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11 April 2025

Submission: Proposed amendments to the Fisheries Act

Submitters

1. The New Zealand Sport Fishing Council (**NZSFC**) is a recognised national sports organisation with over 37,000 affiliated members from 50 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.

2. 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.

3. 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.

4. 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].

5. 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.

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Analysis of Fisheries New Zealand Proposals

FNZ Criteria	Our Analysis
Multi-year catch decisions	Rejected outright
Management procedures	Some merit in deepwater stocks
Low information stocks	Rejected outright
Better integrate social, cultural and economic factors when deciding a rebuild period	Rejected outright
Recognition of non-regulatory sustainability measures	Rejected, already available
Differential ACE carry forward	Rejected, 10% carry forward already available
Carry forward of ACE for rock lobster stocks	Rejected outright
Increasing the threshold for suspension of fishing permits for non-payment of deemed value	Unnecessary
Camera footage protections for onboard cameras	Some merit in Option 1. Reject Option 2. Need independent monitoring
Amendments to the scope of onboard cameras	Some merit in Option 1. Reject other Options.
Clarifying camera use requirements	Support Option 1; Reject Option 2.
Monitored returns	Need independent monitoring
Alternative policy - Rescue Fish Ika Rauora	Support

Key Phrases and Definitions

Phrase	Description
ACE	Annual Catch Entitlement
CPUE	Catch per unit of effort
DOC	Department of Conservation
EBFM	Ecosystem based fisheries management
FA, the Act	Fisheries Act 1996
FNZ	Fisheries New Zealand
HCR	Harvest Control Rules
MEY	Maximum economic yield
MSY	Maximum sustainable yield
Minister	Minister for Oceans and Fisheries
MP, MPs	Management Procedures
OIA	Official Information Act
QMS	Quota Management System
SNZ	Seafood New Zealand, commercial industry lobby.
TAC	Total Allowable Catch
TACC	Total Allowable Commercial Catch
Non-commercial allowances, allowances	Tonnages set aside by the Minister to allow for Māori customary and recreational fishing interests.
Other mortality, OM allowance	Tonnage set aside by the Minister to allow for the mortality caused to the stock due to fishing. Unseen mortality, dead, escaped fish, illegal and discarded fish.

Prologue

Cutting costs and having better, more flexible fisheries management is an oxymoron. There is no justification for dismembering the Fisheries Act (**the Act**) beyond pandering to quota owners who would weaken or remove environmental constraints and lower information standards.

The current Act was passed in 1996 after more than two years of bipartisan work in the Select Committee. It was specifically written to manage the Quota Management System (**QMS**) and the risks of fishing on the marine environment.

The fundamental error in 1996, and the essential matter requiring reform now, is the failure to understand that the differences in inshore fishing compared to deepwater fishing are so profound that a single governance system using the same instruments handicaps both fisheries. The differences outweigh the similarities, and acknowledging the need to separate the two areas for management purposes is the primary reform needed in 2025.

The failure to reform fisheries by separating the inshore from the deepwater makes responding to these proposals problematic. Some aspects such as Management Procedures and carryover of Annual Catch Entitlement (**ACE**) may be useful in the deepwater while being damaging to inshore stocks.

Many inshore stocks continue to be overexploited despite Fisheries New Zealand (**FNZ**) offering green ticks for sustainability often based on commercial Catch Per Unit of Effort (**CPUE**) trends over time – which do not adequately take account of increasing catch efficiency and new technology.

The proposals seek to make commercial access to fish stocks easier, by quicker and less expensive means; while failing to both defend stocks against overexploitation and to support the ecosystem on which they depend.

The current proposals undermine the settled purpose and principles of the Act that were specifically designed to manage risks when utilising national fisheries resources. A reform that increases the risks to ecosystem function and productivity for no tangible benefit is not a reform at all.

Reform is a change for the better and begs the question - who is better off from these changes? Certainly not fish stocks, not ecosystems, not information integrity, not the public - it appears that only a group of quota owners are to be beneficiaries at the cost of everyone and everything else.

The proposals therefore must be considered as they apply to inshore and deepwater stocks separately, as conflating the two quite different fisheries makes it impossible to present a coherent view.

Shane Jones, the Minister for Oceans and Fisheries, has asked officials to consider whether the law is still fit for purpose, because it was not a good position to be in “if the meaning of the law is continually changing depending on the character of the jurisprudence”.

The meaning of the law has not changed. Court rulings on Ministerial decisions for crayfish, tarakihi and kahawai show that the law is consistent and clear. So that is not a real reason to seek change. It’s more than that: To comply with current law, fish that could be caught must be left in the sea and quota owners object. They want the government to amend the legislation so the numbers of fish left in the water is up to them.

Quota investors want to hold onto unsustainable catch limits and then ’shelve’ ACE when it suits them or the markets they serve.

The interests of the marine environment, the fish and the public are an aside, because the value and the power are in retaining the ‘property right’ to fish. Which, in reality is a harvesting right, but is largely treated as a right to the actual fish because of many years’ lobbying compliant officials and Ministers. This is a fundamental confusion that threatens the public interest.

It is clear from Court judgments that quota shares are a harvest right, a right to a share of a Total Allowable Commercial Catch (**TACC**), if the Minister determines one. They are not, and have never been, a right to actual fish, a right to a share of the stock, or even a share of the yield. The setting of a TACC is at the discretion of the Minister and may lawfully be set at zero. The commercial fishery operates at the discretion of the Minister, as does all fishing.

Quota owners have no enhanced right and no legitimate expectation that their harvesting right should be extended beyond its current status.

In the service of quota owners, the Minister is heading down the path of starting a war with the fishing public and environmentalists that, if won, will relinquish public control of our national and most treasured resources to private control.

Quota owners have coveted private control of New Zealand’s fish stocks since the outset of the QMS. The Minister has signalled this privatisation agenda will require several steps. The first step is outlined in the current discussion document.

The proposals respond to recent case law that has demanded a more considered and precautionary process when setting catch limits. Long-term productivity and the health of the marine food web is to be placed at a high risk in pursuit of a defence against the standards determined by the Courts. Short-term rent seeking by quota owners is to be granted at the expense of the public in both catch and environmental expectations.

The current Coalition government has no mandate to progress such a surrender of management and control to quota owners. The public expect the government to defend all New Zealanders’ interests in marine fisheries and the environment.

None of the proposed changes will improve the economics of commercial fishing. They simply lower the standards of governance by increasing risk to long-term commercial and fish stock viability, while saving the quota owners a few dollars in government charges.

What's coming will change public fishing for the foreseeable future. The proposals promote the immediate private interests of quota owners at the expense of the public, including Māori - it's as if the most important consideration in fisheries is next year's quota earnings.

Moreover, the proposals do practically nothing for inshore fishers, they are however an effective means to reduce the public interest as a stakeholder in fisheries and the marine environment.

Yet the greatest impediment to increased commercial returns is the lack of competition. We see this in spades as the Minister enables what we consider an effective cartel to defend against competitive forces and statutory obligations to pay for managing the effects of commercial fishing. The only economic advantage to industry under the current proposals is easier access to fish.

An economic document guiding changes to industry to deliver greater long-term economic benefits would use Maximum Economic Yield (**MEY**) and measure success against this. Instead, the proposal document includes a raft of excuses to increase catches or diminish the importance of species. MEY and ecosystem-based fisheries management (**EBFM**) are missing. Neither is of interest to quota owners, and this illustrates the incoherence of the QMS, as quota owners were expected to lead the charge for maximum long-run value by advocating low risk ecosystem considered catch limits. Instead, there's an unacceptable word salad trying to justify cleaning up the last of our inshore stocks.

Introduction

On 12 February 2025, the Minister for Oceans and Fisheries, Shane Jones, released a 71-page Discussion Paper No: 2025/03 - *Proposed amendments to the Fisheries Act: Consultation Document.* Submissions in response were due by 28 March.

It's obvious to anyone involved in the world of fisheries politics that the proposals to amend the Fisheries Act are a full frontal assault on the existing interests of all New Zealanders to have access to a vibrant marine ecosystem and abundant fish stocks. So, it is highly offensive for Fisheries New Zealand to publish a 71-page document and present it as positive change and then only allow 32 working days for the public to read, understand and respond.

As a vivid demonstration of the lack of good faith by FNZ, the three online, hour long online meetings[1] were not pitched at a level that the general public would understand. In our view, this was not adequate nor lawful consultation, so on 21 February the submitters requested the deadline be extended to 30 April. On 11 March FNZ advised the submission deadline had been extended to 11 April 2025. On 25 March FNZ advised another 1-hour online session would be held on 2 April 2025.

The proposals purporting to 'improve responsiveness, efficiency and certainty of decision making' rely on a Minister who is willing to relax the rules and environmental protections that have been developed over the past 40 years, so catch limits can be maintained or increased without public interference. But that's not all. These changes require fundamental changes to the Fisheries Act.

The strict guardrails of sustainability, mandatory taking into account the effects of fishing, and full fish population assessments will be relegated to the background. The recent Court judgments directing the Minister to act in a precautionary manner using best available information will be dismissed, as investment in research is pared back and management instead relies on self-reported commercial catch records.

In its place will be a more 'responsive' system that relies on commercial rights holders leaving barely enough fish in the water to satisfy the environmental, social, cultural and sustenance needs of the public, including Māori and traditional fishers.

