

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



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

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NZ Sport Fishing Council submission on the review of sustainability controls for Surf Clam stocks in QMA7 for 1 April 2016

Recommendations

- No increase to the Total Allowable Catch (TAC) or Total Allowable Commercial Catch (TACC) for Surf Clam stocks in QMA7, for 1 April 2016.
- A management and research plan is developed prior to any changes to the TAC and TACC, and to guide future management of the Surf Clam 7 stocks.
- The management and research plan incorporates the views of the local community and tangata whenua, and enables the Minister to act in a precautionary manner until more information is available on stock levels, fishing impacts, biodiversity and ecosystem function.
- A more effective system is developed to constrain commercial harvest to the TACC and protect the TAC from regular and cynical excessive exploitation.
- No TACC increase is granted on the basis of ongoing, deliberate excessive commercial harvest for target species such as Surf Clams that are on Schedule 6 of Fisheries Act 1996 and able to be returned to the sea if likely to survive.

NZ Sport Fishing Council - LEGASEA

1. The New Zealand Sport Fishing Council and our outreach LegaSea (the submitters) appreciate the opportunity to submit on the review of sustainability controls for Surf Clam 7 stocks. The Ministry for Primary Industries (MPI) released their Discussion Paper on 14 January 2016 with submissions due by 11 February. Any changes will apply from 1 April 2016.
2. The NZ Sport Fishing Council is a national sports organisation with over 32,000 affiliated members from 57 clubs nationwide. The Council has initiated LegaSea to generate widespread awareness and support for the need to restore abundance in our inshore marine environment. Also, to broaden NZSFC involvement in marine management advocacy, research, education and alignment on behalf of our members and LegaSea supporters. www.legasea.co.nz
3. We are committed to ensuring that sustainability measures and environmental management controls are designed and implemented to achieve the Purpose and Principles of the Fisheries Act 1996, including “maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations...” [s8(2)(a) Fisheries Act 1996]

4. The submitters continue to object to the Ministry's tight consultation timetable, it seems 18 working days has become the norm. In our view this timeframe does not allow for adequate consultation, it is particularly offensive for non-commercial organisations such as ours that need to consult with a range of interests and volunteers. This is unacceptable consultation and, in our opinion most likely unlawful as per ss 12 and 13 of the Fisheries Act and as judged by the Court of Appeal¹.
5. Few people outside the commercial operator and quota holders are aware of this review process. In an effort to alert people to this review process and better inform our members and supporters, the Council developed a document summarising the proposed commercial catch increases. That summary was distributed to clubs, other groups, and organisations aligned with LegaSea's Principles, encouraging feedback prior to development of this submission.
6. NZSFC representatives are available to discuss this submission in more detail if required. We look forward to positive outcomes from this review and would like to be kept informed of future developments. Our contact is Dave Lockwood, secretary@nzsportfishing.org.nz.

Surf Clams

7. Surf Clam is a collective term for a group of bivalve clams that are found in or immediately beyond the surf zone of sandy beaches down to 10m depth. The surf zone is a high energy zone that allows for rapid growth and reproduction. Surf Clam populations can be subject to localised catastrophic mortality from erosion during storms, high temperatures and low oxygen levels during calm summer periods, blooms of toxic algae and excessive freshwater outflow.

Surf Clam management

8. MPI is reviewing the TAC and TACC for four species of Surf Clam: Deepwater Tuatua (PDO), Large Trough Shell (MMI), Ringed Dosinia (DAN), and Triangle Shell (SAE). Substantial TAC and TACC increases have been proposed for all species, with the alternative being the status quo.
9. The proposed options for the future management of four Surf Clam stocks follows -

Table 1. Proposed management settings for four surf clam stocks in QMA 7.

Stock Options	Total Allowable Catch (t)	Total Allowable Commercial Catch (t)	Allowances		
			Māori Customary (t)	Recreational (t)	Other sources of fishing – related mortality (t)
PDO 7					
Option 1 (<i>status quo</i>)	52	50	1	1	0
Option 2	200	188	1	1	10
SAE 7					
Option 1 (<i>status quo</i>)	112	112	-	-	0
Option 2	235	223	-	-	12
MMI 7					
Option 1 (<i>status quo</i>)	61	61	-	-	0
Option 2	144	137	-	-	7
DAN 7					
Option 1 (<i>status quo</i>)	15	15	-	-	0
Option 2	133	126	-	-	7

10. Surf Clams became a QMS species in 2004 with no changes to the TACs since then. The original

¹ International Airport Ltd and Air New Zealand (CA 23/92, 73/92[1993] 1 NZLR 671).

TACs were set based on Maximum Constant Yield (MCY) estimates using a 1994 biomass survey. The Shellfish Working Group has agreed that these estimates are outdated and inaccurate. Deepwater Tuatua (PDO) and Triangle Shell (SAE) are the main species of commercial interest, considered a potential, substantial export fishery.

