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Submission: Commercial landing exception for Foveaux Strait 'Bluff' Oyster (OYU 5) 2025

1. **PROPOSAL:** Fisheries New Zealand is seeking feedback on whether Foveaux Strait (Bluff) oysters above the 58 mm minimum legal size ought to be exempt from the land-all catch policy. The proposal in [Discussion Paper No. 2025/01](#) was received on 15 January 2025, with submissions due by 12 February 2025.
2. **SUBMISSION: The submitters oppose** the proposed landing exception that would allow commercial fishers to return Bluff oysters above the minimum legal size to the sea because dredging is a harvesting method specifically designed to gather oysters and other seabed organisms in bulk.
3. **RECOMMENDATION: The Minister directs Fisheries New Zealand (FNZ)** to review the dredge harvesting method rather than allowing for landing exceptions so the status quo can continue. The review needs to include the investigation and development of new method(s) that have increased selectivity and cause less damage to the marine environment.
4. **THE SUBMITTERS:** The New Zealand Sport Fishing Council (**NZSFC**), LegaSea, The New Zealand Angling and Casting Association (**NZACA**) and the New Zealand Underwater Association (**NZUA**). As joint submitters 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].
5. **CONTACT:** Helen Pastor, secretary@nzsportfishing.org.nz.

Background

6. In 2022, the NZSFC, LegaSea, NZACA and NZUA [jointly submitted a comprehensive response](#) to the Fisheries Amendment Bill. In our submission we supported land-all catch and reiterated our

concerns that the Quota Management System (**QMS**) rules and regulations have not sufficiently incentivised fishers to reduce unwanted or undersize catch by improving fishing practices.

7. Amendments to the Fisheries Act in 2022 now require all QMS species caught by commercial fishers to be landed unless exempted by the Minister for Oceans and Fisheries. Over 20 species are already exempted and more will be reviewed by September 2026.
8. Previously we have supported exemptions from the land-all commercial catch provisions for predated highly migratory species, kingfish, southern bluefin tuna, Pacific bluefin tuna, and swordfish.

Discussion

9. **The submitters reject Fisheries NZ's reasons seeking to justify the landing exception due to:**
 - a. The need for equality between fisheries management areas;
 - b. The apparent injury risk to commercial fishers that arises from separating undersize oysters from legal-sized oysters; and
 - c. The lower likelihood of survival for undersize oysters separated from legal sized oysters.
10. Oyster stocks across all Quota Management Areas (except for Foveaux Strait and Kermadec) have a landing exception that allows commercial fishers to return oysters above the minimum legal size back to the sea.
11. Fisheries NZ support the proposed exception to Foveaux Strait (Bluff) oysters as it would *“resolve inconsistencies in the landing and discard rules between oyster stocks”*.
12. **We reject Fisheries NZs reasons for the landing exception based on equality between fisheries management areas.**
 - a. A landing exception ought to be granted based on best available information not considerations of ‘fairness’.
 - b. The problem is being misdiagnosed. The problem isn’t that we need equality, there is clearly a need for a new method to harvest Bluff and other oysters.
 - c. As highlighted by the [CRA 1 decision](#) (High Court, 2022), the Minister has a statutory obligation to avoid, remedy or mitigate the past, present and future effects of fishing. Until FNZ complete an analysis of the effects of dredging oysters, the Minister has no choice but to decline the proposal to exempt Bluff oysters from the land-all catch requirement.
13. **We reject Fisheries NZs reasons for the landing exception based on the apparent injury risk to commercial fishers.**
 - a. Commercial fishing is inherently risky. Given the longevity of oyster fishing, the risks ought to be well known and mitigations well established.

- b.* A change in harvesting techniques could mitigate the risks for oyster fishers. If there is a risk of becoming seriously injured, we recommend Fisheries NZ work with commercial interests to develop an alternative selective harvesting method that does not catch oysters that are clumped together.

14. We reject Fisheries NZ's reasons for the landing exception based on the lower likelihood of survival for undersize oysters separated from legal sized oysters.

- a.* Fisheries NZ has provided evidence and analysis of the survival of oysters harvested by dredge as required under section 72A(2)(a) of the Fisheries Act. Fisheries NZ estimate that the post-release survival of commercially caught dredge oysters is high (approximately 93%) when handled appropriately. FNZ also state in the Discussion Paper that “there is limited information on post-release survival of Bluff oysters”. They then go on to make some assumptions.
- b.* If there is a risk of increased mortality, we recommend Fisheries NZ work with commercial interests to develop an alternative, selective harvesting method that does not catch oysters that are clumped together.

15. We are concerned that the exception fails to address the damage caused by using bulk harvesting fishing methods such as a dredging to harvest oysters.

16. **Any approval of a landing exception merely justifies** the continued use of bulk harvesting methods.

17. The land-all catch policy was promoted by FNZ in 2019 as part of a package of “policy proposals to incentivise good commercial fishing practice”. We await those proposals in anticipation of meaningful change¹.

18. If land-all catch is to deliver potential benefits it needs to apply to all commercial catch with very few specific exceptions, otherwise the investment is wasted.

¹ Your fisheries – your say. FNZ Discussion Paper 2019/02. February 2019.