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NZ Sport Fishing Council submission on the review of the TACC and other management measures for BCO 8

NZ Sport Fishing Council

The NZ Sport Fishing Council (NZSFC) is a national sports organisation. Membership from affiliated clubs has grown steadily and we now represent over 30,000 members in 57 clubs spread throughout NZ. We run the NZ Nationals fishing tournament, which has evolved over time and remains successful.

NZSFC compile and publish the New Zealand records for fish caught in saltwater by recreational anglers. NZSFC is affiliated to the International Game Fish Association (IGFA) which records and publishes catches that qualify as recreational world records.

In 1996 the NZSFC helped establish the NZ Marine Research Foundation, which aims to sponsor research on marine species and fisheries for the benefit of all New Zealanders, including participants in ocean recreation.

Many of our most established fishing clubs have a focus on fishing for large pelagic species such as marlin, tuna, and sharks. In recent years our membership has expanded beyond the traditional deep sea angling clubs to include many local clubs targeting other species.

NZSFC representatives regularly engage and contribute to science, management and policy development processes on behalf of our members and supporters and in the interests of achieving abundant fisheries and a healthy marine environment.

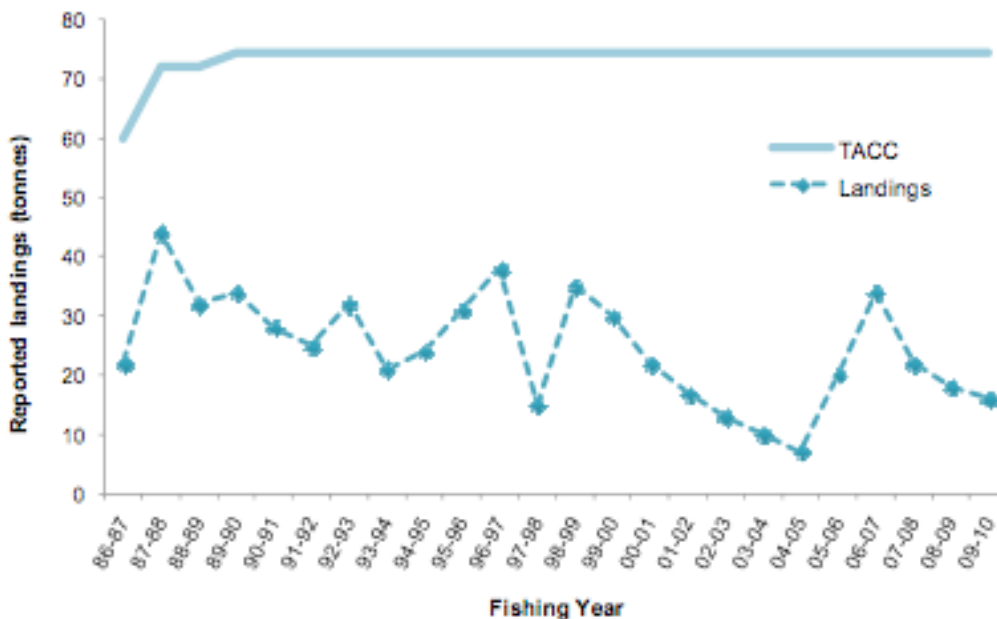
Submission for BCO 8:

- That the TAC be set at 243 tonnes
- That the TACC be set at 25 tonnes (current catch)
- That customary allowance be 5 tonnes
- That recreational allowance be 188 tonnes (point estimate survey)
- The allowance for other mortality be 5 tonnes
- That a monitoring programme be established that samples catch and effort with a purpose of representing relative abundance over time.

Background to the IPP

1. This will be the first time a Total Allowable Catch (TAC) has been set for Blue Cod 8 (BCO 8).
2. The Total Allowable Commercial Catch (TACC) is routinely under caught.
3. The high level of uncaught TACC, and the anecdotal evidence of increased recreational catch are interpreted as suggesting the possibility of a sustainability risk.
4. The condition of the stock is unknown; a previous attempt at estimating a MCY of 50 tonnes for this stock is now rated as highly uncertain and not advanced as part of the best information.

Commercial Landings



5. No credible information is offered to explain the variations in landings across years, and there is very little long-term trend.
6. Only a small portion of BCO 8 has provided the bulk of the commercial catch in recent years. Any depletion represented by the reduced catch in the last 3 years may well be very localised.
7. If most of the QMA catch is taken from less than a third of the Fisheries Management Area, particularly for species like BCO with their vulnerability for local depletion, then a sampling programme that examines relative abundance is needed.
8. Relative abundance of BCO is easily tracked by sampling using pots, a quick and inexpensive method of sampling, and should be part of every BCO monitoring programme and can be considered part of the 'best information'.