This is a process to remove the statutory obligation on the Minister to use best available information to set aside allowances to provide for the public's interests before he allocates any remainder to commercial interests. Allowances must be reasonable and can be altered over time due to changes in population or participation rates.

If successful, the proposed changes will enable the Minister to allocate a strict quota that we will all have to share. At that stage we, the public, become part of the QMS. That means having to

[1] 24 February, 3 & 13 March, 2025.

wrestle with quota owners for a proportional share of the Total Allowable Catch (**TAC**) so reporting our daily catches and licensing are inevitable alongside Court determined allocations.

Such institutional arrangements have been tried offshore, with disastrous consequences in Canada and Iceland.

In 1997 the High Court considered proportional allocation and determined that the non-commercial allowances set aside to provide for Māori customary and amateur fishing, and the allowance set aside to allow for fishing related mortality, are not quota, they are allowances that can change over time. When referring to the Minister, the Court said, “He must make such an allowance as he thinks appropriate for the other interests before he fixes the Total Allowable Commercial Catch (TACC). This is how the legislation is structured”.

Proportional allocation is much sought after by officials and TACC shareholders because it paves the way for the current proposed Management Procedures and multi-year catch settings. Management Procedures, or pre-set decision rules, means the TACC and allowances are considered equally. This is proportional allocation.

A change to proportional allocation via the proposed Management Procedures will let the Minister and FNZ officials off the hook in terms of dedicating resources to determine reasonable allowances that will provide for the public’s social, economic and cultural wellbeings - the overarching purpose of the Fisheries Act.

It also upgrades the investment that quota owners have, from a percentage share of the TACC, to a proportion of the Total Allowable Catch. This upgrade has been coveted by quota owners for over 30 years and is regularly raised in reform discussions. This requires a transfer of public benefits to private shareholders without cost to them; no government to date has been prepared to initiate a war with the public to propose these changes with the inevitable licensing of public fishing and we doubt the Coalition partners are aware of the political risks of such a war.

The reason these proposals are so politically risky is because proportional allocation means our allowances are then downgraded, absorbed into the QMS as a fixed allocation or quota. So, instead of a percentage entitlement to a slice of the pie, proportional allocation means quota owners now have a share of the whole pie. Our pie.

With the non-commercial sector so under-resourced, this shift to making us minor shareholders in a commercially driven and dominated QMS spells the end of recreational fishing as we know it, because we get the leftovers of a failed management system.

This ongoing, creeping theft of public interests in fish has already resulted in reduced daily bag limits, area closures, and in South Island pāua a 2-month recreational season in 2024 while Māori customary and commercial fishing continue unabated for 12 months of the year.

Fisheries New Zealand describe this process as ‘improving responsiveness, efficiency and certainty’, while wanting permission for fishers to turn off cameras monitoring fishing.

Ultimately, the proposals are designed to weaken environmental protections for fisheries and the marine environment and pass control to the commercial sector so they can increase exports. Yet the over-exploited inshore fishery contributes less than 1% of GDP[2], and this will soon become uneconomic due to depletion. If the inshore commercial fishery ceased to exist, the economy would not notice it.

We are not duped by rhetoric or twisted language used to present the proposals. The agenda is privatisation of a national resource. In 2016 the submitters campaigned on the need for a Royal Commission of Inquiry into fisheries management and the QMS. We were assured there was no viable alternative regime.

If these current proposals succeed, the outcome will be more damage to the marine environment and a loss of productivity and biodiversity. We do not accept this outcome.

Instead of trying to privatise the fish and lock the public interest into a failing QMS with depleted fish stocks, we ought to be instead looking for ways to increase the value of our exports, open up commercial fishing to more competition and innovation, and setting higher governance standards so there is an abundant fishery to hand on to future generations.

In 2020 the New Zealand Sport Fishing Council and LegaSea published version 1 of the Rescue Fish Ika Rauora policy, with the intention of generating interest in a more equitable regime that provides for restored abundance and a fair go for Kiwis.

We note that few, if any, officials, TACC shareholders or ACE fishers have shown any curiosity or interest in alternatives or solutions to a failing and dysfunctional QMS. The lack of respect from officials is noted. To date, zero tangible support to help resource efforts to find holistic solutions to ongoing failures of governance and management.

The Rescue Fish Ika Rauora policy discusses renewed governance and reform of both QMS deepwater and inshore fish stocks. Thanks to the generous feedback from people since its publication we acknowledge the policy needs a refresh. There is an urgent need now to start with reforming management of inshore stocks.

The principles however remain relevant to all of us: give effect to the purpose and principles of the Fisheries Act so we can restore abundance and diversity in our coastal waters for the benefit of all New Zealanders. The nonsense of the current ‘reforms’ has to stop. Rescue Fish is our alternative policy.

[2] Real GDP from fishing and aquaculture, as a percentage: 0.27% of GDP contribution of fishing to New Zealand’s economy. NZIER report – They that go down to the sea in ships. NZIER report to LegaSea. July 2019. At 27.

Brief Outline of Submission

Multi-year catch decisions

Fisheries NZ Proposal – Two types

a. Phased catch limit adjustments - one decision for limit changes, up or down, every year, up to 5 years.
b. Temporary catch limit increase - for up to 3 to 5 years, reverts to original levels after agreed period.

FNZ Proposal	**Our Analysis**
Multi-year catch decisions	Rejected outright
FNZ Issues	**Submission Summary**
Catch changes need a consultation process every year.	No fast-track way to sustainability.
FNZ wants one decision to enable catches to change for up to 5 years, with consultation only at the outset.	The Minister is obliged to apply discretion in making precautionary, ecosystem-based decisions that preserve biodiversity and ensure sustainability.
Currently no certainty, commercial fishers can't make long term plans.	Maintaining Ministerial discretion is important because it is the only way to protect public interests in the decision-making process.
Costly processes.	Rebuilding and maintaining fish stocks at much higher levels would reduce: • costs and uncertainty; • the need for regular reviews; and • conflict between sectors.

Management procedures

FNZ Proposal	Our Analysis
Management Procedures	Conservative Management Procedures could have some merit to maintain or decrease TACCs in deepwater stocks. Rejected outright for inshore stocks.
FNZ Issues	**Submission Summary**
Current process is inefficient.	Management Procedures weaken sustainability and remove Ministerial discretion, to the detriment of the environment and future generations' interests.
A full sustainability round is required to change a catch limit even with existing Management Procedures.	Reject Management Procedures based on self-reported catch per unit of effort data (CPUE). CPUE is vulnerable to changes in fishing practice and manipulation, so on its own it is an unreliable index of fish abundance.
Want a Management Procedure so catch limits can be changed within an agreed time frame of up to 5 years.	Management procedures that chase maximum sustainable yield for one species can adversely affect associated and dependent species and ecosystem-based fisheries management.
Public consultation is only required before the Management Procedure is established.	Maintaining Ministerial discretion is important because it is the only way to protect public interests in the decision-making process.
	Management Procedures provide another pathway to proportional allocation of the Total Allowable Catch, where all catches are treated as equally important. Contrary to non-commercial fishing interests.

Low information stocks

FNZ Proposal	Our Analysis
Low information stocks	Reject the use of camera and self-reported data to make risk-based management decisions
FNZ Issues	**Submission Summary**
Around 250 low information stocks. Around 50% of these have not had a TACC change in 20 years.	Low information stocks need low-risk conservative catch settings, not lower standards of protection from overfishing. Faster decisions based on poorer information jeopardises sustainability.
Need a new provision so catch limits can be set using cameras data and self-reported data from commercial fishers.	The most cost-effective way to monitor low information stocks is to introduce the systematic collection and analysis of fish lengths, using cameras on vessels or in fish factories. Length frequency data is rarely collected for inshore commercial finfish fisheries in NZ.
	Reject proportional allocation of available catch in low information stocks.

Better integrate social, cultural, and economic factors when deciding a rebuild period

FNZ Proposal	Our Analysis
Want to amend section 13 of the Fisheries Act so the Minister can consider the impact of his/her decisions on fishers.	Reject amendment to section 13 of the Fisheries Act.
FNZ Issues	**Submission Summary**
Recent Court rulings have clarified the Minister is limited in when he/she can consider the social, cultural and economic implications of fisheries management decisions. The fish must be considered first.	There is no trade-off between sustainability and socio-economic factors. Sustainability must be ensured. The TAC is the primary tool to ensure sustainability and rebuild depleted fish stocks.

FNZ wants greater recognition of the needs of commercial fishers when deciding how and how fast a depleted fish stock is rebuilt to the management target level.	The impact on commercial fishers is secondary after the purpose and principles of the FA have been applied to decide the TAC and rebuild options. Permitting longer rebuild times encourages overfishing.

Recognition of non-regulatory sustainability measures

Fisheries NZ Proposal

a. Option 1: The Minister may recognise any non-regulatory measure.
b. Option 2: The Minister must consider ACE shelving and catch spreading.

