18 will be based on the TACC at 1 October 2017. Neither this paper nor the review of RCO 2 Quota Management Settings propose changes to the RCO 2 TACC.
110. MPI notes that a substantial amount of under-caught RCO 2 ACE from the 2015/16 fishing year has been carried forward to the current fishing year. This is provided for under s 67A of the Act. For stocks not listed on Schedule 5A of the Act, including RCO 2, at the end of each fishing year, MPI must allocate to ACE holders for the next fishing year the lesser of:
  - a) the difference between the stock's ACE and reported catch from that preceding fishing year; or
  - b) 10% of the amount of the stock's ACE from that preceding fishing year.

111. Given that the current management procedure uses information about in-season abundance to estimate a full-season sustainable catch limit, MPI considers that the output of the management procedure should provide for the full extent of the fishing-year catch. MPI considers that it is not generally appropriate to provide for the carry forward of ACE, in addition to the increase indicated by the management procedure. MPI is planning to review the ACE carry forward provisions for RCO 2 and other stocks managed with in-season reviews to address this. However, MPI does not consider the carry-forward provisions to pose risks in determining a possible in-season increase of the RCO 2 TAC for the 2016/17 fishing year.

## 4.5 CONCLUSIONS

112. Red cod in RCO 2 are experiencing a period of high abundance. A management procedure that has been designed specifically for the RCO 2 fishery and the outputs from the procedure support an increase in catch for the short term.
113. MPI consulted on a proposal to increase the TAC for the remainder of the 2016/17 fishing year and recommends creating additional ACE of 233 tonnes above the baseline setting, and allowances of 1 tonne for Māori customary, 36 tonnes for recreational and 37 tonnes for other sources of mortality caused by fishing.
114. MPI received six submission in response to the consultation document. One submission did not express a preference for a proposed commercial catch allowance under either Option 1 or Option 2, but noted that the allowances for recreational and Māori customary fishers proposed in both options should be balanced. To address this, MPI is proposing a separate wider review of the management of RCO 2, including revision of the TAC and the setting of baseline allowances for Māori customary fishing, recreational fishing and all other sources of mortality caused by fishing, for 2017 as part of the regular review of Quota Management Settings. The in-season TAC, ACE and allowances recommended in this document would remain in place until 30 September 2017 when they would revert to the new baseline settings.
115. Two submissions opposed the TAC increase and indicated broader concerns about the management approach for RCO 2 and the general management of inshore fisheries in FMA 2 and 8, specifically in and around Hawke Bay.
116. Three submissions supported the proposal, however, frustration was noted about the in-season review process and lack of certainty that this provides. These concerns have also been raised in the identical process for reviewing in-season TAC for FLA 3 in the 2016/17 fishing year.
117. MPI acknowledges these concerns and considers that it would be beneficial to have discussions involving all sectors to explore these concerns and confirm a long-term management approach that addresses the process for reviewing or adjusting allowances.
118. In the interim, a TAC of 807 tonnes for the remainder of the fishing year, based on best available science, is considered to be appropriate. MPI recommends increases to the TAC and ACE, and is intended to provide for the increased levels of red cod catch,

reduce the amount of RCO 2 over-catch required to be covered by deemed value payments, and incentivise fishers to land all RCO 2 of legal size.

119. MPI considers the two options presented are consistent with your statutory obligations.
120. MPI notes that you have broad discretion in exercising your powers of decision making, and may make your own independent assessment of the information presented to you in making your decision.

## Appendix 1. FLA 3 Fishery Information

### *Commercial*

121. Most of the catch in FLA 3 is targeted (between 85% and 97%). Around 95% of targeted FLA 3 landings are taken by bottom trawl, 3% are taken by set net and less than 1% by Danish seine. The majority of trawling occurs on the open coast from Pegasus Bay south to Te Waewae Bay. The peak catches in the trawl fishery occur in spring to autumn for most of the areas within FLA 3.
122. Reported commercial landings from FLA 3 in the last five years have varied between a low of 1,027 tonnes in 2010/11 to catches of approximately 1,500 tonnes in 2011/12 and 2012/13. Historically catches have varied from year to year, and at times exceeded 2,000 tonnes. Peaks of 2,573 tonnes and 2,458 tonnes occurred in 1996/97 and 1988/89, respectively.
123. The associated bycatch is usually comprised of large quantities of red cod and lesser amounts of barracouta, skate, elephant fish, giant stargazer, gurnard, spiny dogfish and tarakihi. Flatfish is only a significant bycatch when target trawling for red cod. Flatfish is a minor bycatch of other targeted species, e.g. elephant fish, hāpuku and bass, ling, red gurnard, rig, school shark, sea perch, and tarakihi.
124. Commercial landing data and other information suggests that catches of sand flounder are currently higher in the central East Coast part of FLA 3 – around Timaru. Commercial fishers have also reported high abundance of yellow-belly flounders in Lake Ellesmere and lemon sole off the South Otago coast. The available data illustrates that there have been historically higher landings in the southern part of FLA 3 (mainly the Otago and Southland coastal areas), although the north-south distribution of catch has fluctuated from year-to-year. The fluctuation may reflect the natural seasonal variability of flatfish.
125. MPI has recently clarified the reporting obligations which require individual flatfish species codes to be reported in the Catch Effort section of forms under the Fisheries (Reporting) Regulations 2001. Obtaining catch effort data by species rather than a generic “flatfish” figure is important because the data is used to monitor all the species that make up the stock. Reporting by species will assist with the functioning of the management procedure and help MPI to better assess the abundance of individual species within the complex.

### *Recreational*

126. Flatfish is an important recreational fish species. Important recreational fisheries for sand, black and yellow-belly flounder occur in most estuaries, coastal lakes and coastal inlets throughout the South Island, including the east coast harbours and estuaries, shallow bays, and Lake Ellesmere. The main methods are set netting, drag netting, and spearing.

127. There is a minimum legal size for flatfish (except for sand flounders) of 25 cm. For sand flounders, the minimum legal size is 23 cm. There is a minimum set net mesh size (100mm) for flatfish. The maximum daily bag limit is 30 in the FLA 3 area.<sup>12</sup>
128. The most recent National Panel Survey of recreational fisheries harvests estimated 21.9 tonnes of flatfish were caught by recreational fishers in the FLA 3 management area in the 2011/12 fishing year.<sup>13</sup> This catch estimate is low compared to the 150 tonne recreational allowance, however, MPI notes that there is uncertainty in using the estimate from 2011/12 to estimate or predict current catches of FLA 3. An updated estimate of recreational catch is expected to be conducted in 2017-18, and could inform any setting of the baseline recreational allowance in the future.
129. In past reviews, some recreational fishers advised that they considered the abundance of some components of FLA 3 was low, especially around some southern estuaries, and as a consequence they were effectively being denied access to the resource. This issue has been compounded by the ban on recreational set nets for open water. The FMA 3 & 5 Recreational Fishing Forum members still maintain this is the case. Forum members have proposed that recreational fishers be permitted the use of powered recreational trawls to be able to access sole species in deeper waters. MPI is not currently considering any changes to recreational fishing regulations regarding powered trawls in FLA 3.

### ***Māori Customary***

130. Flatfish are important Māori customary species but information on customary catch is uncertain. MPI has no information to indicate that customary catch has changed significantly over the last few years. Anecdotal information suggests that customary catch is occurring within the recreational daily bag limit of 30 flatfish. In meeting obligations to Māori, MPI is working together with the Te Waka a Māui me Ōna Toka Forum (TWAM) improve customary reporting at all levels.
131. There is a proposal to increase the customary allowance for FLA 3 for the remainder of the 2016/17 fishing year. The best available information suggests that the new settings will provide for both current levels of catch and possible increased customary harvest of flatfish in FLA 3. The allowance for customary use is not set to constrain catch, but to reflect levels of current utilisation.
132. The taiāpure of East Otago, Akaroa Harbour, Te Taumanu o Te Waka a Māui and Oaro-Haumuri, and the mātaītai reserves of Te Waha o te Marangai, Mangamaunu, Oaro, Rapaki Bay, Koukourarata, Te Kaio, Wairewa/Lake Forsyth, Opihi, Waitarakao, Waihao, Moeraki, Puna-wai-Tōriki, Waikawa Harbour/Tuma Toka, Motupōhue, Oreti, Te Whaka a Te Wera, Pikomamaku, Kaihuka, Horomamae and Waitutu are all within the FLA 3 quota management area. MPI notes that the proposals in this paper will not impact on, or be impacted by, these taiāpure and mātaītai reserves. The FLA 3 QMA does overlap two areas covered by section 186B of the Act; but proposals in this paper will not impact or be impacted by these closures.

