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29 July 2024



## Recommendations for FMA 7 stocks SNA 7, FLA 7 & ELE 7

1. **The Minister acknowledges** that the proposals for SNA 7, FLA 7 and ELE 7 when combined represent a risk to associated and dependent species, and low knowledge stocks in FMA 7, because of the impact of increased trawl activity.
2. **The Minister seeks clarification from Fisheries New Zealand** on the impacts of increasing the TACCs for SNA 7 and ELE 7 while recognising the need to decrease the TACC for FLA 7 and protect more vulnerable species in the trawl mix.
3. **The Minister makes a precautionary decision** for Snapper 7 (SNA 7) as follows –
  - a. The TAC is increased from 768 tonnes to 898.5 tonnes (t);
  - b. The allowance set aside for Māori customary interests is retained at 30 t;
  - c. The allowance set aside for recreational interests is retained at 250 t;
  - d. The allowance set aside for Other Mortality is increased from 38 t to 56 t;
  - e. The TACC is increased from 450 t to 562.5 t; and
  - f. The trawl fleet are excluded from fishing in the Tasman Bay and Golden Bay nursery habitat;
  - g. Review the SNA 7 fish stock within 3 years;
  - h. Fishers take active measures to avoid tarakihi catch; and
  - i. An effective programme is implemented to monitor the commercial catches of red gurnard and flatfish in FMA 7.
4. **The Minister** makes a precautionary decision for Elephantfish 7 (ELE 7) and **maintains the status quo**.
5. **The Minister makes a precautionary decision** for Flatfish 7 (FLA 7) by setting a TAC and setting aside allowances for the first time, then resetting the TACC as follows –
  - a. The TAC is set at 427 tonnes.
  - b. The allowance set aside for Māori customary interests is 10 tonnes.
  - c. The allowance set aside for recreational interests is 10 tonnes.
  - d. The allowance set aside for Other Mortality is 37 tonnes.
  - e. The TACC is reduced from 2065 t to 370 tonnes.

6. **The Minister makes precautionary decisions** as described above because there are no details on how the Minister can or will avoid, remedy or mitigate the adverse effects of fishing on associated and dependent species, and their habitats, as required by law.

## Submitters

7. The New Zealand Sport Fishing Council (**NZSFC**) is a recognised national sports organisation with over 37,000 affiliated members from 48 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](http://www.legasea.co.nz).
8. The New Zealand Angling and Casting Association (**NZACA**) is the representative body for its 24 member clubs throughout the country. The Association promotes recreational fishing and the camaraderie of enjoying the activity with fellow fishers. The NZACA is committed to protecting fish stocks and representing its members' right to fish.
9. The New Zealand Underwater Association (**NZUA**) comprises three distinct user groups including Spearfishing NZ, affiliated scuba clubs throughout the country and Underwater Hockey NZ. Through our membership we are acutely aware that the depletion of inshore fish stocks has impacted on the marine environment and the wellbeing of many of our members.
10. Collectively we are *'the submitters'*. The joint submitters 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].
11. Our representatives are available to discuss this submission in more detail if required. We look forward to positive outcomes from this process. We would like to be kept informed of future developments. Our contact is Helen Pastor [secretary@nzsportfishing.org.nz](mailto:secretary@nzsportfishing.org.nz).

## Proposals

12. **Table 1:** Proposed management options for FMA 7 stocks combined, for 1 October 2024.

Stock	Option	TAC	TACC	Allowances		
				Customary Māori	Recreational	All other mortality caused by fishing
SNA 7	Option 1 ( <i>Status quo</i> )	768	450	30	250	38
	Option 2	1,311 (↑543)	900 (↑450)	60 (↑30)	275 (↑25)	76 (↑38)
	Option 3	1,445 (↑677)	1,000 (↑550)	60 (↑30)	300 (↑50)	85 (↑47)
FLA 7	<i>Current Settings</i>	N/A	2,065	N/A	N/A	N/A
	Option 1	2,228	2,065	30	30	103
	Option 2	1,110	1,000 (↓1,065)	30	30	50
	Option 3	584	524 (↓1,541)	10	10	40
ELE 7	Option 1 ( <i>Status quo</i> )	127	102	5	10	10
	Option 2	149 (↑22)	122 (↑20)	5	10	12 (↑2)
	Option 3	160 (↑33)	132 (↑30)	5	10	13 (↑3)

## Discussion

### Consultation

13. On 27 June 2024 Fisheries New Zealand (**FNZ**) released the [Discussion Paper No: 2024/24](#), seeking to review the Total Allowable Catch (**TAC**), allowances and Total Allowable Commercial Catch (**TACC**) for Snapper 7 (**SNA 7**), Elephantfish 7 (**ELE 7**) and Flatfish 7 (**FLA 7**). Submissions are due by 29 July 2024. The NZSFC released a Preliminary View for [Snapper 7](#), [Elephantfish 7](#) and [Flatfish 7](#) on 15 July requesting feedback prior to developing a submission.
14. **The submitters** appreciate the opportunity to submit on the proposal, however we object to the unreasonable timeframe available to respond to these proposals and those for 17 other fish stocks.
15. The 21 working days submission period is inadequate and likely unlawful given the Court of Appeal Wellington Airport judgment determining that, “**Consultation must allow sufficient time**, and a genuine effort must be made. It is a reality not a charade...Implicit in the concept is a requirement that the party consulted will be (or will be made) adequately informed so as to be able to make intelligent and useful responses”<sup>1</sup>. [emphasis added]