Estimated recreational harvest

Year	Estimated Number caught	Coefficient of Variation ⁴ (%)	Estimated harvest range (t)	Point estimate (t)
1992-93	124 000	35	50-110	N/A
1996	159 000	12	70-90	79
1999-00	232 000	32	127-249	188

Table 2: Recreational catch estimates for BCO 8

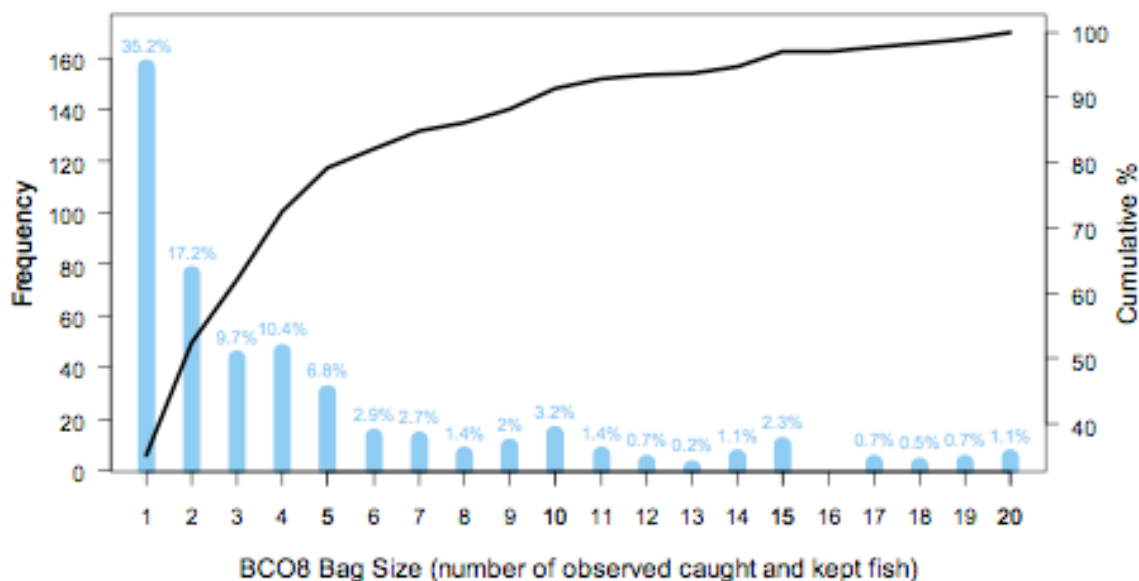


Figure 3: Frequency of different numbers of BCO 8 caught per observed fisher during 2006/07 survey

9. This data is taken from a 2006/7 survey aimed at measuring recreational snapper catch. This is a very selected subset of figures gathered for another purpose.
10. From Whanganui south the main species caught was Blue Cod.
11. This shows the number of fish landed (not caught) within BCO 8, recorded during a programme designed for other purposes. This does not include zero returns and could be very skewed without spatial analysis.

Setting the Total Allowable Catch

Target biomass

12. Using the Ministry's interpretation of s13(2)(c) of the Fisheries Act 1996, the Minister will make a policy choice when selecting a target spawning stock biomass (SSB). This target is decided not by sustainability constraints alone, but with the prospect of promoting the Purpose of the Fisheries Act by choosing a SSB that best enables the economic social, and cultural well-being of New Zealanders.
13. This IPP is notable insofar as the Ministry remains silent on spawning stock biomass targets for BCO 8.
14. If the objective of this review is to meet a statutory duty - to promote the Purpose of the Fisheries Act by better enabling people to provide for their economic, social, and cultural well-being - then there needs to be statement of objective.
15. One clear result of ignoring the spawning stock biomass and other stock parameters is that the TAC is not set *prior* to the allowances and TACC, but is a *consequence* of them. Section 21 of the Fisheries Act is explicit, when making allowances and setting the TACC "*the Minister shall have regard to the total allowable catch for that stock*". It is not possible to have regard to the TAC when it hasn't been fixed. The intention of the Fisheries Act is not for the TAC to have regard to the TACC and allowances.
16. We have previously recommended that an improvement would be to separate the TAC setting process from the TACC setting process, with the intention of better complying with the Fisheries Act and securing better risk/reward decisions and value propositions.
17. The IPP contains no stock size description or target, no sustainability risk profile, no harvest strategy, no monitoring programme, no principles or any other sustainability context for the review.
18. The BCO 8 biomass must provide an opportunity for the public to take a reasonable daily bag limit without compromising sustainability. A suitable stock target with an associated monitoring regime is an absolute prerequisite to any meaningful review.
19. Cultural, social and economic well-being of the public is enabled by providing for abundance when setting TACs. It is a statutory duty and the main mechanism whereby the Minister allows for recreational fishing interests and must be consciously imported into the TAC decision as a key relevant factor.
20. The IPP treats the TAC as an irrelevant consequence of a process that is simply driven by utilisation options; none of the options carries a sustainability caveat.