<sup>12</sup> Fisheries (Amateur Fishing) Regulations 2013

<sup>13</sup> Wynne-Jones J, Gray A, Hill L, Heinmann A (2014) National Panel Survey of Marine Recreational Fishers 2011-2012: Harvest Estimates. New Zealand Fisheries Assessment Report 2014/67. 139p.

***All other mortality caused by fishing***

133. There are various other potential sources of mortality of flatfish in FLA 3 caused by fishing, but MPI is not able to quantify these precisely. Sources may include discarding to avoid deemed value payments and unseen mortality caused by particular fishing methods. The allowance for other sources of mortality caused by fishing is currently set at 2.25% of the TACC. MPI has no information to suggest this proportion should be changed.

## Appendix 2. Assessment against statutory obligations FLA 3

### PURPOSE OF THE FISHERIES ACT 1996

134. Section 8 of the Act says that the purpose of the Act is to provide for the utilisation of fisheries resources whilst ensuring sustainability.
135. MPI considers that all options presented in this paper better satisfy the purpose of the Act in that they provide for utilisation in the FLA 3 fishery whilst ensuring sustainability. Each management option proposed will ensure the sustainability of the stock. Option 1 is more cautious but is likely to limit utilisation opportunities. In contrast, increasing the TAC to 2,335 tonnes under Option 2 (MPI's preferred option) will allow for increased utilisation in the 2016/17 fishing year.

### GENERAL OBLIGATIONS

136. In setting or varying sustainability measures, section 5 requires you to act in a manner consistent with New Zealand's international obligations relating to fishing and the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.
137. A wide range of international obligations relate to fishing, including use and sustainability of fishstocks; and maintaining biodiversity (s 5(a)). MPI considers that the management options for FLA 3 are consistent with these international obligations.
138. Section 68(1) dictates that if a TAC is increased under s 13(7), the Minister must, under s 21(1) consider Māori customary non-commercial fishing interests, recreational interests and other sources of mortality caused by fishing, and create additional ACE that equals the amount by which he would have increased the TACC, but for s 20(4). Any additional ACE will be allocated to existing quota owners.
139. Currently the allowances for Māori customary non-commercial fishing and recreational fishing are set at 5 tonnes and 150 tonnes, respectively. Option 2 considers increasing these allowances to 7 tonnes and 217 tonnes respectively. The increase in ACE for the commercial sector is not likely to impact on availability for FLA 3 for recreational and commercial fishers, as generally there is a spatial separation of non-commercial fishing and commercial fishing due to fishing method.
140. MPI also considers the proposed management options to be consistent with the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (s 5(b)).
141. Section 12(1)(b) requires that you provide for the input and participation of tangata whenua and have particular regard to kaitiakitanga before setting or varying a TAC. Te Waka a Māui me Ōna Toka Forum (TWAM) was approached prior to release of the consultation document for their collective view on FLA 3. No specific view was provided by TWAM on changes to Māori customary allowances, nor on the current management approach for FLA 3.

## INFORMATION PRINCIPLES

142. Under section 10 of the Act, you must take into account the information principles of the Act, these being that;
- a) decisions should be based on the best available information,
  - b) decision makers should take into account any uncertainty in the available information,
  - c) decision makers should be cautious when information is uncertain, unreliable, or inadequate, and
  - d) the absence of, or any uncertainty in, any information should not be used as a reason for postponing or failing to take any measure to achieve the purpose of the Act.
143. MPI considers that the FLA 3 management procedure incorporates the best available information, and that any absence or uncertainty in information regarding the management procedure does not inhibit the Minister from making a decision under s 10 of the Act.

## SETTING THE TAC

144. This paper presents options for changes to the in-season settings only. No changes are presented to the baseline settings. As discussed in the management approach section, flatfish (FLA, which includes FLA 3) are listed on Schedule 2 of the Act as stocks whose abundance is highly variable year to year. Therefore, under s 13(7), you may, after considering information about the abundance of FLA 3 during the current 2016/17 fishing year and having regard to the matters in s 13(2), s 13(2A), if applicable, and s 13(3), increase the FLA 3 TAC for the 2016/17 fishing year.
145. It is not known whether the current level of FLA 3 stock is at or above the level that can produce the maximum sustainable yield (MSY) or if the current TAC or any of the options in this paper will maintain the FLA 3 stock at or above a level which can produce the MSY. Also, as this is a stock complex of eight different species, estimates of current and reference biomass are not available for flatfish in FLA 3. Therefore, MPI considers that s 13(2A)<sup>14</sup> will apply to your decision as to whether or not to increase the TAC for FLA 3 for the 2016/17 fishing year.
146. In considering the way in which, and rate at which, a stock is moved towards or above  $B_{MSY}$ , you must have regard to such social, cultural, and economic factors as you consider relevant. There is no statutory guidance on what an appropriate ‘way and rate’ might be in any given case – it is a matter for you to determine having regard to social, cultural and economic factors. Relevant social, cultural and economic factors are set out in Section 3 of the paper.
147. The catch of all flatfish species in the FLA 3 complex is composed primarily of three species, lemon sole, New Zealand sole and sand flounder. Given the variable

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<sup>14</sup> Section 13(2A) applies when you consider that the current level of the stock or the level of the stock that can produce MSY is not able to be reliably estimated using the best available information.

abundance and high productivity of the main FLA 3 species, MPI considers an in-season increase for FLA 3 to be low risk to the long-term sustainability of the stock based on the available information and given that the increase is available only until the end of the current fishing year. Regardless, this risk should be considered in any decision on whether to increase the TAC.

148. The TAC options presented in this final decision paper take into account the requirements listed in s 13 of the Act, and offer differing approaches to managing the potential risk to sustainability of the fishery that reflect the uncertainty of the available information.

## **ENVIRONMENTAL CONSIDERATIONS**

149. The Act requires that when any effect of fishing is adverse this effect should be avoided, remedied or mitigated. More specifically, s 9 of the Act require you to take into account that associated or dependent species be maintained at or above level that ensures their long-term viability, that the biological diversity of the aquatic environment should be maintained, and habitats of particular significance for fisheries management should be protected.
150. Key environmental issues associated with the FLA 3 fishery and how they will be affected by an increase to the TAC are discussed below.
151. Incidental captures of seabirds do occur in this fishery. The number of such seabird captures has not been quantified. However, MPI considers the number of incidental seabird captures is unlikely to increase under any of the options because MPI does not expect the amount of trawling to increase significantly.
152. FLA 3 is mainly a target of the East Coast South Island (ECSI) bottom trawl fishery. Increasing the TAC of FLA 3 will not necessarily increase the amount of bottom trawling undertaken, compared to what has previously been recorded, because the increase in abundance of the FLA 3 stock has meant an increase in catch per unit effort.

## **SECTION 11 CONSIDERATIONS**

153. In making your decisions on sustainability measures for FLA 3, you must also have regard to the requirements of s 11 of the Act as follows:
  - a) Section 11(1)(a): Before setting or varying any sustainability measure for any stock, you must take into account any effects of fishing on any stock and the aquatic environment. The majority of FLA 3 commercial take is as target in trawl fisheries, as well as trawl fisheries targeting mixed species. As the TAC proposals do not affect catch limits for the key species targeted when FLA 3 is taken, it is not anticipated that the proposed TAC options would result in a significant change to fishing operations. Therefore, it is not anticipated there will be an increase in impacts on the marine environment or on the harvest of other stocks.