11. The commercial catch of Deepwater Tuatua (PDO) and Triangle Shell (SAE) has been increasing in recent years. The TACC of PDO was exceeded in 2014/15. The TACC for SAE has also been exceeded, by 44% in 2012/13 and 70% in 2013/14. This excess has prompted a review of the deemed value for these species.
12. SAE and PDO are a target species and listed on Schedule 6 of the Fisheries Act so they may be returned to the sea if likely to survive.
13. In November 2015 quota holders conducted a biomass survey in the Cloudy Bay area. For the survey a 100% survey dredge efficiency was used, which would assume that 100% of the clams that interact with the dredge are then landed. This was then used to calculate biomass; biomass is assumed to be underestimated. The results of this survey have been extrapolated and used to form a new biomass estimate and subsequent higher MCY for the whole of QMA 7.
14. More information needs to be supplied on the survey design and implementation. Were independent researchers used? Was the survey design approved by the Shellfish Working Group before it was undertaken, as required by the Working Group terms of reference? While it is important to collect new information and develop appropriate survey methods MPI need to ensure that there is quality assurance and good documentation of the survey methods and analysis.
15. There are currently no estimates of recreational or customary take, it has been assumed that, due to inaccessibility, these will be low. The non-commercial allowances will be retained at current levels.

Submission

16. The submitters are concerned that once again, increased commercial catch limits are proposed based on the TAC and TACC being exceeded for that past few years. Granting TACC increases on the basis of ongoing excessive catch sets a dangerous precedent, encouraging excessive fishing in these and other vulnerable stocks.
17. The Ministry for Primary Industries (MPI) note the Minister has broad discretion when making decisions and we agree. However, there is no discretion when it comes to sustainability. The Minister has a statutory duty to ensure sustainability. (Supreme Court, 2009). The TAC and TACC represent the sustainable limit of extraction for these low information stocks. The ongoing excessive harvest means this obligation cannot be met.
18. There is no excuse for this excessive harvest, Surf Clams are target species, they are lifted onboard the vessel and sorted. These species are listed on Schedule 6 of the Fisheries Act so can be returned to the sea if likely to survive.
19. The only explanation for this excessive catch is the development of a lucrative export market. The current deemed value penalties are low, at \$1.02 for SAE7 and \$1.44 for PDO7, but even at the new proposed level of \$5.00 per kilo taking excessive shellfish is still a worthwhile, profitable exercise. The submitters want the utilisation of fisheries to be profitable, but not at the expense of the fishery and the environment.
20. The Shellfish Working Group (SWG) has agreed that the proposed TACs would be low risk for the short/medium term. However, lack of data is a problem and the SWG has recommended that a new management and research plan be developed in 2016.
21. The submitters support the development of a management and research plan incorporating the views of the local community. This plan must be developed and implemented before any TACC increase.

22. The community is seriously concerned that so little consideration is being given to importance of Surf Clams to sustaining biodiversity and ecosystem function, and impacts on other species.
23. Rarangi Beach foreshore residents are affected on a daily basis by large noisy vessels operating within the surf zone. Local landbased fishers often have difficulty fishing due to the frequent dredging in the 3-10m depth zone. This dredging, with tow wires and hoses, is intimidating and potentially dangerous for amateur longline fishers.
24. In 2015 local recreational fishers called a public meeting to discuss their concerns about commercial dredging practices and the main operator Cloudy Bay Clams, and the lack of management action by MPI. They are concerned MPI has allowed excessive catch to continue under the guise of “research”, and that harvesting is permitted year-round giving no relief to shellfish beds that need to regenerate.
25. The SWG notes that limits have been proposed at or above their own estimates of Maximum Constant Yield (MCY), with little knowledge of other mortality. The submitters are concerned there is inadequate biomass and biological information on which to base any TACC increase.
26. Data used to estimate existing biomass was only collected from a single, small area and extrapolated out and applied to the entire QMA7 area. This assumes that abundance is the relatively equal across the whole management area, that there are just as many Surf Clams off Hokitika when compared to Cloudy Bay. There is a serious risk that this calculation could be wildly optimistic and there is increased risk because commercial harvest is only concentrated on Cloudy Bay.
27. The Minister also has a statutory duty to ‘allow for’ non-commercial fishing interests, these extend beyond just catch. While recreational catch is considered to be minimal the community appreciates that having Surf Clams in their natural habitat contributes to peoples’ wellbeings.
28. Ultimately, Surf Clams are a national resource and neither the fishery nor the locals ought to be held to ransom merely to appease quota holders’ interests.
29. Given all the available information we submit there is no increase to the TAC or TACC for Surf Clam stocks in QMA7, for 1 April 2016.