Setting Allowances and the Total Allowable Commercial Catch

Allowing for Recreational Interests

21. When setting a TACC under sections 20 and 21 of the Fisheries Act 1996 the Minister must allow for recreational interests. The Supreme Court decision contains a section titled: The correct approach to applying s21.

SC [53] It follows that the total allowable commercial catch is ultimately determined by a calculation.

We describe this as -

$$\text{TACC} = \text{TAC} - (\text{CA} + \text{RA} + \text{OM})$$

Where CA = Customary allowance; RA = Recreational allowance OM= Other mortality

22. The Supreme Court continued -
SC [59] In s 8 Parliament has stipulated the overall purpose and objects of the Act. The scope of the Minister's powers under ss 20 and 21 has limits, set by that purpose, in that they must be exercised to promote the policy and objects of the Act.
23. The Purpose of the Act must be promoted;
24. What comprises Customary and Recreational interests is not defined in the Act, however the Supreme Court had this to say:
SC [54] The notion of people providing for their wellbeing, and in particular their social wellbeing, is an important element of recreational interests¹.

SC [59] The terms of the definition of utilisation, including the wellbeing concept, are contextually relevant to what is meant by recreational interests¹⁰ and in that sense are relevant considerations in decisions under s 21.

It follows that providing for the cultural and social wellbeing of the public are key relevant factors when the Minister determines allowances.

25. How this 'important element' of 'people providing for their wellbeing' is to be 'allowed for' was subsequently refined, if a little clumsily;
SC [56] Although what the Minister allows for is an estimate of what recreational Interests will catch, it is an estimate of a catch which the Minister is able to control. The Minister is, for example, able to impose bag and fish length limits. **The allowance accordingly represents what the Minister considers recreational interests should be able to catch but also all that they will be able to catch.** The Act envisages that the relevant powers will be exercised as necessary to achieve that goal. The allowance is an estimate and an allocation of part of the total allowable catch in that way. (emphasis added)

¹ by having a right to, a claim upon, or a share in something. Oxford Shorter Dictionary p.1026

26. It follows that the recreational allowance will be a quantity of Blue Cod that **should** be able to be caught, a quantity sufficient to enable people to provide for their social wellbeing and will lie between two bounds;
 - (a) *all* that the recreational fishers will be able to catch (in effect this expression "will" represents a minimum, as allowing anything less than what will be taken would imperil the sustainability objectives) and
 - (b) an allowance an allocation which recreational fishers should be able to catch. The use of the verb "should" by the Supreme Court contemplates the Minister forming a normative opinion about what ought to be and reflects a value judgment by the Minister, which enables the fulfilment of the statutory utilisation purpose i.e. of enabling people to provide for their social economic and cultural wellbeing. At the maxima, what "should" be taken by non-commercial interests could amount to a wholly non-commercial fish, recognising that the TACC may be set to zero: section 21 (3).
27. It is not reasonable to make an allowance in a depleted fishery for what may be caught, when such an allowance fails to enable people's social well-being. The allowance to be made for recreational interests at s21 refers to *future* catches that **should** be caught, not past catches, nor catches chosen by convenience for use in a numerical model.
28. The key relevant factor is to make an allowance for a quantity of blue cod that enables people's social well-being, and then manage the stock so it should get caught. It is not necessary that this allowance is fully caught in the year following the gazetting; in fact it is not necessary that any non-commercial allowance or TACC allocation is fully caught.
29. As directed by the Courts, the total allowable catch (TAC) must be fully allocated, but the TAC does not necessarily need to be fully caught. Recreational aspirations are met by maintaining abundance, and the Minister provides for recreational interests by setting a TAC that provides an appropriate abundance of mature fish.
30. The majority of TACCs are not fully caught; many are less than half caught. There does not appear to be a reasonable expectation that non-commercial fishers should have an allowance made on a use-it or lose-it basis. Such a concept has never been anticipated in the Fisheries Act, yet it is evident in the Ministry's proposals.
31. It is not anticipated that BCO 8 will be reviewed again for several years and allowances need to be sufficient to keep catches within the TAC. The customary allowances of 5 tonnes reflects this principle, as when caught it is expected to satisfy customary demand. There is no concern expressed by Mfish that this allowance will not be immediately caught.
32. The correct principle to be applied to the recreational allowance is that used with the customary allowance - the Minister sets aside an allowance in anticipation of what future catches *should* be caught to satisfy the interests, and also what might be caught given stock abundance, availability and regulations.