- b) Due to their low abundance in both the North and South Island, the endemic Hector's dolphin is declared as a threatened species under the provisions of the Marine Mammals Protection Act 1978. The set net and bottom trawl (when targeting flatfish) fisheries have been subject to a range of measures designed to reduce interactions of this fishery with Hector's dolphins. The Plenary report states interactions between FLA 3 fishery with protected species are believed to be low. MPI considers there will be no significant change as any additional fishing effort will be mostly in the bottom trawl fishery which, as a result of the measures that now apply, is considered low risk to dolphins.
- c) Section 11(1)(b): Before setting or varying any sustainability measure for any stock, you must take into account any existing controls under the Act that apply to the stock or area concerned. Standard management controls apply to the FLA 3 fishery, for example deemed values, amateur bag limits, amateur minimum size limits, and fishing method constraints. The proposed changes to the TAC do not affect these measures.
- d) Section 11(1)(c): Before setting or varying any sustainability measure for this stock, you must take into account the natural variability of the stock. This has been discussed above in relation to the biological characteristics of FLA 3.
- e) Sections 11(2)(a) and (b): Before setting or varying any sustainability measure for any stock, you must have regard to any provisions of any regional policy statement, regional plan, or proposed regional plan under the Resource Management Act 1991 and any management strategy or management plan under the Conservation Act 1987 that apply to the coastal marine area and you consider relevant. MPI is not aware of any policy statements, plans or strategies under the Resource Management Act 1991, or the Conservation Act 1987, that should be taken into account for the FLA 3 stock.
- f) Section 11(2A)(b): Before setting or varying any sustainability measure for any stock, you must take into account of any relevant and approved fisheries plans. There is no approved fisheries plan that will be affected by this change.
- g) Sections 11(2A)(a) and (c): Before setting or varying any sustainability measure for any stock, you must take into account any conservation or fisheries services, or any decision not to require such services. MPI does not consider that existing or proposed services materially affect the proposals for this stock. No decision has been made to not require a service in this fishery at this time.

## SETTING ALLOWANCES

154. Section 21 of the Act requires you to allow for Māori customary non-commercial interests, recreational fishing interests, and for any other sources mortality caused by fishing, when setting or varying the commercial allowance. The Act does not provide an explicit statutory mechanism to apportion available catch between sector groups either in terms of a quantitative measure or prioritisation of allocation. Accordingly, you have the discretion to make allowances for various sectors based on the best available information.

155. Section 21(4) requires you to take into account any taiāpure or mātaihai reserve or closures/restrictions under s 186A to facilitate Māori customary fishing. There are twenty mātaihai reserves, four taiāpure and two s 186 closure areas within the FLA 3 quota management area. MPI notes that the proposals in this paper will not impact on, or be impacted by the taiāpure and mātaihai reserves.
156. Section 21(5) requires you to take into account any recreational fishing regulations that prohibit or restrict fishing in any area. There are a number of regulations that restrict the use of set nets in both areas and seasons in the FLA 3 quota area, notably the East Coast of the South Island. MPI notes that the proposals in this paper will not impact on, or be impacted by these regulations.

## Appendix 3. RCO 2 Fishery Information

### *Commercial*

157. The significant majority of red cod catch in RCO 2 is caught as bycatch in the inshore bottom trawl fishery (approximately 97% of the total RCO 2 catch between 2013/14 and 2015/16), the main three target species being tarakihi (35.7%), flatfish (24.2%) and gurnard (19.8%).
158. Of the small proportion of targeted RCO 2 catch, approximately 98% is taken by bottom trawl, 2% are taken by set net and less than 1% by other methods. Peak catches in the trawl fishery occur in summer for most of the areas in RCO 2. The main bycatch species associated with the targeted RCO 2 trawl fishery are barracouta, gurnard and tarakihi, at approximately 5%, 4% and 4% of total catch, respectfully, over the last three years.
159. Reported commercial landings from RCO 2 in the last six years have varied, with high landings exceeding the TACC of 500 tonnes in 2010/11 and 2011/12, and a low landing of 142 tonnes in 2014/15. While RCO 2 covers a large area (Fisheries Management Areas 2 and 8), approximately two-thirds of the commercially caught RCO 2 has been reported as being taken in and around Hawke Bay in recent years. Historically catches have varied year to year and exceeded the TACC several times. Following high landings in the early 1990s, the TACC was increased in 1995 from 364 tonnes to 500 tonnes. After 1996, catch did not approach this this current TACC of 500 tonnes again until 2010.
160. The Fisheries (Commercial Fishing) Regulations 2001 define the minimum legal size of red cod to be 25 cm, and because the fishery is based almost exclusively on two and three year old fish, a strong or weak year class can have a major impact on abundance of legal size red cod in the fishery.
161. Anecdotal information from commercial fishers suggests that catches of red cod are currently high with a larger (mature) fish being caught. The vessels that have been targeting RCO 2 in and around Hawke Bay are reporting high volume landings. Other fishers that are targeting snapper, gurnard and flatfish are reporting higher volumes of RCO 2 bycatch.
162. Anecdotal information is in-line with the most recent CPUE index for red cod in RCO 2, which has shown a long-term increasing trend from 2000 to 2013, before decreasing sharply in 2014 and 2015. The CPUE has rapidly increased since 2015 and the current CPUE for the 2016/17 fishing year is at the highest in twenty years.

### *Recreational*

163. Red cod is a moderately important recreational fish species. The main method used to harvest red cod is line fishing from boat and shore. There is a minimum recreational legal size for red cod of 25 cm and a maximum daily bag limit of 20 in RCO 2.<sup>15</sup>

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<sup>15</sup> Fisheries (Amateur Fishing) Regulations 2013

164. The most recent National Panel Survey of recreational fisheries harvests estimated 23.7 tonnes of red cod were caught by recreational fishers in RCO 2 in the 2011/12 fishing year.<sup>16</sup> However, MPI notes that there is uncertainty in using the estimate from 2011/12 to estimate or predict current catches. There is currently no recreational catch allowance set for RCO 2, though it is believed that the recreational catches of red cod in RCO 2 are low compared to the commercial sector. An updated survey of recreational catch is scheduled for the 2017/18 fishing year, and alongside existing information could inform the setting of a baseline recreational allowance in the future.

### ***Māori Customary***

165. Red cod are an important Māori customary species but information on customary catch is uncertain. MPI has no information to indicate that customary catch has changed significantly over the last few years with anecdotal information suggesting that customary fishers are fishing under the recreational daily bag limit of 20 red cod. In meeting obligations to Māori, MPI is working together with relevant local iwi forums to improve customary reporting at all levels.
166. The taiāpure of Porangahau, Palliser Bay and the mātaimai reserves of Hakihea, Horokaka, Toka Tamure, Te Hoe, Moremore (a) and (b), and Marokopa are all within, or partially within, the RCO 2 QMA. MPI notes that the proposals in this paper will not impact on, or be impacted by, these taiāpure or mātaimai reserves. The RCO 2 QMA is not in South Island Fisheries waters so does not encompass any areas covered by section 186B of the Act.

### ***All other mortality caused by fishing***

167. There are various other potential sources of mortality caused by fishing for RCO 2, but MPI is not able to quantify these precisely. In addition to any red cod below the minimum legal size that do not survive return to the sea, sources may include illegal discarding to avoid deemed value payments and unseen mortality caused by trawl fishing methods. Currently there is no specific allowance set for other sources of mortality caused by fishing. MPI considers an increase in the quantity of mortality caused by fishing is likely with increased abundance of red cod and this could be mitigated to some extent by recognising and allowing for increases in bycatch.

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<sup>16</sup> Wynne-Jones J, Gray A, Hill L, Heinmann A (2014) National Panel Survey of Marine Recreational Fishers 2011-2012: Harvest Estimates. New Zealand Fisheries Assessment Report 2014/67. 139p.

## Appendix 4. Assessment against statutory obligations RCO 2

### PURPOSE OF THE FISHERIES ACT 1996

168. Section 8 of the Fisheries Act (the Act) says that the purpose of the Act is to provide for the utilisation of fisheries resources whilst ensuring sustainability.
169. MPI considers that all options presented in this paper satisfy the purpose of the Act in that they provide for utilisation in the RCO 2 fishery whilst ensuring sustainability. Each management option proposed will ensure the sustainability of the stock. Option 1 is more cautious but is likely to limit utilisation opportunities. In contrast, increasing the TAC to 807 tonnes under Option 2 (MPI's preferred option) will allow for increased utilisation in the 2016/17 fishing year.