### FNZ proposals

16. The Minister cannot meet his statutory obligations to **ensure sustainability** by implementing the current proposals for SNA 7, ELE 7 and FLA 7 combined. That is because the TACC increases for SNA 7 and ELE 7 proposed by FNZ will increase the bycatch of flatfish and other associated and dependent species, with mixed and unknown stock status.
17. FNZ must explicitly describe how sustainability will be ensured with these proposed management changes.
18. The Minister must also acknowledge that the proposals for SNA 7, ELE 7 and FLA 7, when combined, represent a risk to associated and dependent species, and low knowledge stocks in Fisheries Management Area 7 (**FMA 7**), because of the impact of increased trawl activity.
19. Increasing the TACCs for SNA 7 and ELE 7 will result in more trawl events which means increased catches of flatfish and other associated species. Many trawl catches will comprise a dozen or more species.
20. How can the catches of other species lawfully increase while Flatfish 7 catches decline? And, how long can the catches of other species even be allowed to continue when they result in FLA 7 being over-exploited?



Figure 1: Fisheries Management Area 7

### Effects of fishing

21. The common denominator among these fisheries is trawling. Bottom trawling is destructive and non-selective. Bottom trawling does not discriminate between target and non-target

<sup>1</sup> Wellington International Airport Limited and others v Air New Zealand [1993] 1 NZLR 671. At p.675.

species or organisms in its path. It catches them all while leaving extensive, long-term damage to the seafloor. This impacts benthic productivity and function.

22. In November 2022 the High Court provided clarification on the Minister’s responsibilities in terms of setting the TAC. Churchman J. described those responsibilities (in part) as follows –
  - a. “When setting or varying [the] TAC **the Minister must take into account any effects of fishing on any stock and the aquatic environment.** ‘Effect’ means the direct or indirect effect of fishing, including any positive, adverse, temporary, permanent, past, present, future, and/or cumulative effect. ‘Fishing’ means the catching, taking, or harvesting of fish, aquatic life, or seaweed.”<sup>2</sup> [emphasis added]
23. This judgment applies to all species in the Quota Management System (**QMS**) and their habitats, not just the fish stocks of value to commercial interests.
24. Despite the High Court judgment, FNZ does not describe how the proposed changes to the TACCs will impact on the aquatic environment, nor how it will address the direct or indirect effects of fishing. This is essential information if the Minister is to make a lawful decision for SNA 7, ELE 7 and FLA 7.

## Selectivity is the issue in a mixed trawl fishery

25. There are several underlying issues in FMA 7 (and other areas) that impact on each other, including single species management, poor selectivity due to the indiscriminate nature of bottom trawling, and that some stocks are overallocated, having never been reviewed or had their catch limits altered since they entered the QMS in 1986.
26. Single species management means we concentrate on one fish stock at a time while largely ignoring the associated and dependent species that dwell within the same ecosystem. FNZ are now reviewing several stocks within an FMA as set out in the Inshore Fisheries Plan. However, simply grouping the separate stocks into one document and making decisions for each does not address the interconnectivity of the species unless the full complex is taken into account. The only way that can be achieved successfully is by applying the purpose and principles of the Fisheries Act 1996, ss 8, 9 and 10. (See further discussion below).
27. Bottom trawling is a bulk harvesting method that is proven to cause unseen and unaccounted-for mortality to the target species and related species. Selectivity is poor so whatever cannot get out of the way of the trawl net is captured, dead or alive, wanted or unwanted (euphemistically called bycatch).
28. The selectivity issue is particularly apparent given the declining catches of FLA 7 while snapper and elephantfish are apparently sufficiently abundant to warrant a TACC increase. For many species the TACCs were set too high in 1986 and have never been reviewed since. Now, there is an overallocation of catching rights compared to the available fish.
29. FNZ note that, “larger SNA 7 TACC increases would be expected to result in increased catches of associated stocks given it is currently a ‘choke species’”. And, that commercial interests have “suggested that techniques to minimise snapper bycatch (gear modifications

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<sup>2</sup> Environmental Law Initiative v Minister for Oceans and Fisheries [2022] NZHC 2969 [11 November 2022]. At 22.

and fishing practices) have increased the effort and bottom contact necessary to catch other species”<sup>3</sup>.

30. Firstly, we do not accept the notion of ‘choke’ species, on the basis that single trawl has poor selectivity and the species most abundant and susceptible to trawling will be caught in greater numbers, regardless of any TACC. In the mixed bottom trawl fisheries in FMA 7 it is inevitable that snapper will be the common catch. The most abundant and easily caught specie in a mixed species fishery such as FMA 7 will be the limiting factor for fishers. It isn’t a choke - something unwanted that prevents fishers from operating - rather it is a sign of success, that the tools used to prevent overexploitation are working as intended.
31. In such a mixed species fishery it is important that sufficient Annual Catch Entitlement (ACE) is available for those fishers catching snapper in FMA 7. As in other stocks, it is not usually a lack of ACE, it is that the owners will not relinquish their ACE until the last possible date to ensure they maximise their return on their investment. Some will not sell their ACE at all, leaving fishers to pay the deemed value penalties because they cannot access sufficient ACE to cover their catch. Another signal from a failing QMS.
32. To be lawful, fishing in New Zealand must comply with national and international obligations. Officials and operators are always going to struggle in multi-species complexes if they continue to sanction and use bulk harvesting, indiscriminate fishing methods such as trawling, Danish seining and dredging.
33. After more than a century of bottom bashing it’s about time we innovated our way out of mobile, bottom contact fishing and transitioned to more selective techniques such as longlining. Transitioning to more environmentally sensitive methods requires no innovation – all the technology and skills exist in New Zealand.
34. If snapper are as abundant as FNZ suggest then now would be the ideal time to transition more of the trawl fleet to a longline fishing, to enable more selective fishing, avoid the capture of other species, and perhaps most importantly to bring a step change to yield per recruit. Taking the snapper catch at 25 – 35 cm long fish is extremely wasteful and sacrifices possible yield. Making this transition would be beneficial for the marine environment and our coastal communities while supporting regional development, whanau businesses and innovation.