FNZ Proposal	**Our Analysis**
Recognition of non-regulatory measures	Rejected outright.
FNZ Issues	**Submission Summary**
Minister can choose to take into account existing voluntary measures applying in a fish stock, before making a decision.	The Minister has a legal obligation to ensure sustainability, voluntary measures are not measurable, publicly reported or enforceable.
Minister must first consider the relevance and weight of any ACE shelving or catch spreading arrangement already applying in a fish stock.	Current, voluntary agreements such as catch spreading do not require legislation changes or Ministerial approval. The proposal seeks to legitimise the illegitimate.
	This proposal seeks to circumvent recent Court rulings that discount voluntary measures.
	History shows that ACE shelving is not proactive beyond an offer to shelve what cannot be caught. CRA 2 fishers offered to shelve 25% of their catch in 2018, yet it was obviously uncatchable because the fish stock was so depleted.

Differential ACE carry forward

Fisheries NZ Proposal

a. Option 1: Increase the ACE carry forward from 10% to 15%.
b. Option 2: Additional ACE carry forward fora a stock for one year in exceptional circumstances.

FNZ Proposal	**Our Analysis**
ACE carry forward	Rejected outright.
FNZ Issues	**Submission Summary**
There are times when fishers are unable to catch the full ACE in a fishing year. This may be due to personal circumstances or one-off adverse external events.	Existing provisions enable 10% carry forward. The reason ACE is not fully caught is usually that the fish are not there to catch or the TACC is overallocated in relation to the available stock.
Current carry forward is limited to 10% of unused ACE.	Allowing carry forward of any stock increases the risk of overfishing.
	There is no provision to measure any change in abundance.

Carry forward of ACE for rock lobster stocks

Fisheries NZ Proposal

a. Option 1: Remove rock lobster from Schedule 5A to enable ACE carry forward of 10% or 15%.
b. Option 2: Enable 10% ACE carry forward at the request of quota owners.

FNZ Proposal	**Our Analysis**
ACE carry forward for rock lobster stocks	Rejected outright.

FNZ Issues	Submission Summary
There are times when fishers are unable to catch the full ACE in a fishing year. This may be due to personal circumstances or one-off adverse external events.	The reason ACE is not fully caught is usually that the fish are not there to catch or the TACC is overallocated in relation to the available stock. Need guardrails to protect this highly valued species.
No provision for carry forward of rock lobster ACE.	Allowing carry forward of any stock increases the risk of overfishing.
	Rejected for spiny rock lobster and packhorse crayfish.

Increasing the threshold for suspension of fishing permit for non-payment of deemed value

FNZ Proposal	Our Analysis
Change the monetary threshold for unpaid deemed value invoices	Unnecessary.
FNZ Issues	**Submission Summary**
The threshold setting of $1000 for suspension of a fishing permit due to non-payment of deemed value invoices has not changed since 1996.	Deemed fish are mortality to the fish stock so there needs to be a penalty to incentivise change. Fisher would have already received payment for deemed fish, so expect funds to be available.
Want to increase the threshold from over $1000 of unpaid fees, to $2000 of unpaid fees.	Thresholds are part of doing business.

Camera footage protections for onboard cameras

Fisheries NZ Proposal

a. Option 1: Greater recognition for current approach to requests for footage.
b. Option 2: Exemption of footage from the Official Information Act (OIA).

FNZ Proposal	Our Analysis
Protections for use of onboard camera footage	Option 1: Some merit. Option 2: Rejected.
FNZ Issues	**Submission Summary**
Commercial fishers are concerned about whether there is sufficient protection for camera footage under the OIA.	Support FNZ confirming their practices with the Ombudsman to ensure compliance with OIA.
FNZ is concerned that fisher support for cameras will be eroded and this will undermine accurate reporting that informs decision-making.	There must be an independent body to oversee and report on the proportion of video that is actually reviewed, and compliance with reporting and discard regulations.
	The concerns about misuse of released camera footage highlights the need for greater transparency, not less.
	The only time camera footage has been instrumental in changing behaviour is when it has been released into the public domain.

Amendments to the scope of onboard cameras

Fisheries NZ Proposal

a. Option 1: Remove requirement for any vessel less than 8 metres in length to operate onboard cameras.
b. Other FNZ Options: Rejected.

FNZ Proposal	Our Analysis
Amend the scope of onboard cameras	Option 1: Some merit for small vessels. Other Options: Rejected.

FNZ Issues	Submission Summary
FNZ wants to clarify what classes of vessels are excluded from the requirement to have onboard cameras monitoring fishing activity.	Support the widespread rollout of onboard cameras on all commercial fishing vessels over 8 metres in length.
FNZ proposes to exclude cameras from vessels greater than 32m in length and vessels less than 8m in length.	

Clarifying camera use requirements

Fisheries NZ Proposal

a. Option 1: Require onboard cameras to operate port to port.
b. Option 2: Require onboard cameras to operate during fishing and transit to and from fishing locations.

FNZ Proposal	Our Analysis
Clarify camera use requirements	Option 1: Support. Option 2: Rejected.
FNZ Issues	**Submission Summary**
Clarify when onboard cameras need to be 'active' to record fishers' activity.	Support the requirement for cameras to be actively monitoring the onboard fishing areas port to port. Port to port monitoring may help to expedite the required changes to the QMS
	Support active monitoring when vessels are transporting fish.
	There are economic drivers within the QMS that lead to fish dumping. Until those systemic issues are resolved, fishers will continue to find ways to discard uneconomic catch and retain profitable catch.

Monitored returns

FNZ Proposal	Our Analysis
Government has decided to enable monitored returns of QMS species.	The proposals seek to weaken environmental protections for fish.
FNZ Issues	**Submission Summary**
FNZ proposals are focused on how to best give effect to the government's decision.	Until technology, camera placement and incentives improve, cameras are no substitute for onboard human observers.
	The issues preventing observer coverage on most inshore commercial fishing vessels need to be resolved.
	To improve data collection cameras need to be placed directly over a conveyor or fish table recording all catch on that vessel, then use AI to record the species and fish size.
	Object to the proposal that fish can be tossed overboard if an observer is onboard, deliberate wastage.
	Reduce wastage by incentivising fishers to transition away from bulk harvesting in mixed finfish fisheries to improve selectivity.

Alternative policy

Alternative Policy	Rescue Fish Ika Rauora
QMS currently relies on quota consolidation, enables rent seeking by quota owners, and private control over a public resource.	
QMS ignores the needs of small-scale, regionally based whanau businesses.	
QMS has deprived the public of the abundance and diversity that previous generations enjoyed. More fish in the water is a win for our fish and all New Zealanders.	
Rescue Fish is an alternative policy to reform rights-based fisheries management to ensure public benefits from the use of marine resources.	
There is strong public support for the government to prioritise access to fish for local consumption before exports.	
Need to move away from destructive, high bycatch fishing methods that damage marine ecosystems.	
Focus on sustainable, selective fishing practices that do not waste so much ocean life.	
Research shows that improvements to governance and management are required so: a. Small-scale artisanal commercial fishers can make a fair living and sell their catch to their local community. b. Young people can enter fishing and thrive under the tutelage of experienced operators. c. Kiwis can afford to buy local seafood. d. Our fisheries are managed for long-term health, not short-term profit for a handful of corporate shareholders.	

Part 1 - Proposals to improve responsiveness, efficiency and certainty of decision making

FNZ Problem Definition:

Limited government and stakeholder resources means only a limited number of stocks (20-30) are included in sustainability rounds each year. Catch changes tend to be larger and less frequent.

FNZ Outcome Sought:

Improve the responsiveness, transparency and certainty of the catch limit setting process to improve provision of use of fish stocks while ensuring sustainability. Provide more certainty and transparency about how stocks would be managed when there is limited information.

Our analysis:

We don't consider there is uncertainty about how fish stocks are managed or how they should be managed when information is limited. It is not uncertainty that gives rise to this proposal, but the desire to gain access to stocks when sustainability cannot be ensured given existing catch settings and available information.

At the outset of the QMS, large TACCs were set for species such as gurnard. These were significant overallocations, many have not been reviewed since 1986 and do not in any way ensure sustainability as required by the Act.

Currently, the Minister is statutorily obliged to consider the best available information then apply the purpose and principles of the Act, sections 8, 9 & 10, weigh all the factors and make a decision for each fish stock in the national interest.

All Ministerial decisions must conform with the purpose of the Act - to ensure sustainability, maintain productivity of the marine environment, and avoid or mitigate the effects of fishing while leaving enough fish in the water for future generations. This proposal comes in direct conflict with the purpose and principles of the Fisheries Act.

The problem is twofold: it is mis-specified and the proposed reform policy has been captured by commercial interests.

We have a crisis of governance that is not unique to New Zealand, but officials' dogged determination to hang onto the existing QMS while overseas regimes have been enhanced by meaningful reforms can be credited to the effective lobbying by a cartel of commercial interests.

Creating property rights without strict aggregation and foreign ownership guardrails enables the cartel to quickly become established. Then the public interest is subsumed by the interests of the property rights holder. Very quickly political power is concentrated into fewer hands and

fisheries management becomes a process of enhancing quota owners' rights and defending their economic and political power. It plays out every time Fisheries New Zealand puts their thumb on the scales to benefit private interests at the cost to the public and the environment.

The submitters identified this incoherence in governance 10 years ago and began a long process to research and better understand why the fisheries as described by officials are not what the public find when they go fishing.

The conclusion from that research is that New Zealand is suffering a crisis in fisheries governance, and we urgently need an off ramp, as the outcomes of sustainability and economic prosperity sought from 40 years of reforms never materialised.

The cartel has such a mature grip on policy and decision makers that no political appetite is apparent for any reform to make the commercial fishing industry more competitive and create value from a public resource.