### GENERAL OBLIGATIONS

170. In setting or varying sustainability measures, section 5 requires you to act in a manner consistent with New Zealand's international obligations relating to fishing and the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.
171. A wide range of international obligations relate to fishing, including use and sustainability of fishstocks; and maintaining biodiversity (s 5(a)). MPI considers that the management options for RCO 2 are consistent with these international obligations.
172. Section 68(1) dictates that if a TAC is increased under s 13(7), the Minister must, under s 21(1) consider Māori customary non-commercial fishing interests, recreational interests and other sources of mortality caused by fishing and create additional ACE that equals the amount by which he would have increased the TACC, but for s 20(4). Any additional ACE will be allocated to existing quota owners.
173. Currently the allowances for Māori customary non-commercial fishing and recreational fishing have not been set. Option 2 considers providing for these allowances at 1 tonne and 36 tonnes respectively. The increase in ACE for the commercial sector is not likely to impact on availability for RCO 2 for recreational and commercial fishers, as generally there is a spatial separation of non-commercial fishing and commercial fishing due to fishing method.
174. MPI also considers the proposed management options to be consistent with the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (s 5(b)).
175. Section 12(1)(b) requires that you provide for the input and participation of tangata whenua and have particular regard to kaitiakitanga before setting or varying a TAC. Relevant iwi forums in the RCO 2 QMA were approached prior to release of the consultation document for their collective view on the proposed allowances and the management approach for RCO 2. No specific view was provided by iwi forums on provision for RCO 2 Māori customary allowances or the management approach at this stage in consultation.

## INFORMATION PRINCIPLES

176. Under section 10 of the Act, you must take into account the information principles of the Act, these being that;
- a) decisions should be based on the best available information,
  - b) decision makers should take into account any uncertainty in the available information,
  - c) decision makers should be cautious when information is uncertain, unreliable, or inadequate, and
  - d) the absence of, or any uncertainty in, any information should not be used as a reason for postponing or failing to take any measure to achieve the purpose of the Act.
177. MPI considers that the RCO 2 management procedure incorporates the best available information, and that any absence or uncertainty in information regarding the management procedure does not inhibit the Minister from making a decision under s 10 of the Act.

## SETTING THE TAC

178. This paper presents options for changes to the in-season settings only. No changes are presented to the baseline settings. As discussed in the management approach section, red cod (RCO, which includes RCO 2) are listed on Schedule 2 of the Act as stocks whose abundance is highly variable year to year. Therefore, under s 13(7), you may, after considering information about the abundance of RCO 2 during the current 2016/17 fishing year and having regard to the matters in s 13(2), s 13(2A), if applicable, and s 13(3), increase the RCO 2 TAC for the 2016/17 fishing year.
179. It is not known whether the current level of RCO 2 stock is at or above the level that can produce the maximum sustainable yield (MSY) or if the current TAC or any of the options in this paper will maintain the RCO 2 stock at or above a level which can produce the MSY. Therefore, MPI considers that s 13(2A)<sup>17</sup> will apply to your decision as to whether or not to increase the TAC for RCO 2 for the 2016/17 fishing year.
180. In considering the way in which, and rate at which, a stock is moved towards or above  $B_{MSY}$ , you must have regard to such social, cultural, and economic factors as you consider relevant. There is no statutory guidance on what an appropriate 'way and rate' might be in any given case – it is a matter for you to determine having regard to social, cultural and economic factors. Relevant social, cultural and economic factors are set out in Section 3 of the paper.
181. Given the variable abundance and high productivity of red cod in RCO 2, MPI considers an in-season increase for RCO 2 to be low risk to the long-term sustainability of the stock based on the available information and given that the increase is available

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<sup>17</sup> Section 13(2A) applies when you consider that the current level of the stock or the level of the stock that can produce MSY is not able to be reliably estimated using the best available information.

only until the end of the current fishing year. Regardless, this risk should be considered in any decision on whether to increase the TAC.

182. The TAC options presented in this final decision paper take into account the requirements listed in s 13 of the Act, and offer differing approaches to managing the potential risk to sustainability of the fishery that reflect the uncertainty of the available information.

## **ENVIRONMENTAL CONSIDERATIONS**

183. The Act requires that when any effect of fishing is adverse this effect should be avoided, remedied or mitigated. More specifically, s 9 of the Act require you to take into account that associated or dependent species be maintained at or above level that ensures their long-term viability, that the biological diversity of the aquatic environment should be maintained, and habitats of particular significance for fisheries management should be protected.
184. Key environmental issues associated with the RCO 2 fishery and how they will be affected by an increase to the TAC are discussed below:
- a) Incidental captures of seabirds do occur in this fishery. The number of such seabird captures has not been quantified. However, MPI considers the number of incidental seabird captures is unlikely to increase under any of the options because MPI does not expect the amount of trawling to increase significantly.
  - b) RCO 2 is mainly a bycatch of the Hawke Bay bottom trawl fishery. Increasing the TAC of RCO 2 will not necessarily increase the amount of bottom trawling undertaken, compared to previous levels recorded, because the increase in abundance of the RCO 2 stock has meant an increase in catch per unit effort.

## **SECTION 11 CONSIDERATIONS**

185. In making your decisions on sustainability measures for RCO 2, you must also have regard to the requirements of s 11 of the Act as follows:
- a) Section 11(1)(a): Before setting or varying any sustainability measure for any stock, you must take into account any effects of fishing on any stock and the aquatic environment. The majority of RCO 2 commercial take is as bycatch in trawl fisheries. As the TAC proposals do not affect catch limits for the key species targeted when RCO 2 is taken, it is not anticipated that the proposed TAC options would result in a significant change to fishing operations. Therefore, it is not anticipated there will be an increase in impacts on the marine environment or on the harvest of other stocks.
  - b) The current interactions between the target RCO 2 fishery and protected species are unknown, but are likely to be relatively minor given the relatively small amount of targeting that occurs. As previously discussed a large proportion of

RCO 2 catch is taken as bycatch in the Hawke Bay area and there is limited information to suggest that interactions with protected species would increase as a result of allowing for greater volumes of RCO 2 bycatch. However the RCO 2 QMA overlaps with part of the known range of the Maui's dolphin and this should be given specific consideration. Due to their low abundance around the northern Taranaki coast in the North Island the endemic Maui's dolphin is declared as a threatened species under the provisions of the Marine Mammals Protection Act 1978. The set net and bottom trawl fisheries in which red cod are targeted and caught as bycatch have been subject to a range of measures designed to reduce interactions with Maui's dolphins. MPI considers there will be no significant change as additional fishing effort is not anticipated, but if this did occur it will likely be in the bottom trawl fishery which, as a result of the measures that now apply, is considered low risk to dolphins. MPI notes that there has been no targeting of RCO 2 north of the Whanganui River in the past five years, and only one event six years ago.

- c) Section 11(1)(b): Before setting or varying any sustainability measure for any stock, you must take into account any existing controls under the Act that apply to the stock or area concerned. Standard management controls apply to the RCO 2 fishery, for example deemed values, amateur bag limits, amateur minimum size limits, and fishing method constraints. The proposed changes to the TAC do not affect these measures.
- d) Section 11(1)(c): Before setting or varying any sustainability measure for this stock, you must take into account the natural variability of the stock. This has been discussed above in relation to the biological characteristics of RCO 2.
- e) Sections 11(2)(a) and (b): Before setting or varying any sustainability measure for any stock, you must have regard to any provisions of any regional policy statement, regional plan, or proposed regional plan under the Resource Management Act 1991 and any management strategy or management plan under the Conservation Act 1987 that apply to the coastal marine area and you consider relevant. MPI is not aware of any policy statements, plans or strategies under the Resource Management Act 1991, or the Conservation Act 1987, that should be taken into account for the RCO 2 stock.
- f) Section 11(2A)(b): Before setting or varying any sustainability measure for any stock, you must take into account of any relevant and approved fisheries plans. There is no approved fisheries plan that will be affected by this change.
- g) Sections 11(2A)(a) and (c): Before setting or varying any sustainability measure for any stock, you must take into account any conservation or fisheries services, or any decision not to require such services. MPI does not consider that existing or proposed services materially affect the proposals for this stock. No decision has been made to not require a service in this fishery at this time.

## SETTING ALLOWANCES

186. Section 21 of the Act requires you to allow for Māori customary non-commercial interests, recreational fishing interests, and for any other sources of mortality caused by fishing, when setting or varying the commercial allowance. The Act does not provide an explicit statutory mechanism to apportion available catch between sector groups either in terms of a quantitative measure or prioritisation of allocation. Accordingly, you have the discretion to make allowances for various sectors based on the best available information.
187. Section 21(4) requires you to take into account any taiāpure or mātaimai reserve or closures/restrictions under s 186A to facilitate Māori customary fishing. There are, two taiāpure and seven mātaimai reserves within the RCO 2 quota management area. MPI notes that the proposals in this paper will not impact on, or be impacted by the taiāpure and mātaimai reserves.
188. Section 21(5) requires you to take into account any recreational fishing regulations that prohibit or restrict fishing in any area. There are a number of regulations that restrict the use of set nets in both areas and seasons in the RCO 2 quota area, notably the northern Taranaki coast of the North Island. MPI notes that the proposals in this paper will not impact on, or be impacted by these regulations.