## **Associated and dependent species and habitats**

35. Associated and dependent species of SNA 7, ELE 7 and FLA 7 include red gurnard, John dory, rig, barracouta, tarakihi, school shark, blue warehou and red cod.
36. In recent years the catch of snapper, elephantfish and rig have increased while there has been substantial reductions in the catch of flatfish and red cod. There are particular concerns for New Zealand sole, which is one of the eight species managed as FLA 7. The stock status for red cod (RCO 7) is unknown, and the RCO 7 TACC of 3126 t has not been caught since 2006. The status of barracouta (BAR 7) is also unknown.
37. We are concerned about tarakihi. The TAR 7 biomass has been decreasing since 2017. FNZ note the 2023 estimate is the lowest in the time series and less than half that of the previous estimate in 2021<sup>4</sup>. The east coast proportion of the population, TAR 7E, is currently subject

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<sup>3</sup> Review of sustainability measures October 2024: SNA 7, FLA 7, and ELE 7. Fisheries New Zealand. June 2024. At [p.3]

<sup>4</sup> Fisheries Assessment Plenary. Volume 3: Red gurnard to Yellow-eyed mullet. Fisheries New Zealand. May 2024. At [p.1817]

to a mandatory rebuild plan due to its depleted state. The west coast portion TAR 7W includes the top and west coast of the South Island. In describing the last survey of TAR 7, FNZ notes in the Plenary that, “for the first time in the series, there was no biomass (of fish of any size) in Tasman Bay and Golden Bay in 2023”<sup>5</sup>. Tasman Bay and Golden Bay are popular areas for snapper catches.

38. In terms of the future stock projections FNZ advise, “there has been a lack of juvenile fish for the last three surveys, and Tasman Bay/Golden Bay is probably the major nursery ground for the west coast tarakihi stock”<sup>6</sup>. The stock is in the final stage of collapse and the Minister faces serious statutory obligations when such a situation arises because the overarching responsibility is to sustainability, not continued utilisation. There is a clear and urgent need for the Minister to protect the remnants of the tarakihi stock from continued exploitation.
39. FNZ has also identified that increasing the ELE 7 TACC “may drive additional effort and associated bycatch of New Zealand sole, which is unlikely to be at or above target”<sup>7</sup>.
40. FNZ note that if there was increased effort to catch ELE 7 “there might be a corresponding increase in environmental impacts associated with bottom trawling, such as seabird interactions and benthic disturbance”<sup>8</sup>.
41. The Minister has a statutory obligation to consider the status of, and the impacts on, all species that are associated with any fishing in FMA 7. So, before the Minister can lawfully agree to an increase to the SNA 7 or ELE 7 TACC, he must describe how the impacts of that increased catch will impact on tarakihi and other species in this mixed fishery, and seabirds, and how those adverse effects will be avoided and mitigated.
42. The variability and unreliability of the stock sizes reinforces the need for precautionary decisions from the Minister for SNA 7, ELE 7 and FLA 7.
43. We note with concern the [1 April 2024 MPI report](#) that highlights the change in fisher reporting for vessels operating cameras, compared with the period from 2018 until cameras were operating. That report notes 1) A 3.5 times increase in albatross interactions, 2) 6.8 times increase in dolphin captures, 3) 34% increase in the number of fish species reported in catch, and 4) a 46% increase in the volume of fish discards. While these are not all vessels operating in FMA 7, there has been a problem with fish dumping from South Island trawlers historically. And given that the Minister has earlier indicated [a review of the camera programme](#) we need to proceed with caution to protect our most vulnerable species from excess exploitation.

## Environmental bottom line

44. The purpose and principles in sections 8, 9 and 10 of the [Fisheries Act 1996](#) form an environmental bottom line that will **ensure sustainability**. This bottom line applies to all species – none are exempt from the obligation to ensure sustainability. Bycatch species are not exempt and cannot be ignored or given secondary status. **Ensured** applies to all species.
45. The primary tool used to defend the bottom line is the setting of catch limits pursuant to s13 of the Act, determining the TAC for each stock.