In fact, we're not sure that any political party understands the crisis that our fisheries are facing. All who will listen seem to be comforted by the timeless rhetoric that our fisheries are in fine shape and returns from fishing are a significant contributor to the national economy. Yet much of our inshore fish is trawled and exported whole, frozen, unprocessed for less than $5 per kilo.

What kills fisheries also kills economies. What kills economies is elite capitalism. When politics is dominated by a narrow range of factions, parties or sectors, they'll use their power to impose an extractive economy, arranged to acquire everyone's wealth and value from their labour and redistribute it to themselves and their political allies. The 2024 decision by the Minister to reduce cost recovery levies and the research budget is evidence of the focus on an extractive economy at the expense of the environment.

In a nutshell, that is New Zealand's fisheries. A rent-seeking cartel operating an extractive economy acquiring the fishers' and citizens' wealth and redistributing it to themselves and their political allies.

The QMS was sold to us on the premise that the hunters would become farmers, carefully tending the stock to maximise long-run value from their catch. Now that we know the assertion is without foundation it is incumbent on us to escape from the perverse outcomes of the QMS that is destroying value.

Instead, we need to build a system that rewards innovation and value creation from sustainable commercial fishing while enhancing the social, cultural and economic wellbeing of all New Zealanders. Our alternative policy is Rescue Fish Ika Rauora.

Multi-year catch decisions

FNZ problem definition

Current process is time consuming, resource intensive and constrains the ability for commercial fishers to plan over the longer-term.

FNZ Criteria	Our Rating - Rejected outright
Certainty Responsiveness Efficiency	Multi-year catch decisions applying in some deepwater fish stocks have failed. Rejected outright for inshore fish stocks.

Certainty

FNZ: The potential for each policy option to allow stakeholders to predict how regulation would apply, so they can prepare for how that regulation might affect them.

1. The certainty FNZ and commercial interests seek from any changes to the Fisheries Act is not available. The current process is prescribed in the Act. Ministerial discretion is a statutory necessity to enable NZ to comply with the international treaties it has ratified. Decision makers are obliged to make ecosystem-based determinations in a precautionary manner that preserves biodiversity when managing a natural, variable resource in the national interest. Rebuilding and maintaining fish stocks at higher levels would reduce uncertainty and the need for reviews, while reducing conflict between sectors.

2. There is no fast-track way to sustainability. It requires a well-informed, considered Ministerial decision.

3. Sustainability cannot be ensured without bright line minimum standards that are achieved by applying Ministerial discretion.

4. Reducing uncertainty when harvesting a variable and unpredictable resource is a marginal proposition given the need to ensure sustainability. Everyone would appreciate nature being more reliable and predictable however, those whose livelihoods depend on interacting with variable natural resources realise it is unavailable. Productivity from the oceans remains uncertain and a precautionary mindset will deliver far greater long run value than trying to obtain certainty from an uncertain natural system.

Responsiveness

FNZ: The extent to which each option enables the fisheries management system to adapt to changes (e.g. changes in the abundance of fish stocks).

5. What does responsiveness mean? Does it mean the time taken to alter catch settings when information becomes available? What are the barriers to responsive decision making? The reality is the QMS requires rich data to operate, the state of stocks, the productivity and its constant change, the effects of truncating the age structure, the interdependence of stocks, and many more when sustainability is to be ensured by limiting catches.

6. Lags in time between the data collection and any future decision is an unavoidable function of the QMS. Conflating lack of responsiveness and uncertainties with the state of stocks can only lead to increased risks to sustainability.

7. Current management responses are poor because commercial investment is directed to fish stocks that deliver the highest returns, not because of the lack of adaptability.

8. Successful lobbying by commercial interests led to the Minister reduce annual levies from $41M to $36M for the 2024/25 year. This means FNZ's research budget will decline so there will be even fewer resources available for stock assessments in the future.

9. Currently, TACs are set and remain in force until changed via a sustainability review - in effect catch decisions are now multi-year determinations. This suggests that there is another, underlying purpose for the current proposals.

10. FNZ promotes the change as providing the ability to spread changes to catch levels over several years or increase the TACC in response to expected pulses in recruitment of young fish into the fishery. If sustainability is the goal, then targeting young recruits is not a long-term strategy.

11. FNZ's inshore fisheries plan, updated in 2022, listed just 6 species in selected QMAs as Group 1 stocks that will be resourced to have quantitative stock assessments. For most other stocks commercial catch and relatively short time series CPUE is the basis for management advice. There have been some fishery-independent trawl surveys which collect size frequency and catch rate data for a full range of species, but these are expensive.

12. There are internationally recognised assessment methods based on length frequency data from commercial catch. Yet for some reason this basic data is not collected in any systematic way in New Zealand. Even the data and biological sampling collected by onboard fisheries observers has almost ceased due to manning concerns on inshore vessels and in lieu of onboard cameras.

13. Individual fish weights for most swordfish, bigeye tuna, Pacific bluefin tuna, and yellowfin landed in New Zealand are supplied by fishing companies to a FNZ research provider. These are converted to fish lengths and made available to the Central and Western Pacific Fisheries Commission for use in stock assessments. Trends in total catch and CPUE on their own are often poor measures of current exploitation rate or stock abundance. **Efficient data collection systems to collect a representative sample of fish lengths for a wide range of inshore fish stocks must be a priority in any responsive fisheries management programme.**

14. FNZ highlights as negative the process to apply phased reductions over multiple years and the resources required to consult at each step change. FNZ presents the bluenose TACC reduction process[3] as an example of increased costs and reduced certainty for commercial fishers when "there was no new information available that would significantly change the assessment of the stock".

15. Plain truth is that bluenose stocks failed to rebuild because the planned annual TACC reductions were not applied, a result of successful lobbying by quota owners undermining the Minister's confidence to make a bold decision.

16. Multi-year catch decisions embed single species management at a time when the science and the world is moving towards ecosystem-based fisheries management (EBFM).

17. The narrow focus on potential yields from a single species also fails to account for environmental or other changes.

18. Multi-year catch decisions ignore the High Court's CRA 1 decision requiring the Minister to take into account ***any effects*** of fishing. In 2022 Churchman J. described those responsibilities (in part) as follows -

> "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."[4] [emphasis added]

[3] Proposed amendments to the Fisheries Act: Consultation Document. Fisheries New Zealand Discussion Paper No: 2025/03. Page 13.
[4] Environmental Law Initiative v Minister for Oceans and Fisheries [2022] NZHC 2969 [11 November 2022]. At 22.

Efficiency

FNZ: The extent to which each option allows stakeholder and government resources (e.g. fisheries resources or fisheries management time) to be allocated in a way that delivers the maximum benefits at minimum cost.

19. This is a blatant attempt to fast-track the process at the cost of making a precautionary decision.

20. A precautionary decision can only be made after application of the Fisheries Act and input from all stakeholders is taken into account. This takes time. Each stakeholder has a different view of what 'maximum benefits' are.

21. In February 2025, the High Court delivered a judgment finding the Minister's new decision for the future management of CRA 1, Northland, to be unlawful[5]. None of the options put forward by FNZ during the consultation phase were based on best available information. Nor did they provide for the input and participation of tangata whenua in developing the proposals, as required by s12 of the Act.

22. FNZ's proposed change to the Act introduces the ability to slow reductions in the TACC because of the economic effects on the quota owner and/or fisher. In 2024 the Supreme Court ruled that an option or options to rebuild a fish stock must be decided before consideration is given to the social, cultural and economic factors that may influence the rebuild option chosen by the Minister[6].

23. The proposed change to the FA seeks to circumvent recent Court decisions that have clarified that if the wellbeing of the stock becomes secondary to the short-term commercial earnings, then the purpose of the Act is breached. The Minister's obligation is to ***ensure sustainability***. It is not discretionary; it's a ***statutory obligation.***

24. We do not accept any changes to slow down TACC reductions, nor do we accept using multi-year catch decisions to achieve that outcome. It's about fish and the effects of fishing, not peoples' economic circumstances.

25. Delaying rebuilding stocks due to economic hardship to those that depleted it is a perfect example of the true nature of the proposed changes - the wishlist of quota owners to remove constraints and costs while getting quicker, more convenient access to fish while externalising long-term costs. The costs are borne by the public and the environment.

26. Slow processes involving public consultation and discussion are positive, not negative as it provides the necessary information for the Minister to make a decision based on a

[5] Environmental Law Initiative v Minister for Oceans and Fisheries [2025] NZHC 177 [14 February 2025].

[6] Seafood New Zealand Ltd v Royal Forest & Bird Protection Society of New Zealand Inc. [2024] NZSC 111 [12 September 2024] At 145.

range of factors. Ministerial discretion is important and is the only way to protect public interests in the decision-making process.

27. Where commercial catch rates are used to trigger catch limit increases, there is a powerful incentive to increase fishing power so quota holders can be allocated more catching rights. Particularly so if the increase applies over multiple years and if the increase means there is no constraint on fishing effort.

28. Ultimately, the endless drive to reduce fish populations to lower and lower levels while claiming sustainable stewardship is nothing but greed overwhelming responsibility to future generations' needs.

29. Providing for multi-year catch decisions supports and enables proportional allocation of the TAC which then invites decision making based on predetermined rules or Management Procedures.