# Appendix 5. Copy of Submissions

## Fisheries Inshore New Zealand Limited (FINZ)

FISHERIES  
INSHORE NEW ZEALAND

### SUBMISSION ON THE PROPOSAL FOR AN IN-SEASON INCREASE IN THE TOTAL ALLOWABLE CATCH FOR RED COD 2 (RCO 2)

#### Introduction

1. Thank you for the opportunity to comment on the consultation paper regarding an in-season increase to the Total Allowable Catch for Red Cod 2 (RCO 2) released for consultation on 12 May 2017 (MPI Discussion Paper No. 2017/15).
2. Fisheries Inshore NZ Limited (FINZ) represents 80% by value and volume of the inshore finfish, pelagic and tuna fisheries of New Zealand. Its role is to deal with national issues on behalf of the sector and to work directly with and on behalf of its quota owners, fishers and affiliated Commercial Stakeholder Organisations (CSOs). As part of that it works collaboratively with other industry organisations and Sector Representative Entities (SREs), Seafood New Zealand, Ministry for Primary Industries (MPI) and Department of Conservation.
3. FINZ has a mandate from the Area 2 Committee to work directly with and on behalf of its quota owners for the management of fisheries within the region. The Area 2 Committee is a committee representing the interests of Area 2 quota owners and fishers. The focus is on stock-specific and regional issues that impact on the local fisheries they represent.
4. We provide comments on both the proposal to increase RCO 2 in-season catch allowances for the 2016/17 fishing year and provide a general comment on the current in-season catch adjustment process

#### Proposal to increase red cod 2 in-season catch allowances for the 2016/17 fishing year

5. We support Option 2 (*Preferred option*) which proposes to increase the "in-season" Annual Catch Entitlement (ACE) by 233 t from 500 t to 733 t.
6. Option 2 being that:
  - The TAC be increased from 500 t to 807 t;
  - Allowance be made for the current fishing year for customary fishing (1 t), recreational fishing (36 t) and all other mortality caused by fishing (37 t);
  - Additional ACE of 233 t to be provided, increasing total ACE for the 2016/17 year from 500 t to 733 t (an approximately 47% increase).
7. The 2016/17 Management Procedure for RCO 2 presented to the MPI Working Group process in February 2017 recommended an increase of the RCO 2 TACC from 500 t to 966 t for the 2016/17 fishing year (a 466 t increase above the baseline TACC).
8. Whilst we are supportive of scientific evidence based fisheries management, in this case the Area 2 Committee wish to manage the fishery more conservatively than the Management Procedure indicates.
9. In pre-consultation discussions with MPI the Area 2 Committee promoted a conservative approach, recommending an increase in to the TACC to 733 t (Option 2 of MPI's discussion paper).
10. This position is consistent with previous industry submissions on the RCO 2 in-season management procedure, whereby the industry preference has been for an increase to the TACC by half of the output of the management procedure.

Page 1 of 3

FINZ submission on MPI Discussion Paper No. 2017/15

11. The Management Procedure is based on the first 3 months of the fishing year (October – December) which indicated that in the 2016/17 fishing year there are larger catches than in previous years with 30% of the ACE caught within 3 months.
12. The larger RCO 2 catches have continued to be demonstrated in the current fishing year. In the first 6 months of the 2016/17 fishing year 50% of the ACE has been caught compared to the previous 3 fishing years where 35%, 12% and 19% of the ACE was caught during the same period.
13. Given the RCO 2 catches to date this year, we consider that an in-season increase (Option 2) provides for the sustainable utilisation of RCO 2 fishery whilst ensuring that associated fisheries are not constrained.
14. Catch information from associated fisheries (e.g. GUR, TAR and SNA) is consistent with previous fishing years. The consistency of these species catches in the current year compared to previous years demonstrates that an increased abundance of RCO 2 has not resulted in increased pressure on other fisheries. An increase in RCO 2 will not result in increased effort on associated fisheries or have an adverse effect on these fisheries.
15. We agree with the position in the MPI discussion paper that the in-season increase for RCO 2 recommended by the management procedure is low-risk to the long-term sustainability of the stock.

#### Comment on In-season catch allowance process

16. As part of this submission we want to take the opportunity to raise concerns about the in-season management procedure.
17. The performance of the management procedure has been severely and significantly compromised by the decision-making processes following the scientific analysis of in-season catch.
18. The current process has taken from over 4 months.
19. The timeframes for the current in-season management procedure results in Ministerial decisions being made so late that industry have reduced time to act on the increased TACCs, thereby reducing the intended benefits of the process.
20. A more timely and efficient process will enable industry to fully benefit from the Management Procedure and prevent unnecessarily constraining the sustainable utilisation of RCO 2.

#### Summary and position

21. FINZ has prepared this submission on behalf of the Area 2 Committee representing the interests of Area 2 quota owners and fishers.
22. We strongly recommend Option 2 given it:
  - Recognises the results of the Management Procedure whilst accounting for the commercial fishing industry conservative approach to the management of the RCO 2 fishery.
  - Is consistent with both MPI's Our Strategy 2030 long term outcome of increasing sustainable resource use and MPI's Fisheries 2030 strategy Environment Outcome of 'New Zealanders maximising benefits from the use of fisheries within environmental limits'

- Recognises the opportunity to utilise fisheries resources whilst ensuring long-term sustainability.

23. It must be stressed that the timeframe from finalisation of the RCO 2 Management Procedure to consultation on an in-season increase has been extremely drawn out. It is imperative that MPI finalise this process in a timely manner to provide certainty to stakeholders and prevent unnecessarily constraining the sustainable utilisation of RCO 2.



Oliver Wilson  
Programmes Manager  
Fisheries Inshore New Zealand Ltd.

## Iwi Collective Partnership (ICP)

Iwi Collective Partnership  
Auckland



14 June 2017

Inshore Fisheries Management  
Ministry for Primary Industries  
P O Box 2526  
Wellington 6011

By email only: [FMSubmissions@mpi.govt.nz](mailto:FMSubmissions@mpi.govt.nz)

Tēnā koe,

### **Proposal for an in-season increase to the Total Allowable Catch for Red Cod 2 (RCO 2)**

In terms of MPI Discussion Paper No. 2017/15, the ICP supports Option 2 which proposes to increase the "in-season" ACE for RCO2 by 233 mt to 733 mt.

We note that the management procedure supports a 455 mt increase to a total of 955 mt, however, we support a conservative approach. We believe it would be more appropriate to consider further options under a full TACC review for the 1 October 2017 season. It is not good fisheries management to rely on inseason increases year on year.

Our stance appreciates that RCO2 is bycatch 98% of which is caught in the bottom trawl fishery targeting tarakihi, flatfish and gurnard. The TACC is underset considering the high abundance leading to high catch levels and potential issues with deemed values. Therefore status quo is not appropriate.

We understand that Red Cod is a fast growing, short-lived species and therefore we support higher utilisation.

Although RCO2 is of minimal economic value to the ICP, we support a fair deemed value system based on an appropriate TACC setting.

Ngā mihi,

A handwritten signature in blue ink, appearing to read "Maru Samuels", is written over a circular stamp or watermark.

**Maru Samuels**  
General Manager

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## LegaSea Hawkes Bay (LegaSea)



13<sup>th</sup> June 2017

LegaSea Hawkes Bay  
c/- HBSFC  
Nelson Quay  
Ahuriri

Dear Ministry for Primary Industries

Submission on the Proposal for An In-season Increase in the **TACC For RCO2**.

On behalf of LegaSea Hawkes Bay and the Hawkes Bay Sports Fishing Club, this submission supports option one, status quo.

We find it unbelievable that MPI can on one hand be in court proceedings with a very big player in our fishery for misreporting catch landing reports, then on the other hand use those potentially misreported catch landing reports as the raw data for a "scientifically reviewed management procedure ". Then to back it up with anecdotal reports from skippers, some of which are also facing charges, and state that "Anecdotal information is in line with the most recent CPUE index " is beyond comprehension. Of course they would, they are made by the same people.