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<sup>5</sup> At [p.1817]

<sup>6</sup> At [p.1842]

<sup>7</sup> Review of sustainability measures October 2024: SNA 7, FLA 7, and ELE 7. Fisheries New Zealand. June 2024. At [p.7]

<sup>8</sup> At [p.7]

46. The biomass that will provide the maximum sustainability yield ( $B_{MSY}$ ) of any species is only a starting point at determining the environmental bottom line. From this theoretical point the Act's principles must be applied to describe and take into account the uncertainty, information fullness and reliability, international obligations, and to adopt the precautionary principle, as described by Churchman J. of the High Court:
- a. "Accordingly, I accept Mr Salmon's submission that the importance of the requirement relating to the use of the 'best available information' in a fisheries context, is somewhat elevated. Indeed, the purposes of the Act appear to create what could be described as an '**environmental bottom-line**', and are accordingly complemented by a scheme that favours precaution"<sup>9</sup>. [emphasis added]
47. The single species focus has been ruled by the Court as insufficient. In considering the challenge to the Minister's 2021 and 2022 decisions for CRA 1, the Court described how the Minister applies the Fisheries Act 1996, saying "there are two approaches to fisheries management that are identifiable at international law, being an 'ecosystem approach' and a 'precautionary approach':
- a. The ecosystem approach requires decision-makers to incorporate wider ecosystem effects into fisheries management, instead of considering sustainability with a single-species focus; and
  - b. The precautionary approach stipulates that decision-makers are more cautious where information is uncertain, unreliable or inadequate<sup>10</sup>.
48. Full application of the relevant factors is required to ensure the bottom line is at least achieved; the bottom line is not an aspiration, it is a bottom line not to be breached.
49. Each TAC option must include assessments of each of the relevant factors identified in Part 2 of the Fisheries Act, and describe how a Minister may take these into account; how to explicitly reflect each of the factors when making a determination. Without full advice from officials, the Minister will be unable to take the mandatory factors into account.
50. Considering the High Court judgment, it is insufficient for officials to gloss over these requirements with a light hand. Simply reviewing Snapper 7, Elephantfish 7, and Flatfish 7 simultaneously, and mentioning that the impacts of an increased TACC on associated prey species is uncertain, does not meet the statutory requirements. In fact, it could be viewed as a defiant dedication to the status quo, making as few concessions as may be perceived as lawful. It certainly doesn't engage in the spirit and detail directed by the High Court.
51. In order for the Minister to make a lawful decision, officials must provide the Minister with more complete information that takes into account all of the uncertainties, and the interactions with associated and dependent species. In the absence of this information the Minister is obliged to apply all of the Act's principles in setting a TAC to achieve a stock size well above the bottom line, to **ensure sustainability**.

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<sup>9</sup> Environmental Law Initiative v Minister for Oceans and Fisheries [2022] NZHC 2969 [11 Nov 2022]. At [108]

<sup>10</sup> At [16-17]

## Snapper 7 proposals

52. Snapper were introduced into the Quota Management System (**QMS**) in 1986. The TACC for SNA 7 was set at 330 t and increased to 372 t by 1988, then decreased to 160 t in 1990. The TACC increased in 1997 to 200 t and remained at that level until 2016 when it was increased to 250 t. Further reviews resulted in TACC increases to 350 t in 2020, and 450 t in 2022. All commercial fisheries have a minimum legal size of 25 cm.
53. Snapper target fisheries have a bycatch of flatfish, red cod, red gurnard, tarakihi, barracouta and blue warehou. Snapper is taken as bycatch of the inshore trawl fisheries operating within FMA 7, particularly within Tasman Bay and Golden Bay. Since 2013-14, most (>80%) of the SNA 7 catch has been taken as bycatch of those inshore trawl fisheries<sup>11</sup>.
54. A TAC and allowances for non-commercial fishing interests, Māori customary and recreational fishing, were introduced in 1997. The annual allowance set aside for non-commercial Māori customary interests is 30 t and for recreational interests that allowance is 250 t.

## FNZ proposals

55. **Table 2:** FNZ's proposed management options for SNA 7 from 1 October 2024, in tonnes.

Stock	Option	TAC	TACC	Allowances		
				Customary Māori	Recreational	All other mortality caused by fishing
	Option 1 ( <i>Status quo</i> )	768	450	30	250	38
<b>SNA 7</b>	Option 2	1,311 (↑543)	900 (↑450)	60 (↑30)	275 (↑25)	76 (↑38)
	Option 3	1,445 (↑677)	1,000 (↑550)	60 (↑30)	300 (↑50)	85 (↑47)

56. We are concerned that the proposed changes to the FLA 7 and ELE 7 TACCs are being used to justify the proposed, large TACC increase for SNA 7, from 450 t to either 900 or 1000 t.
57. The proposed TACC increase to ELE 7, from 102 tonnes t to 122 t or 132 t merely reflects recent catches and takes no account of any potential TACC increase in SNA 7. Similarly, the proposed TACC reduction for FLA 7, from 2065 t to either 1000 t or 524 t fails to reflect recent catches. In the past 5 years commercial catches in FLA 7 have ranged from 474 t to 121 t.
58. While it is widely accepted that snapper abundance has increased. If there is a large TACC increase there is a risk that trawl effort will shift in season into the known nursery grounds in Tasman Bay and Golden Bay. This will have an impact on other species, therefore a precautionary decision must be made.