Conclusion

30. Efficient data collection systems to collect a representative sample of fish lengths for a wide range of inshore fish stocks must be a priority in any responsive fisheries management programme. We reject proportional allocation of the TAC. We support Ministerial discretion being applied when making fisheries management decisions. The proposed multi-year catch decisions are rejected outright.

Management procedures

FNZ problem definition

Current process is inefficient. When an existing Management Procedure (**MP**) suggests a catch limit change, the full sustainability round process needs to be undertaken.

FNZ Criteria	Our Rating - Some merit
Certainty Responsiveness Efficiency	Some merit in having conservative Management Procedures apply to deepwater fish stocks to keep TACCs stable or to decrease it. Strict criteria will be required if MPs are to be successful. MPs rejected outright for inshore fish stocks.

Certainty

FNZ: The potential for each policy option to allow stakeholders to predict how regulation would apply, so they can prepare for how that regulation might affect them.

31. FNZ proposes to remove Ministerial discretion from the decision-making process by establishing Management Procedures or pre-set decision rules. These will be used when altering catch levels for a fish stock. They will be in place for a maximum of 5 years. Public consultation on catch limits would only occur before the MP is agreed. Once agreed, the MP would operate for the agreed duration of the MP.

32. We reject MPs based on Catch Per Unit of Effort (CPUE) self-reported data. CPUE is vulnerable to manipulation and acknowledged as an unreliable indicator of abundance. So, an MP using CPUE data would provide less, not more, certainty compared to current management.

33. There is no data that allows a Management Procedure to be used in a safe way. CPUE is the only data routinely gathered that can be used in a MP. It is reliance on this data that causes us to reject the current proposal in its entirety when applied in the inshore fisheries.

34. We have witnessed the destruction of the rock lobster stocks by using this technique and the fatal reliance on CPUE that caused huge areas on the North Island's northeast coast to be depleted, areas that have never recovered, and it is a stark lesson we have learned.

35. The Minister approaches setting CRA 1 and 2 catch limits this year as both stocks have collapsed due to overfishing. Closing areas of the coast to all rock lobster fishing seems certain. These stocks were controlled by MPs, and it is incoherent to on one hand legislate for easier and less regulated MPs, while closing the coast due to their effects.

36. Certainty as a fisheries management concern does not only apply to quota owners. It also concerns the fish and the supporting ecosystem and other resource users. So far, the application of MPs in most cases has resulted in unsustainable catches being allowed and a failure to monitor fish stock abundance and address depletion even when it is apparent.

37. MPs currently apply to inshore and deepwater species so why is there a need for legislative changes?

38. In some deepwater stocks MPs may be useful when the management target is set to a high level and stocks are maintained at that level. The target needs to be high because of the uncertainty in stock assessments and so that declines in catches can be detected early. There is a problem using CPUE from fisheries that target spawning aggregations. CPUE can remain high irrespective of the stock status (hyperstability) and mask serious declines in abundance.

39. History has shown us that when applied to inshore fish stocks MPs and adaptive management programmes can be extremely damaging. Bluenose, crayfish and tarakihi are three examples of mismanagement. Generally, inshore stocks have no stakeholder

agreed management target and CPUE cannot be relied upon as a true index of stock abundance.

40. The Courts have clarified that the Minister has a statutory duty to ***ensure sustainability***. That means MPs are strictly unsuitable for low information stocks, yet that seems to be the target of the proposed changes.

41. Of utmost importance is the need for any MP to be conservative, because for the duration of the MP there are no adjustments possible to take into account locals' views of observed changes in stock abundance. Consequently, any remedial actions are at least two years away from when changes are first observed.

42. If the Minister is to apply a MP it needs to be:
    a. Informed by multiple sources of information, not just based on CPUE data alone.
    b. Aimed at an agreed management target suitable for that stock.
    c. Acknowledged that MPs are not suitable for low information stocks.
    d. Moderated by a catch ceiling.

43. A ceiling on a maximum TACC is required, as it's not feasible nor realistic to continue to increase the TACC in response to CPUE increases due to more focused targeting. There will be a tipping point reached due to changes in recruitment or environment. A return to the boom and bust short-term fisheries decisions of the past is not acceptable, nor will it provide stability or certainty for commercial fishers. The regular TACC increases in the SNA 7 TACC over the past few years ignores the wide ranging effects of fishing on snapper and all associated species, and the environment where they are taken.

44. MPs are not suitable for single species in multi-species trawl fisheries. We recently had the ridiculous scenario where FNZ proposed a TACC reduction for John Dory 2 while also proposing a TACC increase in Snapper 8. There is a substantial area in the lower North Island's waters where these fisheries co-exist.

45. FNZ note the Fisheries Act is 'silent' on MPs. For good reason. It's most likely because the law makers did not anticipate a process to fast-track fisheries management decisions. Doug Kidd, Minister for Fisheries at the time of its promulgation, and as one of the authors of the Act said, the Act was the 'best he could do' and was deliberately precautionary compared to other legislation of the same era.

46. FNZ suggests that enabling a Minister to approve MPs under the Act could provide "for more proactive input from tangata whenua and stakeholders into how and when catch limits should be adjusted for a particular stock over a given period". [At 63]. This is hard to swallow given that our comprehensive submissions to multiple fish stocks over the past two decades have been largely ignored. It will take more than a promise to convince us that MPs will deliver this outcome.

47. Moreover, given the most recent High Court decision for CRA 1, it is difficult to see how MPs could comply with the statutory obligation to provide for the input and participation of tangata whenua, and for the Minister to have particular regard to kaitiakitanga, as per s12 of the Act. FNZ will need to specifically address these matters if MPs are to be lawful.

48. In July 2024, an international, fully independent panel of three scientists met to receive and evaluate information on the Rock Lobster Stock Assessment Model, the associated biological reference points, the Management Procedures, and the Rapid Assessment Updates that have been used in recent years. Twenty five recommendations for future development and improvements were provided to FNZ and the public in a final report. Of note is their insightful conclusion that "***the use of management procedures appears inherently risky.*** Either find a way to demonstrate that increased risk is not occurring or only use the management procedures to keep the TACC stable or to decrease it". Yet less than 12 months later we are dealing with proposals that seek to give legal authority to MPs already in use, and new ones designed to enable greater catches with less information. It's hard to fathom why FNZ commissions these reports and then ignores the recommendations. [Emphasis added]

49. MPs seem to be targeted at adjusting TACCs. No mention of how the allowance for fishing related mortality is to be adjusted. In para 66 FNZ note MPs may apply to non-commercial allowances. If an MP is to apply to the Māori customary and recreational allowances, it will need to specify how it would apply, and how it would change over time.

Responsiveness

FNZ: The extent to which each option enables the fisheries management system to adapt to changes (e.g. changes in the abundance of fish stocks).

50. MPs are single species focussed so fail to adequately account for the impacts of fishing on the environment and in multi-species fisheries. This is contrary to statutory requirements.

51. The proposed amendment to the FA is clearly designed to circumvent recent Court decisions clarifying the Minister's statutory obligations, including that all past, present, future and cumulative effects of fishing must be taken into account by the Minister when setting or varying the TAC. (High Court, 2022). MPs are not responsive to abundance.

52. Many popular inshore stocks need to be rebuilt to double their current biomass in order to be sufficiently abundant to increase ecosystem function and provide for people's social, economic, and cultural wellbeing.

53. One of the arguments in support of TACC increases in recent years has been the notion of “choke” species. That is, a species that is constrained by a low TACC or availability of ACE, which is still caught while targeting other species in a mixed finfish fishery.

54. Fishers using bulk harvesting methods often find it difficult to balance available ACE with the species mix that they catch. This has led to discards and dumping of quota species, one of the main drivers for the protracted roll out of cameras on commercial vessels.

55. The term "choke” species has been used by the fishing industry to trigger the review and TACC increases for a range of target and bycatch species. However, total catch is a very poor measure of sustainable yield. Most stock collapses are a result of continuing to fish at high exploitation rates, which is overfishing. Fisheries managers must not be put in the position of approving overfishing just to reduce deemed value payments for unselective commercial fishing gear. Many low information stocks will be put at risk.

56. The “choke” species argument was successful in 2024 when the Minister responded to FNZ and commercial interests and raised the TACC for snapper at the top of the South Island by 60%. Given the species mix in FMA 7, the Minister also increased the TACC by 20% for Elephantfish 7. 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. Catch that exceeds the TACC is not proof of increased abundance. The risk arises for the less productive, low information species. Changes in the area fished or market demand for one species can lead to TACCs that are overcaught. Using the SNA 7 example, the increased TACC in 2024 put at risk associated and dependent species of the mixed trawl fisheries including red gurnard, John dory, rig, barracouta, tarakihi, school shark, blue warehou and red cod.

57. In the mixed bottom trawl fisheries in FMA 7, it is inevitable that snapper will be the common catch. This is not 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 for that species.

58. To be lawful, fishing must comply with national and international obligations. Officials and fishers 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.

59. After more than a century of bottom bashing, it is about time we responded by innovating our way out of mobile, bottom contact fishing and transitioned to more selective techniques such as longlining. Transitioning to more environmentally sensitive methods requires few innovations - the technology and skills exist in New Zealand; we just need to be more responsive to overseas trends and the shift towards ecosystem based fisheries management which requires consideration of recent Court decisions highlighting fishing impacts on the marine environment. Such a transition would also be consistent with statutory obligations to ensure sustainability by avoiding, remedying, or mitigating the adverse effects of fishing.