Your paper states that the majority of red cod is caught whilst fishing for barracuda, terakihi and red gurnard. You will be aware that LegaSea HB requested catch data for terakihi after hearing that they were being fished for with no ACE available and being deemed. No information was forthcoming. I'm also sure you are aware of our continued concern for the red gurnard stocks and our inability to catch a reasonable daily bag.

It is inevitable that both species will come under even more pressure under option two. Owing to the limited time allowed to present our submission we are not able to check our current ramp survey figures on the red cod take this season. Had you had pre-consultation meetings with recreational fishers we would have been able to provide some statistics. Anecdotal information from recreational fishers certainly does not reflect huge quantities of red cod out there so we are totally opposed to the 36t of extra allocation.

We have been battling for a very long time to ease some commercial pressure on our Bay to reverse the sustained and declining trend in fish numbers. All evidence except your CPUE based science, tells us that our Bay is taking a hammering. The only way to rebuild the fishery is to kill less fish.

We strongly urge you to refrain from increasing any commercial take until you have some credible science and the recreational fishing community can catch a reasonable daily bag. We long for the day that MPI "looks into its toolbox to find a big hammer "as promised.

Yours sincerely

LegaSea Hawkes Bay

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HAWKESBAY@LEGASEA.CO.NZ | WWW.LEGASEA.CO.NZ

## **Michael Thomas**

> To whom it may concern,

> I think that the FLA3 for 2016-2017 fishing year is at an appropriate catch amount as it currently stands. Even though there were high catches in the first two months of the fishing year it has tapered off significantly as can be seen by checking the fishserve register. If the proposed increase goes ahead I believe it puts undue pressure on the fishery by creating an abundance of quota causing more fishermen to target Flats resulting in pressure on fish stocks for this and the subsequent fishing year.

>

> Regards,

> Michael Thomas

> FLA3 Fisherman

> Fat Flats Ltd

## New Zealand Sports Fishing Council (NZSFC)

Phil Appleyard  
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14 June 2017

### **Proposals for an in-season increase to the Total Allowable Catch for Red Cod 2 and Flatfish 3.**

**Submission:** No in-season increase to the Total Allowable Catch for Red Cod 2.

No in-season increase to the Total Allowable Catch for Flatfish 3.

#### **The submitters**

1. The New Zealand Sport Fishing Council and supporters of our public outreach LegaSea, (the submitters) appreciate the opportunity to submit feedback to the Ministry for Primary Industries (MPI) on the 2017 Discussion Paper, *Proposal for an in-season increase to the Total Allowable Catch for Red Cod 2 (RCO 2) and Flatfish 3 (FLA 3)*. MPI released their proposals on 1 June 2017. Submissions are due by 14 June 2017.
2. The New Zealand Sport Fishing Council is a National Sports Organisation with around 33,000 affiliated members from 56 clubs nationwide and a growing number of contributing supporters to LegaSea. 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 Dave Lockwood, [secretary@nzsportfishing.org.nz](mailto:secretary@nzsportfishing.org.nz).
3. The submitters strongly object to the Ministry's ongoing habit of curbing public input by only allowing limited consultation time. Discounting the June public holiday, an 8-working day timeframe to respond to the Ministry's incomplete proposal documents is inadequate, unreasonable, and likely unlawful.
4. We are committed to ensuring that sustainability measures and 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, and ensuring sustainability.

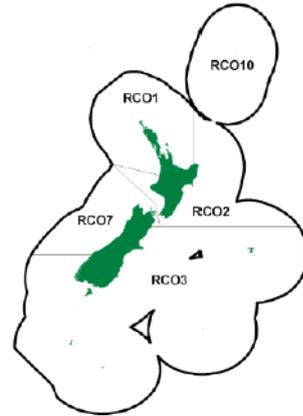
RCO 2 and FLA 3 submission. New Zealand Sport Fishing Council. 14 June 2017.

1

## Proposal to increase Total Allowable Catch for red cod in RCO 2

### Background

5. Red cod are a fast-growing, short-lived species with highly variable recruitment. These factors result in pulses of recruitment leading to variable stock abundance and a large variation in catches between years.
6. Red cod is a relatively low value species in commercial terms and in RCO 2 they are mostly taken as bycatch in the inshore bottom trawl fishery off the East (FMA 2) and West Coast (FMA 8) of the lower North Island.
7. Primarily, RCO 2 commercial catch comes from fisheries targeting tarakihi (35.7%), flatfish (24.2%) and gurnard (19.8%). Approximately two-thirds of commercially caught RCO 2 has been taken in and around Hawke Bay in recent years.
8. In the 2011–12 National Panel Survey of recreational harvest more red cod were reported from FMA 2 and FMA 8 (RCO 2) than other quota areas. The total recreational harvest estimate for RCO 2 was 20,000 fish with an estimated weight of 24 tonnes.



### Proposals

9. MPI proposes the following options for the total allowable catch (TAC), Annual Catch Entitlement (ACE) and associated allowances for red cod in RCO 2. (Table 1).

**Table 1:** Management options proposed for red cod in RCO 2.

Option	TAC (t)	TACC (t)	Additional Annual Catch Entitlement	Customary (t)	Recreational (t)	Other sources of fishing related mortality (t)
Option 1 (status quo)	500	500		NA	NA	NA
Option 2 (follow Management Procedure)	807	500	233	1	36	37

## **MPI rationale for increasing the TACC**

10. MPI rationale for reviewing Red Cod 2 includes:
  - a. Red cod stock size can be highly variable from year to year.
  - b. RCO 2 is included on Schedule 2 of the Fisheries Act 1996, which allows for an increase in the TAC, and subsequent ACE, during the fishing year. At the end of the year the additional ACE will expire. The TACC will remain at the baseline level of 500 t.
  - c. A Management Procedure was developed in 2013 which compared catch rates in the first few months of year to estimate what the total catch could be for the full year.
  - d. The Management Procedure predicts that the commercial fishery could catch an additional 466 tonnes (t) of red cod in RCO 2 in 2016–17.
  - e. Pre-consultation with commercial fishers supported an increase in ACE of half that amount, 233 t.

## **Submission**

11. We submit:
  - a. No in-season increase to the Total Allowable Catch for Red Cod 2.
  - b. It is highly unlikely that the commercial catch will exceed the available ACE in 2016–17.
  - c. No TAC or TACC increase in FMA 2 until the legal proceedings against Hawkes Bay Seafoods have concluded.
  - d. No TAC or TACC increase in FMA 2 if that means more trawling in the Hawke Bay.
  - e. More precautionary management ought to be applied to Red Cod 2 and other low information stocks, as per MPI's Harvest Strategy Standard.
12. The commercial fisheries for a number of species in FMA 2 have been overcaught at various times and the default management response from MPI seems to be to increase the TAC/TACC rather than take positive action to address the overcatch and demand fishers have a balanced catch portfolio to cover the expected harvest of a range of species.
13. It is a serious concern that these low knowledge stocks are being reviewed in the absence of a quantitative stock assessment and adequate estimates of sustainable yield.
14. RCO 2 is yet another example of MPI looking for short term solutions to allow fishers to maximise their catch of all the main target species, every year. When is MPI going to deliver advice to the Minister that reinforces his statutory obligations to manage these fisheries to provide for future generation's needs?
15. The Management Procedure revised in 2014 is not well described in the Consultation Document, it is not mentioned in the red cod working group report, and as far as we have established, it is not described in any publicly available document.
16. We note MPI presents the Management Procedure as a means of predicting the maximum future catch that the fleet could catch. Is this the basis of setting a TAC now, using a Management Procedure to generate an estimate of maximum possible catch and then making an in-season adjustment to the TAC to allow for that maximum catch? There is no BMSY calculation or stock assessment, merely a Management Procedure prediction being used as a basis for a TAC

increase; given the Purpose and Principles of the Fisheries Act, and the statutory requirements to ensure sustainability, how is this legal?