## Sustainability concerns

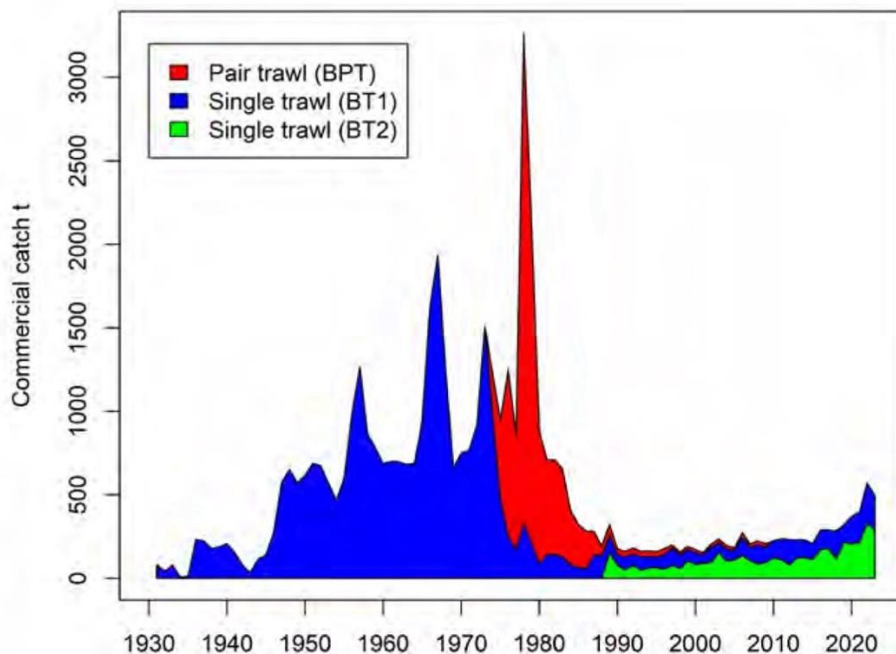
59. Stock assessments show SNA 7 was below the hard limit for around 30 years following years of fishing pressure. From the late 1950s to 1977 the Japanese trawl fleet operating in the southern area of SNA 8, the South Taranaki Bight, took a substantial, but unknown, amount of snapper.

<sup>11</sup> Fisheries Assessment Plenary. Volume 3: Red gurnard to Yellow-eyed mullet. Fisheries New Zealand. May 2024. At [p.1646]



60. SNA 7 is now rebuilding from a low base. There was strong recruitment in 2017 and 2018 however, there is no assurance that strong recruitment will continue. The SNA 7 biomass is projected to increase at current catch levels, and overfishing is estimated to be exceptionally unlikely (<1%)<sup>12</sup>.

61. **Figure 2:** Estimated historic commercial trawl catches of snapper in SNA 7, in tonnes.



62. SNA 7 is another ridiculously large management area which, given the range of species, is proving to be difficult to manage to a sustainable level for all fish stocks, target and non-target species. The current proposals to increase the TACC for SNA 7 and ELE 7 while decreasing the TACC for FLA 7 must be treated with caution. It is economics not fisheries controls that is limiting the fishing effort in FMA 7.

63. Our concern is that the current raft of proposals do not meet the statutory test of ‘ensuring sustainability’, as required by the Fisheries Act and as confirmed by the High Court. The CRA 1 High Court decision in 2022 confirmed that ***the Fisheries Act requires the Minister to act in accordance with New Zealand’s international obligation to favour a precautionary approach where information is uncertain, unreliable, or inadequate***<sup>13</sup>.

64. A higher TACC for SNA 7 will inevitably mean more bottom trawling, yet there is widespread and growing opposition to trawling. If snapper are as abundant as FNZ suggest then now would be the ideal time to transition more of the trawl fleet to longline fishing, to enable more selective fishing and avoiding the capture of other species.

### SNA 7 Daily bag limit

65. The main controls on recreational fishing for snapper are a daily bag limit (DBL) and a minimum legal size of 25 cm. The first DBL was set at 30 per person, in 1985. In 2005, this was reduced to 10 in the wider SNA 7 area, and to 3 per person fishing in the Marlborough Sounds. Despite several reviews, these DBLs still apply.

<sup>12</sup> Fisheries Assessment Plenary. Volume 3: Red gurnard to Yellow-eyed mullet. Fisheries New Zealand. May 2024. At [p.1644]

<sup>13</sup> Environmental Law Initiative v Minister for Oceans and Fisheries [2022] NZHC 2969 [11 Nov 2022]. At [17 & 44]

66. Management of recreational fishing in SNA 7 is inequitable. Fishers in the Marlborough Sounds are only permitted to take home 3 snapper per person while those fishing in the wider FMA can take home up to 10 snapper. This decision was based on tenuous arguments of a separate snapper stock in the Sounds and officials have failed to deliver any evidence of a separate stock in the Sounds.
67. The DBL in the Marlborough Sounds ought to be increased to 10 per person, however, local fishers would likely agree to a 6-daily bag limit until the next assessment in 3 years, as per terms below.

### **Non-commercial allowances**

68. Current allowance set aside to allow for recreational interests is 250 t. The most recent harvest survey estimates annual catch is around 139 t. The allowance of 250 t can be retained in SNA 7 if the Minister agrees to another review in 3 years, as per terms below.
69. Based on the available information, we support the Minister in retaining the allowance set aside for Māori customary interests at 30 t.

### **Fishing related mortality allowance**

70. The allowance set aside to allow for fishing related mortality is currently 38 t. We recommend this allowance is increased from 8.4% of the TACC to 10% of the TACC given the level of bycatch and historic misreporting in the FMA 7 trawl fisheries.