60. There is nothing wrong with allowing fish stocks to rebuild to abundant levels. An abundant stock is more resilient to external stresses, and more productive.

61. This is not a race, and the fish don't die en masse, they merely grow bigger. A fish left in the water today delivers greater yield and ecosystem services over time than harvesting them as they recruit into the fishery.

62. Currently, the Minister is obliged to consider the best available information, apply the information and environmental principles, weigh all the factors and make a decision that conforms to the purpose of the Fisheries Act. Ministerial discretion to act in a precautionary manner has been the primary factor in saving precious fish stocks from collapse or overfishing.

63. FNZ promotes MPs as simple tools compared to the current sustainability review process. A variable is monitored and catch limits are adjusted as a result of changes to that variable. Typically, that variable is CPUE. The assumption is that increases in CPUE indicate increased abundance in the fish stock. Another assumption is that increased CPUE indicates increased catch opportunities.

64. The efficacy of MPs used by FNZ depends on how well changes in CPUE are indicative of increased abundance. There is a large body of literature that demonstrates the imperfect relationship between CPUE and abundance, and how frequently stocks are damaged by relying on the basic assumption. Using MPs in rock lobster fisheries CRA 1, 2, and 3 has been a major cause of the stock collapse not being detected earlier, requiring large and painful reductions in catch limits when the stock is subject to a sustainability review.

Efficiency

FNZ: The extent to which each option allows stakeholder and government resources (e.g. fisheries resources or fisheries management time) to be allocated in a way that delivers the maximum benefits at minimum cost.

65. The objective of increased efficiency, achieving a result quicker using less resources, sounds reasonable. However, the risks and efficacy of changing this primary sustainability process requires wide consideration as to the effects it will have on the essential legislative obligation to ensure sustainability.

66. A Management Procedure as an efficient mechanism for altering catch settings is only as good as the variable the changes depend upon. What variable is monitored that could be used to evaluate whether changes to catch settings should occur?

67. Broadly speaking there are two options:

a. Rely on fishery dependent data such as self-reported catch per unit of effort (CPUE); or
b. Rely on fisheries independent data (trawl surveys, juvenile abundance, catch at age etc.).

The strengths and weaknesses and inherent risks of each are quite different.

68. We have exhaustively submitted on the disastrous consequences of using CPUE to drive a MP when the assumption is that CPUE provides an index of abundance. This is not speculation, it is well represented in the literature, and along with MSY as a target, has fallen from favour as fisheries have become overexploited and economically inefficient from using these concepts.

69. In July 2024, an international, fully independent panel of three scientists made 25 recommendations to FNZ and the public in a final report.

70. One of the 25 recommendations from the independent review panel was for fishery-independent surveys to be conducted under repeatable and consistent frameworks aimed at reducing fisher-induced changes in the catchability of fish. Fishery-independent surveys are common practice in many lobster fisheries globally and inclusion of fishery-independent data into assessment have been shown to have positive stock and financial outcomes through robust assessments and less conservative quota set.[7] This recommendation reinforces the necessity for fishery-independent surveys.

71. It is not that MPs per se have no operational place in fisheries management, it is that efficacy is directly dependent on the variable being monitored being suitable for purpose. CPUE is demonstrably unsuitable and unreliable on its own for use as a proxy for changes in abundance.

72. There are two distinct methods used to measure relative abundance; independent random sampling surveys and using fishery dependent catch data, in our case that is CPUE. Before we embed MPs in legislation, we need to have the certainty that we can detect changes in abundance and age structure across a QMA. Otherwise, an MP is based on very uncertain assumptions and becomes susceptible to manipulation, making the risks unacceptably high.

73. Before amending the Act, an acceptable method of measuring abundance must be identified and attached to any amendment. Our experience is that CPUE as a basis for measuring relative abundance has been extremely damaging to many inshore fisheries. This is where initial research needs concentrating - getting the fundamental inputs required to operate an MP accurate and reliable.

74. Skipping over this gap as if it doesn't exist, or the glib claim that standardised CPUE from commercial fishing events is a reliable index of relative abundance makes this

[7] Review of red rock lobster stock assessment modelling and the determination of management reference points. August 2024. Fisheries New Zealand. New Zealand Fisheries Science Review 2024/01. At [p.6]

proposal to amend the Act a means to continue fishing until all of the QMA is depleted, as the serial depletion will continue unnoticed by the data. We have seen this operate clearly in the rock lobster and inshore fisheries, where fishing concentrates on the most economic parts of a QMA while abandoning areas that have become uneconomic due to depletion.

75. CPUE measures the economics of fishing at specific sites and does not scale to QMA measurements. CPUE is maintained by seeking out the most economic areas to fish, not by sampling abundance across a QMA. Our objection to the proposed amendments is that there is no reliable way to measure relative abundance. If MPs are coveted, then the first task is to find a way to achieve reliable estimates of relative abundance. Otherwise, we fall into McNamara's fallacy with eyes wide open. Repeating mistakes already clearly identified and accepted is just ignorant. To not learn from the past and make improved decisions now is a clear warning sign that some very specific interest is being served by disguising past failures as a new success.

76. If we are searching for a data set that could be used to drive a MP, then perhaps a way to improve efficiency would be to look at the two ends of the age structure of the stock. The critical components that manage risk of catch is:

    a. the productivity (the numbers and range of pre recruits); and
    b. the maintenance of an age structured population such that it maintains reproduction at historical levels and continues to provide ecosystem function as a predator and prey.
    c. If we ignore these parts of the population, we lack any real ability to monitor the fishery for long-term production.

77. The failure to monitor and report age structure severely limits methodology options for stock assessments. It is very tempting to put this essential truth to one side and continue with the deception that CPUE is all that's needed to efficiently manage catch settings. In pāua and rock lobster monitoring, length of commercial catch can substitute for age data. Collecting long term data on the length frequency of low information stocks in a cost-effective way must be a priority. It is largely data on hand and easily structured to operate a MP. Ultimately, the increased risks to the stock rule out CPUE-determined Management Procedures however tempting it may be.

78. **The main beneficiaries of the current proposals are commercial quota owners** who will no longer have to fund stock assessments to gain increased TACC or ACE. A well crafted MP based on CPUE data will offer all the incentives needed to trigger TACC increases and avoid any reductions.

79. Our concern is that the current proposals offer a decision-making pathway that avoids the rigour of the current catch setting process, by enabling an instrument to be created that automatically performs functions currently requiring Ministerial discretion. This amounts to an abdication of crucial Ministerial discretion.

80. It's a fundamental tenet of administrative law that a statutory decision maker must not abdicate their discretionary power by adopting a fixed rule of policy. When an authority is entrusted with discretionary powers, discretion must be considered on its merits and decided as the statute and public interest may require.

Conclusions

81. We are not convinced that a simple, formulaic response using MPs to set catch limits will improve fisheries management. MPs weaken sustainability and remove Ministerial discretion, to the detriment of the environment and future generations' interests.

82. We reject the notion of treating all catches as adjustable because MPs remove the distinction between the Minister's statutory duty to set aside allowances for non-commercial interests and fishing related mortality, before setting the TACC. This is another pathway to proportional allocation, where all catches are viewed as equally important. As noted earlier, we totally reject proportional allocation.

Low information stocks

FNZ problem definition

Around 250 low information stocks in the QMS. Around 50% of these have not had a TACC change in 20 years. There are often high levels of uncertainty as to whether s13(2A) of the FA is being met. Section 14 is rarely used due to costs and other factors. Want to use camera and self-reported data from commercial fishers to inform management decisions for low information stocks.

FNZ Criteria	Our Rating - Rejected
Certainty Responsiveness Efficiency	Agree the application of ss 13 & 14 are cumbersome. Deliberately so. These are sustainability decisions. Properly apply the current Fisheries Act purpose and principles to rebuild fish stocks so there is less conflict during TAC allocation discussions.

Certainty

FNZ: The potential for each policy option to allow stakeholders to predict how regulation would apply, so they can prepare for how that regulation might affect them.

83. We want certainty in terms of sustaining the marine environment so fish populations and the ecosystem can thrive.

84. Minimising the status and legal obligations to stocks due to poor information or low commercial value was never contemplated in the Fisheries Act. The sustainability of all stocks is to be ensured, and the principles applied. This is particularly important when information is poor or unavailable. The commercial value of a species or stock is irrelevant; maintaining a functioning productive food web requires that all species are given the same status. Low information means low risk in catch settings not the other way around.

85. The submitters object strongly to the proposals as they seek to lock in proportional allocation of available catch, especially in low information stocks.

86. Quota investors have a long history of trying to convince the Minister and Cabinet that proportional allocation will provide certainty of who gets what in each fish stock, thereby reducing conflict. Each time, proportional allocation has been rejected as the public reaction has been swift and strong.

87. Applying Management Procedures to low information stocks is promoted as they enable larger catches to be justified on low quality information by using an easily manipulated process of estimating CPUE. This approach to setting catch limits has a poor history and is used to mask depletion of stocks and degraded ecosystems.

88. MPs change the fundamental nature of fishing interests. In low information stocks this is particularly concerning because it absolves the Minister from his statutory duty to ensure sustainability through the process of applying the purpose and principles of the Act (ss 8-10).