17. It seems even commercial fishers feel the Management Procedure is overly generous. When it was first tried in 2013 they supported just half the increase. An additional 119 t of ACE was made available but the total commercial catch that year was just 300 t, less than 50% of the ACE available.
18. Four years later we are in a similar dubious situation, with a large in-season increase predicted by the Management Procedure and commercial fishers supporting an increase of half that amount.
19. Commercial fishers can carry over up to 10% of their unused available ACE to the following year. So, in 2016–17 there is 544 t of ACE already available in RCO 2. While landed catch was high in October and November it has dropped away since then. Available data on catch-to-date, from FishServe reports, shows that 53.5% of available ACE has been caught in the first seven months of the fishing year, at an average of 41 t per month. In order to come close to catching all ACE, including the proposed increase, fishers would need to average 97 t per month for the remaining five months of this year. Typically, July and August are low catch months.
20. The MPI discussion document states that the potential benefit from the in-season increase of 233 t of red cod would be up to \$165,000, but there will be almost zero financial benefit if the catch is below 544.
21. The submitters are concerned that once again the cost of consultation, and in particular this process and allocation of ACE, could be a waste of time and money.

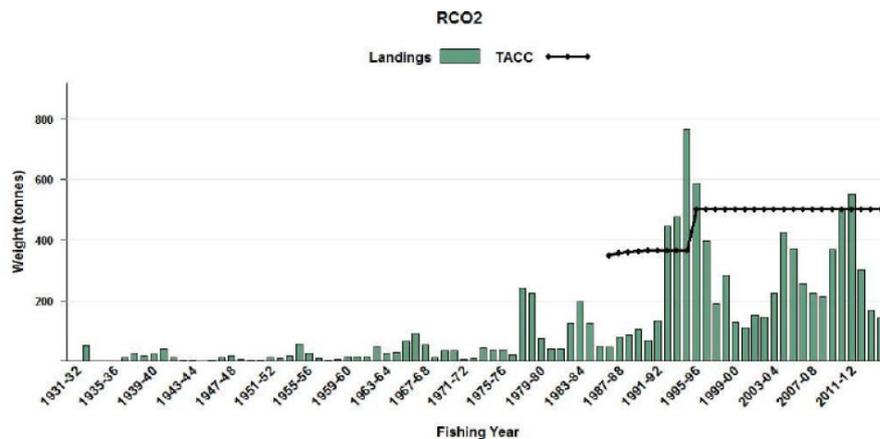


Figure 1: Reported commercial landings and the TACC in RCO 2.

22. The above graph, showing the long-run commercial catch history for RCO 2, does not show the true availability of red cod in the fishery, but more likely a history of discarding low value fish without a ready market (Figure 1). Small and damaged red cod of legal size are still dumped. Changes in fisher behaviour will influence the rate of discarding and therefore the reliability of CPUE as a measure of relative abundance used in the Management Procedure.

23. The current legal proceedings against Hawkes Bay Seafoods involve a vast but unknown quantity of mis-reported catch and illegal behaviour. Given the level of mis-reporting, dumping and illegal activity involved in the FMA 2 area the submitters do not accept CPUE trends as an adequate measure of abundance. Any use of CPUE as a basis for the Management Procedure is therefore unacceptable.
24. Furthermore, the submitters do not accept any TAC or TACC increase in FMA 2 until the legal proceedings against Hawkes Bay Seafoods have concluded.
25. It is the submitters view that management of low information stocks needs to follow a precautionary approach as set out in the MPI Harvest Strategy Standard.
26. We accept there may be a legitimate bycatch issue to address, but there is a concern that trawl fishing effort will increase if there is a shift to targeting red cod.
27. Over the past few years LegaSea Hawkes Bay and other recreational fishers have worked hard with MPI officials and commercial interests to reduce the amount of trawling inshore in the Hawke Bay. So far, their efforts remain unrewarded. Any increase in the TAC for red cod and associated FMA 2 stocks will inevitably lead to an increase in trawl effort. Any increase in trawl effort will be counter-productive to this effort by the Hawke's Bay team. We do not accept any increase in trawl effort in FMA 2.
28. As the Supreme Court ruled in 2009, "Fisheries are to be utilised, but sustainability is to be ensured"<sup>1</sup>. There is no evidence to support the notion that sustainability of other stocks in the FMA 2 mixed target fishery is "ensured". If there is evidence, the submitters request access to that data.

### Proposal to increase the Total Allowable Catch for flatfish in FLA 3

#### Background

29. The Flatfish 3 (FLA 3) quota is for a combination of eight species most of which have highly variable recruitment. These factors result in pulses of recruitment leading to variable stock abundance and a large variation in catches between years.
30. In FLA 3 the catch is primarily lemon sole, New Zealand sole, and sand flounder, which is mostly taken in the inshore bottom trawl fishery with regional differences in species mix and abundance within this large quota management area.
31. In the 2011–12 National Panel Survey of recreational harvest more flatfish were reported from FMA 3 and FMA 5 (FLA 3) than other quota areas. The total recreational harvest estimate for FLA 3 was 53,000 fish with an estimated weight of 22 tonnes.



<sup>1</sup> NEW ZEALAND RECREATIONAL FISHING COUNCIL INC AND ANOR V SANFORD LIMITED AND ORS SC 40/2008 [28 May 2009]. Para 39.

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## Proposals

32. MPI proposes an in-season increase to the total allowable catch (TAC) and associated allowances for flatfish in FLA 3. Any in-season increase in Annual Catch Entitlement (ACE) will apply until 30 September 2017. The TAC will return to baseline, status quo, levels after 30 September. The proposed options are listed below. (Table 1).

**Table 1:** Management options proposed for flatfish in FLA 3.

Option	TAC (t)	TACC (t)	Additional Annual Catch Entitlement	Customary (t)	Recreational (t)	Other sources of fishing related mortality (t)
Option 1 (status quo)	1617	1430		5	150	32
Option 2 (follow management procedure)	2335	1430	635	7	217	46

## MPI rationale for increasing the TACC

33. MPI rationale for reviewing Flatfish 3 (FLA 3) includes:
- Flatfish 3 stock size can be highly variable from year to year.
  - FLA 3 is included on Schedule 2 of the Fisheries Act 1996, which allows for an increase in the TAC during the fishing year.
  - A Management Procedure compared catch rates in the first few months of year to estimate what the total catch could be for the full year. At the end of the year the additional ACE will expire. The TACC will remain at the baseline level of 1430 tonnes.
  - The Management Procedure predicts that the commercial fishery could catch an additional 635 tonnes in 2016–17, which, if caught, would be a valuable addition to the commercial harvest in the region.

## Submission

34. We submit:
- No in-season increase to the Total Allowable Catch for Flatfish 3.
  - An abundance of sand flounder should not mean that less abundant stocks are put at risk.
  - A 635 t increase in ACE will lead to an increase in fishing effort and environmental impact.
  - More precautionary management ought to be applied to Flatfish 3 and other low information stocks, as per MPI's Harvest Strategy Standard.
35. It is a serious concern that these low knowledge stocks have been reviewed in the absence of a quantitative stock assessment and good estimates of sustainable yield by species. An abundance of sand flounder should not mean that less abundant stocks are put at risk.

36. FLA 3 is yet another example of MPI looking for short term solutions to allow fishers to maximise their catch every year.
37. We cannot believe MPI's assertion that a 635 t increase in TACC will not lead to an increase in fishing effort and environmental impact. When is MPI going to deliver advice to the Minister that reinforces his statutory obligations to both manage the environmental effects of fishing, and to ensure sustainability to provide for future generation's needs?
38. The final advice paper needs to show the trends in trawl fishing effort and commercial catch to estimate the extent of potential increases in fishing effort required to catch an additional 635 t of flatfish ACE.
39. The Management Procedure revised in 2015 is not well described in the Consultation Document, it is not described in the flatfish working group report, and as far as we can establish, it is not available in any publicly available document.
40. The Management Procedure is a one-way value. It only provides for in-season increases in the TAC yet it does not reduce the TAC when stocks are low. There have been four years when additional ACE was issued on top of the 1430 TACC. In 2009–10 there was a 333 t increase in ACE and total catch was 1525, in 2010–11 there was a 90 t increase in ACE and total catch was 1027, and in 2012–13 there was a 297 t increase in ACE and total catch was 1512. An additional 220 t of ACE was made available in 2015-16 and the total commercial catch that year was 1621 t. The actual benefit from these in-season increases is hard to measure as there is usually about 100 t of uncaught ACE carried over from the previous season.
41. Commercial fishers can carry over up to 10% of their unused available ACE to the following year so in 2016–17 there is 1535 t of ACE already available in FLA 3. If the Minister agrees to an additional 635 tonnes of ACE that will mean 2065 tonnes of flatfish could be removed from this fishery before 1 October, representing the highest catch since 1997-98. There is no evidence to suggest that FLA 3 abundance has improved to provide for this level of commercial catch.
42. While landed catch was high in October 2016 it has dropped away since then. Data on catch to date available on FishServe reports show that 57% of available ACE has been caught in the first seven months of the fishing year, at an average of 124 t per month. In order to come close to catching all ACE, including the proposed increase, fishers would need to average 258 t per month for the remaining five months of this year. Typically, May, June and July are low-catch months.
43. Local recreational fishers are concerned about the depletion of flatfish in some areas of FLA 3, especially around the southern estuaries. These fishers are being denied reasonable access to flatfish. Both the lack of abundance and method controls applying only to recreational harvest means the existing 150 tonne allowance is not caught.
44. Proposing an increase in the 150 t recreational allowance to 217 tonnes for two months is a farce and seems only a mechanism to justify the proposed 635 tonne increase in ACE. A massive increase considering the proposed 635 t increase is almost 29 times more than the estimated recreational catch.
45. The Minister has already set aside 150 tonnes to 'allow for' recreational interests in this fishery as per section 21 of Fisheries Act 1996. He has also set aside 5 tonnes for customary fishing