### **Recommended settings for SNA 7**

71. FNZ's proposal includes the status quo as Option 1, a 100% TACC increase in Option 2, and in Option 3 a TACC increase of 122%.
72. The Minister has a statutory duty, not just a policy setting, a legal obligation, "*to maintain the potential of fisheries resources to meet the reasonably foreseeable needs of future generations..*" as per s8 of the Fisheries Act 1996. To meet this obligation, the Minister must take into account the ecological consequences of fishing. We cannot further risk a handful of species becoming rare just to satisfy the demand for greater access to SNA 7. This means active monitoring of associated and dependent species in FMA 7.
73. On this basis we recommend an incremental increase to the TAC and a 25% increase to the TACC in SNA 7, with conditions as follows –
  - a. The TAC is increased from 768 tonnes to 898.5 tonnes (t);
  - b. The allowance set aside for Māori customary interests is retained at 30 t;
  - c. The allowance set aside for recreational interests is retained at 250 t;
  - d. The allowance set aside for Other Mortality is increased from 38 t to 56 t;
  - e. The TACC is increased from 450 t to 562.5 t; and
  - f. The trawl fleet are excluded from fishing in the Tasman Bay and Golden Bay nursery habitat;
  - g. Review the SNA 7 fish stock within 3 years;
  - h. Fishers take active measures to avoid tarakihi catch; and
  - i. An effective programme is implemented to monitor the commercial catches of red gurnard and flatfish in FMA 7.

## Elephantfish 7 proposals

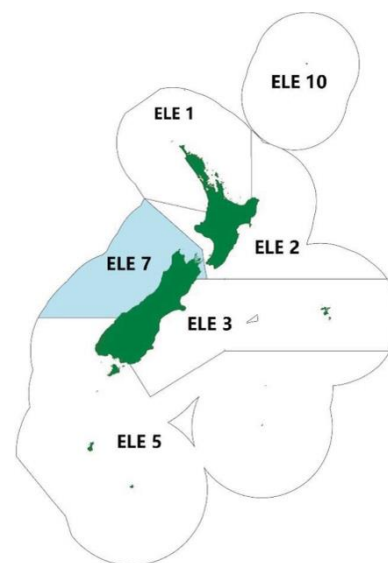
74. **Table 3:** FNZ’s proposed management options for ELE 7 from 1 October 2024, in tonnes.

Stock	Option	TAC	TACC	Allowances		
				Customary Māori	Recreational	All other mortality caused by fishing
ELE 7	Option 1 ( <i>Status quo</i> )	127	102	5	10	10
	Option 2	149 (↑22)	122 (↑20)	5	10	12 (↑2)
	Option 3	160 (↑33)	132 (↑30)	5	10	13 (↑3)

75. The proposed TACC increase to ELE 7, from 102 tonnes t to 122 t or 132 t merely reflects recent catches and takes no account of any potential increase in SNA 7. Similarly, the proposed TACC reduction for FLA 7, from 2065 t to either 1000 t or 524 t fails to reflect recent catches. In the past 5 years commercial catches in FLA 7 have ranged from 474 t to 121 t.

76. In our view, the proposed changes to the ELE 7 and FLA 7 TACCs are being used to justify the large, proposed increase TACC in SNA 7, from 450 t to either 900 or 1000 t. While it is widely accepted that snapper abundance has increased, if there is a large TACC increase there is a risk that trawl effort will shift in season into the known nursery grounds in Tasman Bay and Golden Bay. This will have an impact on other species therefore a precautionary decision must be made.

77. **The submitters support** the Minister retaining the status quo for elephantfish in ELE 7. It is considered a bycatch in the inshore trawl fishery targeting flatfish on the west coast. The FLA 7 TACC must be reduced in this review period so it doesn’t make sense to increase the ELE 7 TACC when FLA 7 is in such a precarious state.



**Figure 3:** Elephantfish 7 management area

### Sustainability concerns

78. ELE 7 catches are increasingly taken in the target red gurnard trawl fishery, and in the barracouta, red cod and tarakihi trawls.

79. In addition, brill, turbot, sole, rig, spiny dogfish and school sharks are commonly caught with elephantfish. FNZ acknowledges the risk of increasing the ELE 7 TACC, noting, “an increased TACC may drive additional effort and bycatch of New Zealand sole, which is unlikely to be at or above target”<sup>14</sup>.

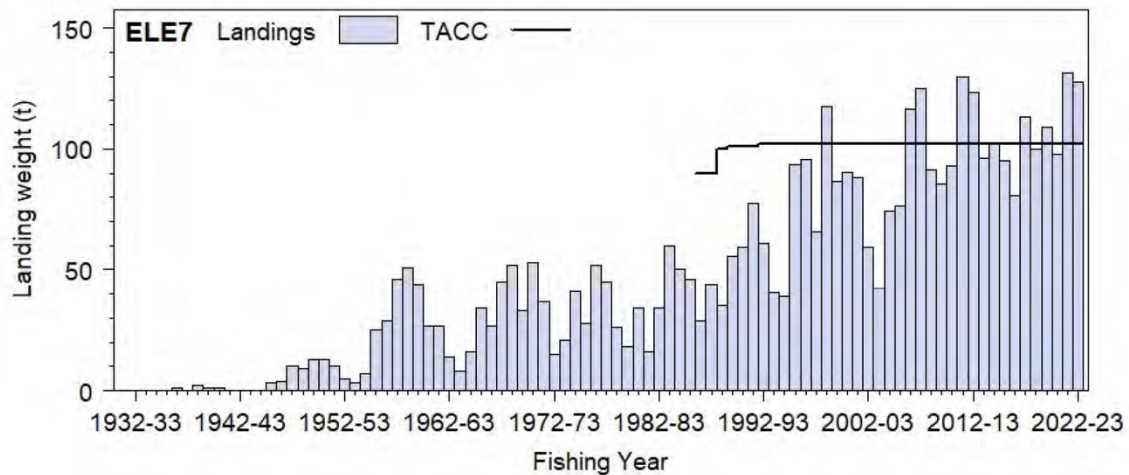
80. We note that GUR 7 biomass is estimated to be at 111% of  $B_{zero}$ <sup>15</sup>. We struggle to believe this assessment. However, if true then it means that the GUR 7 TACC is unlikely to be reviewed and reduced in the near future.