33. The catch sampling data presented in table 3 are the sole source of information presented against which a decision must be made as to a reasonable daily bag limit. The shows a majority of fishers taking 1 or 2 fish per day.
34. A further critical gap in the IPP is silence on complying with s12(1)(b), which places an obligation on the Crown to meet the principles of the Treaty of Waitangi, in a deliberate way. The IPP is silent of s12 obligations and continues as if they are not applicable.

Setting the Daily Bag Limit

35. The daily bag limit for public fishing serves two purposes. The first is to limit catches by an individual to non-commercial quantities, in the interests of ease of compliance. The second is to ensure that public catch opportunities are available to all.
36. The Blue Cod daily bag limit currently sits, as with many species, as part of a maximum daily limit of mixed species, for BCO 8 this is 20 fish. The IPP suggests two options for setting a reduced daily limit of Blue Cod, to 10 and 5 per day.
37. A third of all estimated catch by recreational fishers was taken singly, i.e. a single Blue Cod per fishing trip. The evidence suggests most fishers have difficulty catching BCO 8 and there is no need to reduce the public catch.
38. The estimated 20,000 fish caught by those landing between 10 and 20 per day are without doubt a very welcome reward for travelling to distant more productive fishing grounds. These very occasional expeditions are expensive to mount and being able to return with enough for family and friends is part of our Kiwi culture. These fishers should not be seen as low hanging fruit, easy to pick off.
39. The catch profile does not portray a situation where a few greedy fishers are taking large bag limits and thereby depriving their neighbours of fishing opportunity, a situation that may indeed prompt the need for a review. Rather, the opposite is true; the majority find it impossible to catch more than one or two.
40. There is no valid case made for any reduction in daily bag limits or the overall recreational allowance.

Setting the Total Allowable Commercial Catch

41. All three options in the IPP contain a TACC higher than recent catch. No option reduces commercial catch.
42. The TACC has never been caught. The commercial fishery for BCO 8 has never been constrained by quota.
43. An explicit statement is required as to the intention for commercial catch with respect to current catch levels. At what catch level does the Ministry consider catches to be

sustainable? Or at what Catch Per Unit of Effort (CPUE) does the Ministry consider catches to be sustainable?

Gifting reduced public catch to ITQ shareholders

44. This year has seen the Ministry, for the first time, freely offer ITQ shareholders catch rights previously held by the public. This is made without comment.
45. The Supreme Court determined that the Minister make all of a TAC available to be caught. The Ministry appears to apply a catch-it or lose-it approach to recreational allowances. For example, if the current allowance for BCO 8 of 188t is considered to be not fully caught then the uncaught portion will transfer to the TACC.
46. In this context it is essential that the recreational allowance imports the full meaning from the Supreme Court insofar as the quality and availability of fish to meet the reasonable needs of the public is provided for by both the TAC and TACC decisions.
47. To introduce a revised recreational harvest estimate based on reduced daily bag limits, without importing the recreational qualitative factors into their allowance, is not only poor process but unlikely to withstand a review. The Minister's discretionary powers are not to be exercised on a whim.

Management options

Option	TAC	TACC	Customary allowance	Other mortality	Recreational allowance	Daily bag limit
Current		74.4				20
1	269.4	74.4	2	5	188	20
2	188	34	2	2	150	10
3	160	25	2	2	131	5
4	243	25	5	5	188	20

48. Option 1 represents the status quo.
49. Option 2 reduces the TAC by 81 tonnes. The TACC is reduced by 40 tonnes and the recreational allowance by 38 tonnes.
50. Option 3 reduces the TAC by 109 tonnes. The TACC is reduced by 49 tonnes and the recreational allowances by 57 tonnes.
51. In the interests of our non-commercial fishing interests in BCO 8 we promote a fourth option. Option 4 sets a TAC at about current catch, customary allowance to 5t in anticipation that any future review will be many years away, recreational allowance to 188t as the point estimate, and increased the other mortality allowance to a more realistic level of 5 tonnes.

The NZ Sport Fishing Council appreciates the opportunity to submit on the review of sustainability measures and other management controls for Blue Cod 8. We look forward to MFish addressing our concerns. We would like to be kept informed of future developments.

Yours faithfully,

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