

Phil Appleyard
President
NZ Sport Fishing Council
PO Box 207-012
Hunua 2254
secretary@nzsportfishing.org.nz



Inshore Fisheries Management
Ministry for Primary Industries
P O Box 2526
Wellington 6011
FMSubmissions@mpi.govt.nz

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.

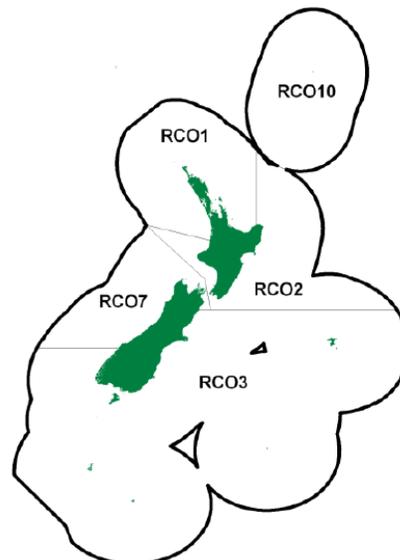
The submitters

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.
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.

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.

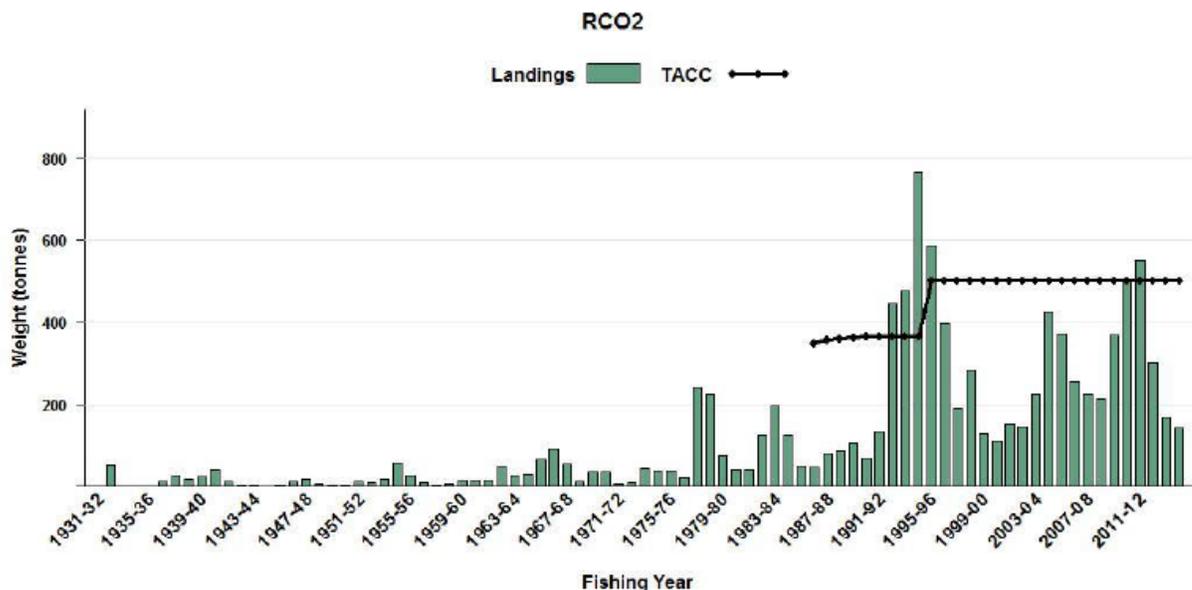


Figure 1: Reported commercial landings and the TACC in RCO 2.

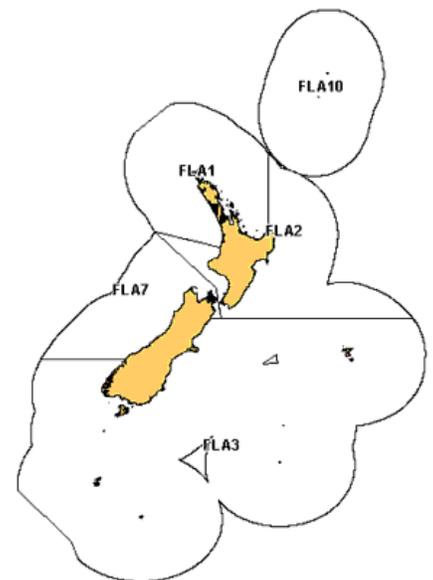
22. The above graph, showing the long-run commercial catch history for RCO 2, does not show the true availability of red cod in the fishery, but more likely a history of discarding low value fish without a ready market (Figure 1). Small and damaged red cod of legal size are still dumped. Changes in fisher 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"¹. 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.



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

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.