<sup>14</sup> Review of sustainability measures October 2024: SNA 7, FLA 7, and ELE 7. Fisheries New Zealand. June 2024. At [p.7]

<sup>15</sup> Fisheries Assessment Plenary. Volume 3: Red gurnard to Yellow-eyed mullet. Fisheries New Zealand. May 2024. At [p.1319]

81. Red cod 7 (RCO 7) is in trouble. Catches are collapsing, the TACC has not been caught since 2006. RCO 7 stock status is unknown, and very little other information is available for this stock. While red cod might not be as valuable as other species in FMA 7, it still contributes ecosystem services if in an abundant state. Given the paucity of information on red cod and its relative importance to elephantfish, we urge caution in the management of ELE 7.

82. **Figure 4:** Total reported landings and TACCs for ELE 7, in tonnes. Source: FNZ Plenary.



83. In support of their proposal to increase the ELE 7 TACC FNZ advise, “the TACC was substantially overcaught through **unintended bycatch**”<sup>16</sup>. When fishers consistently, over years, target an area and a species that is known to associate with elephantfish, the capture of elephantfish is not “unintended”. It is to be expected.

84. Moreover, there is no indication that increasing the ELE 7 TACC to current catch levels will protect elephantfish from greater exploitation if the TACCs for SNA 7 and FLA 7 are increased. This is particularly concerning given that any SNA 7 TACC increase will likely lead to more trawling in Tasman and Golden Bays and on the west coast.

85. Elephantfish are vulnerable to overfishing. Low fecundity means recruitment success may be highly dependent on environmental conditions. Given the uncertainties associated with maintaining elephantfish at an acceptable abundance level, a precautionary decision must be made for this vulnerable species.

86. While the current TACC for ELE 7 does not act as a deterrent to overfishing other associated and dependent species, now is the time for the Minister to make a precautionary decision and retain the status quo for ELE 7.

## Recommendation for ELE 7

87. Our recommendation for ELE 7 is for the Minister to **maintain the status quo**.

<sup>16</sup> Review of sustainability measures October 2024: SNA 7, FLA 7, and ELE 7. Fisheries New Zealand. June 2024. At [p.1]

## Flatfish 7 (FLA 7) proposals

88. **Table 4:** FNZ's proposed management options for FLA 7 from 1 October 2024, in tonnes.

Stock	Option	TAC	TACC	Allowances		
				Customary Māori	Recreational	All other mortality caused by fishing
FLA 7	<i>Current Settings</i>	N/A	2,065	N/A	N/A	N/A
	Option 1	2,228	2,065	30	30	103
	Option 2	1,110	1,000 (↓1,065)	30	30	50
	Option 3	584	524 (↓1,541)	10	10	40

### Current management

89. FLA 7 consists of 8 species of flatfish. Of the species that have had a stock assessment, turbot, brill and sand flounder are 'About as Likely as Not (40-60%)' to be at the management target<sup>17</sup>. New Zealand sole is 'Unlikely (<40%)' to be at or above the management target. All flatfish species are primarily caught along the west coast of the South Island with little catch in Tasman Bay/Golden Bay (**TB/GB**), except sand flounder which is primarily taken in TB/GB and little catch is taken along the west coast.
90. Overfishing is 'Likely (>60%)' to be occurring for New Zealand sole and will continue to occur under current catch settings. Overfishing is 'About as Likely as Not (40-60%)' to be occurring for turbot, brill and sand flounder.
91. Bottom trawling is the primary fishing method used to catch brill, turbot, New Zealand sole and lemon sole in FLA 7.
92. Red cod, barracouta, red gurnard and tarakihi are primarily caught with flatfish in FLA 7. Other species caught as bycatch constitute, on average, 18% of the total catch.

### Sustainability concerns

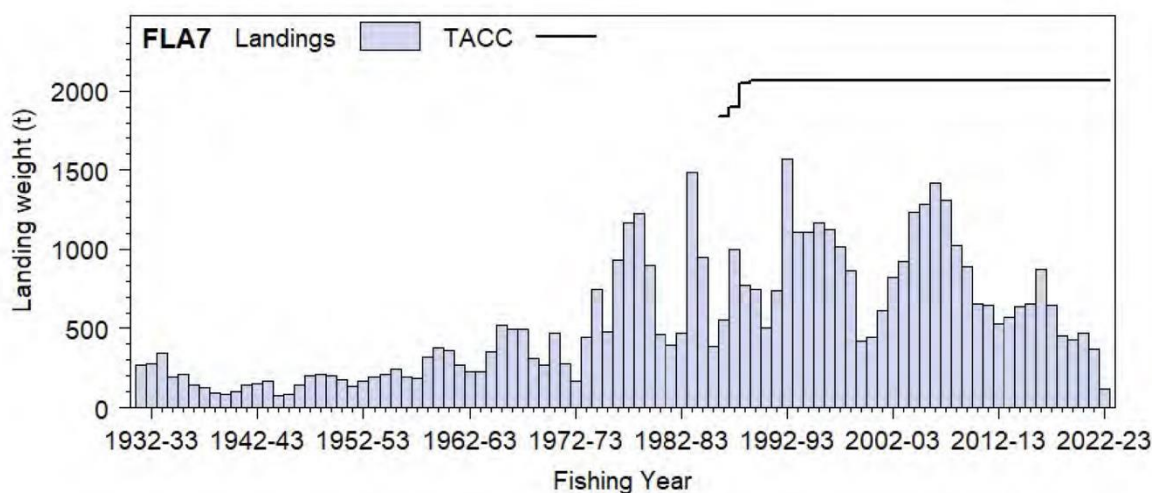
93. The TACC for FLA 7 was first set in 1986, at 1840 tonnes (t), and increased to 2066 t in 1989. In the past 38 years the TACC has never constrained commercial catch. In the last 5 years commercial catch has averaged 370 t per annum. Last year's catch was less than 6% of the TACC. Steep declines in FLA catch have also occurred in FLA 1, 2, and 3 in recent years.
94. FNZ state the high TACC allows fishers flexibility to adjust catch according to fluctuations in abundance. There are 8 species of flatfish included within the FLA 7 TACC. FNZ note that catches of all species have declined significantly in recent years, to pre-QMS levels<sup>18</sup>.
95. FNZ has proposed the Minister choose to reduce the TACC by 52% (Option 2) or 75% (Option 3). Our recommended reduction to the TACC is 82%, the average of the last 5 years' catches.
96. We make this recommendation because the Minister must set the TACC at a more conservative level to meet his statutory obligations to manage fish stocks, including each species of flatfish, at a sustainable level. In a multi-species management system catch limits