89. We have certainty now in that the Minister must first apply ss 8-10 to set a TAC to ***ensure sustainability***. He/she must then set aside reasonable allowances to provide for Māori customary non-commercial and recreational fishing interests. The remainder of the TAC is the Total Allowable Commercial Catch (TACC).

90. The certainty sought through this current process is to apply MPs so that the TACC and allowances are considered equally. This is proportional allocation, a model that has been considered and rejected by the Courts, and by the public in the past 24 years.

91. Proportional allocation of available catch is unacceptable especially when used as part of a MP.

92. In the kahawai proceedings the Supreme Court acknowledged the process the Minister follows when deciding how to set a TAC that must ensure sustainability[8]. The Court accepted that the Minister must ‘allow for’ non-commercial fishing interests, both Māori customary and recreational interests, as per s21 of the Act, before setting or varying a TACC.

[8] New Zealand Recreational NZSFC Inc v Sanford Ltd [2009] NZSC 54.

93. The Court acknowledged the allowances for non-commercial interests are different to the TACC. That the allowance for recreational interests is the Minister's best estimate or catch, and that the allowance must be reasonable. Also, that people providing for their wellbeing, particularly their social wellbeing, is an important element of recreational interests.[9]

94. The Kahawai Legal Challenge Court of Appeal proceedings referred to the 1997 Court of Appeal Snapper 1 ruling that discussed proportional allocation and clarified the status of the recreational allowance.

95. Snapper 1 proceedings.
[Justice Tipping, Court of Appeal CA82/97, 22 July, p18]

Proportionality

> The appellants' proportionality argument which was based on the concept of equality of sacrifice must first face the acknowledged fact that neither Act makes any express provision to that effect. If proportionality is a legal requirement it must arise implicitly. The appellants recognise this and submit that the necessary implication should be made. It is important to recognise that what is allowed for by the Minister in respect of the interests for which he must allow before setting the TACC, is not a quota as such. To take recreational fishers as an example, the "allowance" is simply the Minister's best estimate of what they will catch during the year, they being subject to the controls which the Minister decides to impose upon them e.g. bag limits and minimum lawful sizes. Having set the TAC the Minister in effect apportions it between the relevant interests. **He must make such allowance as he thinks appropriate for the other interests before he fixes the TACC. That is how the legislation is structured.** We do not consider it implicit in the relevant section or in the scheme of the Act as a whole that once the ratio of recreational tonnage to commercial tonnage is fixed there can be no change in that ratio except on an increased biomass. Section 21(2) of the 1996 Act obliges the Minister to consult interested parties including Māori, environmental, commercial and recreational interests. He must do this before setting or varying TACC. Each group will no doubt seek to advance its own position in the process. We can see no reason why either as his primary purpose or as a consequence of some other purpose the Minister should not be able to vary the ratio between commercial and recreational interests. To do that is in our judgment within his powers.
> There was a further complaint which can conveniently be dealt with under this heading. It was suggested that the Minister's decision was flawed because he had not taken any or any sufficient steps to constrain the recreational fishery. This is a point similar to one raised by the Māori appellants to be dealt with later. It is sufficient for present purposes to say that we are satisfied from the evidence that the Minister has made bona fide efforts to constrain recreational fishing. Bag limits have been substantially reduced over recent years and the minimum legal size for snapper was quite recently increased from 25cm to 27cm. In addition, the Minister has forecast further work in this area which satisfies us that he is very much alive to the need to restrain recreational fishing in a way which seeks to prevent the commercial sacrifice being caught on recreational hooks. The imprecision of the actual recreational catch is one good reason why strict

[9] At [54-55]

proportionality would be near impossible to achieve. That makes it difficult to imply an obligation to achieve it. Once one retreats from the proposition that strict proportionality is required, there can be no satisfactory solution other than that the Minister must act reasonably to seek to stop the saving resulting from TACC reductions being lost to recreational fishing.
A further matter which points against any implication of proportionate reduction is that the Minister is in our judgment entitled to bear in mind changing population patterns and population growth. **If over time a greater recreational demand arises it would be strange if the Minister was precluded by some proportional rule from giving some extra allowance to cover it,** subject always to his obligation carefully to weigh all the competing demands on the TAC before deciding how much should be allocated to each interest group. In summary, it is our conclusion that neither the specific sections (28D and 21) nor the Acts when viewed as a whole contain any implied duty requiring the Minister to fix or vary the recreational allowance at or to any particular proportion of the TACC or for that matter of the TAC. **What the proportion should be, if that is the way the Minister looks at it from time to time, is a matter for the Minister's assessment bearing in mind all relevant considerations.** [Emphasis added]

Responsiveness

FNZ: The extent to which each option enables the fisheries management system to adapt to changes (e.g. changes in the abundance of fish stocks).

96. The QMS is a high information management system established in 1986 by people who aspired to rebuilding severely depleted fish stocks and making commercial fishing more economically viable. The problem is that the QMS requires data that is rarely available for most fish stocks.

97. It is apparent that the QMS is unable to operate simplistically as the notions of the economists around resource management have not integrated with the ecological reality of fisheries. Particularly so in the inshore fisheries where mixed species catch is normal. The solution to the failure of integration is not to diminish the importance of species due to commercial value, but to incentivise selectivity and practice precautionary decision making, ensuring all species are sustainably harvested.

98. The shift from resource rentals to a cost recovery system has also contributed to poor management, because there is less money available for research. In an earlier submission we noted the number of stocks in the QMS has increased 3.5 times while the research budget is about 45% of what it was in real terms, in the early 1990s. It's likely that percentage is even lower now, especially given the Minister's August 2024 decision to cut industry annual levies by $5M.

99. Ideally, fisheries independent data is used to inform stock assessments, which are a necessary part of ongoing fisheries management. Independent data is not always possible or considered affordable so often managers default to using data collected by commercial fishers, including CPUE.

100. The use of CPUE has undermined management of some of our most treasured fish species such as rock lobster, bluenose, scallops and tarakihi. At times this has led to widespread public campaigns to influence Ministerial decisions, so they are more precautionary and protective of the marine environment.

More responsive fisheries management while spending less

101. A major concern with responsive fisheries management and rapid assessments is the type of information available to inform management decisions. Historically, commercial catch rates, CPUE, has been used to describe trends in abundance for a stock. Not because it is high quality or precise, but because it is all that is available for many species.

102. Tagging programmes and catch at age studies at scale are expensive. Length based models are used for some of our most valuable inshore stocks that are hard age, such as rock lobster and pāua.

103. Faster decisions based on poorer information jeopardises sustainability.

104. Low information stocks need low-risk conservative catch settings, not lower standards of protection from overfishing.

A new approach for estimating stock status from length frequency data

105. Sound fisheries management requires information on sustainable catch levels, not only for the most valuable, but of all exploited fish stocks.

106. The most cost-effective way to accurately monitor low information stocks is introduce the systematic collection and analysis of fish lengths, using cameras on vessels or in fish factories. Length frequency data is rarely collected for inshore commercial finfish fisheries in NZ.

107. A research paper by Froese et al shows how. The size or age composition of exploited populations has long been used in fisheries management as an input to models that estimate current stock size (biomass) and the percentage of the unfished stock (B_{zero}). These models rely heavily on trends in commercial catch rates as the key indicator of changes in abundance. Catch rates for a species can vary for a variety of reasons such as changes in:

a. Market price or fishing gear;
b. Increases in catch efficiency or area fished;
c. Discard practices and reporting rates.

108. Researchers have published a Length-based Bayesian Biomass method (LBB) using fish length data from commercial catches collected by standard port sampling and

fisheries observer programmes. They tested their method and estimates of relative biomass using LBB matched "true" values using simulated data and the corresponding estimates from full stock assessments, where data was available. LBB is designed to require minimum data input and is a valuable new addition to the assessment toolbox, especially for data-poor stocks.[10]

Efficiency

FNZ: The extent to which each option allows stakeholder and government resources (e.g. fisheries resources or fisheries management time) to be allocated in a way that delivers the maximum benefits at minimum cost.

109. The addition of s13(2A) to the Fisheries Act in 2008 was the first step in diluting the sustainability provisions in the Act. We submitted against that change. Now FNZ are suggesting that there is not even enough information to support the use of s13(2A) and want to create a new provision for setting catch limits for low information stocks. We do not believe that a risk-based assessment is a sufficiently robust process to manage a dynamic, low information stock.

110. Sections 13 and 14 of the Act are sufficiently wide ranging to enable decisions for sustainability purposes. If the low information stock cannot meet the necessary standard for the application of either of these sections, then we submit the stock cannot be sustainably managed and ought to be removed from the QMS.

111. FNZ suggests a new Schedule to define fish stocks that can be managed under a new provision in the Act. Not acceptable.

112. The alternative proposed by FNZ, to have changes via a Notice is not acceptable. Cabinet must be given the opportunity to approve any changes, and they can expect the public to hold them accountable for their decisions. There is no escape from public scrutiny.

113. The proposed amendments seek to remove the sustainability constraints on a decision-maker. Instead, greater weight will be given to quota owners' views of sustainability rather than the Fisheries Act. This fundamental devolvement of management functions to quota owners by taking into account quota owners' non-statutory voluntary actions, the socio-economic effects of reducing catch, and additional ACE carry forward provisions, is a perfect setting for reducing fish abundance further without being reviewed in Court.