interests. At an estimated harvest 22 t of catch, the recreational allowance is nowhere near caught. It is unknown if customary interests are being met in this fishery. The Minister has made these allowances for non-commercial interests and therefore he has an obligation to provide for those interests. If depletion or management measures mean these allowances cannot or will not be caught the Minister needs to take action, either by setting more realistic allowances or maintaining higher abundance levels in FLA 3.

46. The submitters are also concerned about the environmental impacts of increased trawling to harvest the potential extra 635 tonnes of ACE. There is no account taken of these impacts and it seems incredible that the allowance set aside for fishing related mortality will remain at 2.2% of the available catch.
47. The discussion document states that the potential benefit from the in-season increase of 635 t of flatfish would be up to \$2.1 million, but there will be almost zero financial benefit if the catch is below 1535 t. In fact, it is looking like the cost of this consultation process and allocation of ACE in 2017 could be a waste of time and money.

## Ngāi Tūmapūhia-a-Rangi ki Mōtūwairaka Inc (NTKM)



14 June 2017

Inshore Fisheries Management  
Ministry for Primary Industries  
PO Box 2526  
Wellington 6140

Tēnā Koutou

We thank MPI for the opportunity to make a submission on the proposal for an in-season increase to the Total Allowable Catch for Red Cod 2 (RCO 2)

From the consultation document provided, our objection is in regard to the proposed nominal customary allocation vs recreation. In our opinion, the equity factor for baseline allocation outlined in the preferred option, greatly disadvantages customary.

As there is a current abundance of the species, one would consider that in accordance with Article 3 of Te Tiriti o Waitangi, as there has been no previous baseline for either, Māori would be afforded at the very least, the same rights in regard to the proposed allocations.

We therefore question MPI rationale of the proposed allocation, despite and apart from no specific allocation request from the customary sector.

Ngā mihi

Ngā mihi  
Susan (Sue) Taylor  
Secretary - Ngāi Tūmapūhia-a-Rangi ki Mōtūwairaka Inc (NTKM)



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## Pullan Enterprises Limited

Re: Proposal for an in-season increase to the Total Allowable Catch for Flatfish 3 (FLA 3)

This is a submission from Pullan Enterprises Ltd (PEL). The address for service is 144 Timberyard Road, RD 3 Leeston, [REDACTED]; email [REDACTED]. PEL fishes for flatfish (black, sand and yellowbelly flounder) almost exclusively in Lake Ellesmere. Our annual catch of FLA from lake Ellesmere is 60-70 T. The lake is connected to the open sea normally 2-3 times per year, and is therefore an integral part of FLA3. It is a sustainable and productive flounder fishery. Historically, it has been a very consistent fishery. The fishery supplies local demand (Christchurch and Auckland) and also export markets.

The Report mentions a very high abundance of yellow-belly flounder in Lake Ellesmere. This is correct, although abundance is often seasonal - black and sand flounder are also abundant at certain times of the year.

PEL supports Option 2. We believe that the proposed 44% increase would not adversely affect the sustainability of the Lake Ellesmere flounder fishery, and there is sufficient recruitment of juvenile flounder to the Lake to sustain this increase.

Yours faithfully

Bill Chisholm

For Sarah, Garry and Michael Pullan – PULLAN ENTERPRISES LTD

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## Sanford Limited (Sanford)



19 June 2017

Ministry for Primary Industries  
PO Box 2526  
Wellington

Submitted by email.

### Review of Sustainability Controls – in season increases

Thank you for opportunity to comment on the in-season review Fisheries Management Review. Sanford provides these comments as a wild catch fisher, quota owner, ACE purchaser and Licensed Fish Receiver.

#### Flatfish 3

Sanford has 9% of the quota shares in this stock. Our fishers are reporting good catches and in our view the stock could sustain an increase. The science indicates no sustainability concerns. We have had a good seven months of catch and there are good numbers still around in South Canterbury, Otago Coast and Southland.

Sanford supports Option 1.

As with RCO 2 the in-season review is coming late in the fishing year, and some fishers will have difficulty optimising the opportunity.

#### Red Cod 2

Sanford has 24% of the quota shares in this stock. Our fishers on the water are experiencing no concerns with the stock and we consider it appropriate for an in-season increase. The science indicates no sustainability concerns.

Sanford supports Option 2.

For what-ever reason the in-season review has been delayed, which is disappointing as some fishers may have difficulty optimising the increased catching opportunity.

With thanks  
Alison Undorf-Lay

**Sanford**

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**SOUTHERN INSHORE  
FISHERIES**  
MANAGEMENT COMPANY LIMITED

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**Submission on the  
Proposal for an in-season increase to the Total Allowable Catch  
for Flatfish 3 (FLA 3)**

**MPI Discussion Paper No. 2017/14**

**14 June 2017**

1. Thank you for this opportunity to submit on the Ministry for Primary Industry proposal for an in-season increase to the Total Allowable Catch (TAC) for FLA3.
2. Southern Inshore Fisheries (Southern Inshore) represents shareholders of 104 fishstocks in quota management areas 3,5,7 & 8 which encompasses inshore fisheries of the South Island and into the Taranaki region. The shareholders are also represented nationally through the company's membership of Fisheries Inshore New Zealand (FINZ).
3. We agree with the Preferred Option to increase the TAC to 2335t with additional ACE of 635t to be provided to the commercial allowance.

**Decision-Making**

4. Whilst the inter-annual variability provides increased ACE to the commercial fishery there is however a lost opportunity not factored into the predicted increase in potential revenue from this fishery.
5. The MPI science working group makes a decision based on the in-season procedure and resultant outcome of the model in February each year. However, the decision-making process within the MPI and sign-off by the Minister can be upwardly of 6 months after the working group has approved the model outcome.
6. The procedure is a scientifically reviewed management procedure and therefore if there have been no alterations to the model structure then the decision-making should be an automatic rather than delayed outcome of that model. If the Minister has signed off the model after each 5-year review period then there should be no requirement to do so in subsequent years within this period.

[www.southerninshore.co.nz](http://www.southerninshore.co.nz)

7. SIF requests that the TACC for FLA3 be increased to 1800 tonnes to allow for more optimal planning by quota owners and fishers but to still allow for the in-season model to still be run to maximise any additional ACE in the fishery within that current year. This would require the MPI to ensure that the decision-making on any increase is made immediately after the model is run in February as suggested.
8. The in-season model has on a near consistent basis provided commercial fishers with increased within season ACE. This surely suggests that an increase in the TACC can be implemented.
9. Raising the TACC would also mitigate the potential accrual of deemed values.
10. We look forward to the increase to the FLA3 ACE level this year but implore the MPI to review the current TACC level and raise it to a level that minimises the impact from the delayed decision-making response to the commercial fishers on an annual basis.

Contact: Carol Scott  
Chief Executive

## Talley's Group Limited (Talley's)

Talley's Group support option 2 for an 635 m/t in-season increase of Fla3.

We would like to express our concerns with regards to the timeliness of this process.

The lack of a decision to date has impacted on fishers ability to continue to harvest Fla3, this process needs to be actioned earlier in the fishing year.

Alternatively a TACC increase.

Regards

Dion Iorns  
Quota Management  
Talleys Group Ltd

[REDACTED]

[REDACTED]

[REDACTED]