<sup>17</sup> Management target is the level that a fish stock should be managed at or above to ensure sustainable use.

<sup>18</sup> Review of sustainability measures October 2024: SNA 7, FLA 7, and ELE 7. Fisheries New Zealand. July 2024. At [p10]

must be set to protect the most vulnerable species, in this case New Zealand sole. Business as usual cannot be a lawful option.

97. Research shows that 18% of the total catch in the flatfish target fishery is of species other than flatfish, including red cod, barracouta, red gurnard and tarakihi. We reiterate our concerns (mentioned above) about the precarious state of the tarakihi population.
98. For the Minister to make a lawful decision, the status of the associated and dependent species must be described. FNZ's report that Red gurnard 7 (GUR 7) is at 111% of  $B_{zero}$  is implausible.
99. The impact of flatfish fishing on the current and future status of New Zealand sole and associated species must be addressed.
100. In this important fishery with such a high level of bycatch, the allowance for fishing related mortality ought to be increased from the proposed 5% and 8% of the TACC, to 10% of the TACC. Trawl fisheries have known high mortality rates, especially in the deeper water fisheries operating on the west coast of the South Island. An allowance of 5% or 8% of the TACC is not sufficient nor lawful given the incomplete and inadequate information available on sub-legal mortality and discards. Elsewhere in this submission we discuss the historic issues of dumping from trawlers operating in the South Island fisheries.
101. **Figure 5: Total reported landings and TACCs for FLA 7, in tonnes.** Source: FNZ Plenary.



102. The proposed TACC reduction for FLA 7, from 2065 t to either 1000 t or 524 t fails to reflect recent catches. In the past 5 years commercial catches in FLA 7 have ranged from 474 t to 121 t. Likewise, the proposed TACC increase to ELE 7, from 102 tonnes t to 122 t or 132 t merely reflects recent catches and takes no account of any potential TACC increase in SNA 7.
103. We are concerned that the proposed changes to the FLA 7 and ELE 7 TACCs are being used to justify the large, proposed increase TACC in SNA 7, from 450 t to either 900 or 1000 t. While it is widely accepted that snapper abundance has increased, if there is a large TACC increase there is a risk that trawl effort will shift into known nursery grounds in Tasman Bay and Golden Bay. This will have an impact on other species therefore precautionary decisions must be made for all stocks under review.

## Non-commercial interests

104. We support the need for the Minister to set, for the first time, the FLA 7 TAC at a conservative level, and for the Minister to set aside adequate allowances for non-commercial interests, both Māori customary and recreational, before setting the TACC.
105. Flounder are an important species targeted by non-commercial fishers for food, social and cultural reasons. It is shameful that a species of such importance has never had specific allowances set aside to 'allow for' non-commercial interests, merely because no resources have been dedicated to reviewing management of FLA 7. Now is the opportunity for the Minister to recognise the value of flounder to non-commercial and environmental interests.
106. Recreational access to flounders has been severely reduced around the top of the South Island due to the set net restrictions in place to protect dolphins. A higher abundance of fish is required if amateur fishers are to succeed in harvesting flounder for their family's need using more selective fishing techniques such as spearing.

## Recommendations for FLA 7

107. **We recommend** the Minister rejects the proposed options on the basis that the declining trend in catches is concerning, and none of FNZ's proposed options will effectively reduce commercial effort nor will they provide for current needs and the foreseeable needs of future generations, as required by law.
108. **We recommend the Minister makes a precautionary decision** for Flatfish 7 (FLA 7) by setting a TAC and setting aside allowances for the first time, then resetting the TACC as follows –
  - a. The TAC is set at 427 tonnes.
  - b. The allowance set aside for Māori customary interests is 10 tonnes.
  - c. The allowance set aside for recreational interests is 10 tonnes.
  - d. The allowance set aside for Other Mortality is 37 tonnes.
  - e. The TACC is reduced from 2065 t to 370 tonnes.
109. **The Minister makes precautionary decisions** as described above because there are no details on how the Minister can or will avoid, remedy or mitigate the adverse effects of fishing on associated and dependent species, and their habitats, as required by law.