[10] Froese, R., Winker, H., Coro, G., Demirel, N., Tsikliras, A. C., Dimarchopoulou, D., Scarcella, G., Probst, W. N., Dureuil, M., and Pauly, D. (2018). A new approach for estimating stock status from length frequency data. – *ICES Journal of Marine Science, 75*. Pages 2004–2015.

Conclusion

114. Low information stocks need more precautionary management, not more opportunities for greater exploitation. Maintaining fish populations using all available information can improve public perception of FNZ and the Minister. Faster decisions based on poorer information jeopardises sustainability and leaves the process open to manipulation. Public confidence in fisheries management must be rebuilt along with our depleted inshore fish stocks. There is already too much happening out of public view.

Better integrate social, cultural, and economic factors when deciding a rebuild period

FNZ problem definition

Previously, the social, cultural and economic implications of catch setting decisions were taken into account. Recent court judgments[11] have held that socio-economic factors have limited application when the Minister is deciding on the way and rate a depleted stock is rebuilt to the target level. Need to amend the FA to provide greater recognition of socio-economic factors when setting the catch limit.

FNZ Criteria	Our Rating - Rejected
Certainty Responsiveness Efficiency	Sustainability must be ensured. The TAC is the primary tool to ensure sustainability. The impact on fishers is a secondary consideration after the purpose and principles of the FA have been applied to decide on the TAC and rebuild options.

Certainty

FNZ: The potential for each policy option to allow stakeholders to predict how regulation would apply, so they can prepare for how that regulation might affect them.

115. There is certainty now in how the regulations apply, officials and quota owners clearly want to change how TAC and TACC decisions are made. The proposed amendment seeks to loosen the statutory tests to enable greater catches. However, the Courts have been clear. There is no trade-off between sustainability and socio-economic factors.

[11] TAR judgment CIV-2019-485-752 [2021] NZHC 1427; [2023] NZCA 359, [2023] 3 NZLR 780 (Brown, Courtney and Goddard JJ) [CA judgment] and SC 99/2023 [2024] NZSC 111.

Responsiveness

FNZ: The extent to which each option enables the fisheries management system to adapt to changes (e.g. changes in the abundance of fish stocks).

116. This amendment purports to ensure consistency while promoting a high-risk strategy. Currently, the Minister must apply the purpose and principles when setting a TAC so that the fish stock can be managed at a productive level, leaving enough fish in the water to provide for the foreseeable needs of future generations (FA,ss 8-10).

Efficiency

FNZ: The extent to which each option allows stakeholder and government resources (e.g. fisheries resources or fisheries management time) to be allocated in a way that delivers the maximum benefits at minimum cost.

117. New Zealand manages stocks at low levels that will routinely need to be rebuilt. Permitting long rebuild times encourages overfishing and continuing to keep stocks low for longer increases the long-term risks to productivity.

118. While overfishing might deliver short-term gains for commercial fishers, the environment and public pay the price for those excesses.

Conclusion

119. This amendment is code for trading off the future cost of catch reductions for continued income in the short-term. Rejected outright.

Recognition of non-regulatory sustainability measures

FNZ problem definition

The Minister is not obliged to consider non-regulatory, voluntary, measures when making decisions, including when setting a catch limit under the FA. This reduces the incentives for fishers to take collective action that benefits the fishery.

FNZ Criteria	Our Rating - Rejected outright
Certainty Responsiveness Efficiency	Reject FNZ Option 1 - The Minister ***may*** recognise any non-regulatory measure. Reject FNZ Option 2 - The Minister ***must*** consider ACE shelving and catch spreading.

	Voluntary measures are not enforceable. The Minister ***must*** ensure sustainability.

Certainty

FNZ: The potential for each policy option to allow stakeholders to predict how regulation would apply, so they can prepare for how that regulation might affect them.

120. Certainty is not increased with either of FNZ's options as they are voluntary measures relying on self-reported data.

121. Self-reporting will always make these measures look good. For example, ACE shelving in rock lobster stocks occurs when the fish are not there to catch. Implementing shelving makes it look like a sustainability measure when its only outcome is to improve CPUE as effort shifts to higher abundance areas. This increase in CPUE is then accepted by officials as an increase in abundance and commercial interests lobby hard for a TAC review or application of a Management Procedure to increase the TACC.

122. The Courts have identified that the Minister must ensure sustainability, and the primary tool is setting the TAC. If fish are not available to catch, then the TAC is reduced in most circumstances or another sustainability measure such as an area closure is applied.

123. Sustainability cannot be ensured via a voluntary measure.

124. The proposed amendment locks in voluntary measures as a sustainability measure. This is not acceptable, nor is it measurable or verifiable by independent testing.

125. FNZ's claim that the "Administration of ACE shelving and catch spreading is known to be effective in supporting sustainability" [at 142] cannot be verified. We object to this misleading statement because the public will have little opportunity to understand or test the veracity of this claim.

126. If non-regulatory measures are accepted as a sustainability tool, they must be measurable, enforced and reported on, and the results made available for public scrutiny.

Responsiveness

FNZ: The extent to which each option enables the fisheries management system to adapt to changes (e.g. changes in the abundance of fish stocks).

127. Voluntary measures such as catch spreading are already applied in some stocks by industry groups, they do not require legislation changes or Ministerial approval.

128. The current law is the correct standard of governance. Quota owners, as private shareholders can already complete shareholder agreements if they want to. These agreements can cover a multitude of matters. However, that does not excuse the Crown of its obligations to the public. Relying on shareholders to manage depletion by shelving or localised depletion by catch spreading is a distraction from the Minister's obligation to ensure sustainability and the role that TACCs have in the QMS - to control catches.

129. The only times these voluntary measures arise is when a large TACC reduction is proposed, and a stock is in trouble. ACE shelving is not proactive beyond an offer to shelve what cannot be caught.

130. Rock lobster management is used as an example of ACE shelving, where in CRA 2 commercial interests offered to shelve 25% of their catch. Truth is, that ACE was uncatchable because the fish stock was so depleted. Public pressure on the Minister resulted in a 60% reduction in the TACC, in 2018.

131. Rock lobster stocks are regularly reviewed by the National Rock Lobster Management Group. Based on available evidence, every year specific stocks are chosen for review. Management is responsive to changes in abundance because resources are invested into the stock due to its high value and export receipts.

132. The problem is misdiagnosed, because clearly the system is responsive for high value stocks. It is low information and commodity stocks that are not reviewed regularly due to their low economic value.

133. FNZ promotes the benefits of this amendment as allowing for "new innovative non-regulatory measures to be considered on a case-by-case basis". [At 131] We are not opposed to all non-regulatory measures; we reject them if they seek to apply to non-commercial fishing interests without adequate input from public interests.

134. Moreover, innovation is not stifled by Ministerial discretion or a lack of statutory support. It is a lack of investment and commitment from commercial interests, and the absence of any commitment from the government to support a transition to less impactful fishing techniques, that stifles innovation.

Efficiency

FNZ: The extent to which each option allows stakeholder and government resources (e.g. fisheries resources or fisheries management time) to be allocated in a way that delivers the maximum benefits at minimum cost.

135. Commercially developed Fish Plans already include some non-regulatory measures. The Minister has approved Plans for pāua and other stocks. The Minister already must consider these Plans when making a decision but does not have to follow it.

This was confirmed by the current Minister in an undated letter to the NZSFC received on 6 August 2024, concerning the Pāua 2 (Wairarapa) commercial Fisheries Plan, April 2024.

> "In approving the plan, I note that voluntary catch shelving arrangements do not replace my requirement to set a sustainable total allowable commercial catch for this fishery"...therefore my approval of the plan under s11A does not constitute an agreement or commitment to do this, despite its inclusion in the plan."

136. We are concerned with the Minister's next comments in the letter regarding proportional allocation.

> "Similarly, the plan's inclusion of proportional allocation does not constitute a commitment to advocate for this in future sustainability reviews. Any review of the statutory settings for these fisheries would continue to require consultation as part of Fisheries New Zealand's sustainability process, with any decisions made by the Minister for Oceans and Fisheries".

137. The proposed amendment seeks to legitimise the illegitimate, by circumventing recent Court rulings that discount voluntary measures. The public has little to no influence on the development or approval of these voluntary arrangements and by association industry-developed Fish Plans.

138. It's a red flag for us that ACE shelving, catch spreading and proportional allocation could all become legitimate "sustainability" measures under the FA and apply to the TAC, when in reality the measures currently only apply to the TACC.

Conclusion

139. This amendment is another means to include recreational harvest and interests in the Quota Management System and take a proportional allocation approach to the TAC. This proposed amendment is rejected outright.

Differential ACE carry forward

FNZ problem definition

There are times when fishers are unable to catch the full ACE in a fishing year. This may be due to personal circumstances or one-off adverse external events. Current carry forward is limited to 10% of unused ACE.

FNZ Criteria	Our Rating - Rejected outright
Certainty Responsiveness Efficiency	FNZ Option 1 - Increase the ACE carry forward from 10% to 15%. FNZ Option 2 - Additional ACE carry forward for a stock for one year in exceptional circumstances.

Certainty

FNZ: The potential for each policy option to allow stakeholders to predict how regulation would apply, so they can prepare for how that regulation might affect them.

140. Allowing carry forward of any stock increases the risk of overfishing.

141. The reason ACE is not fully caught is usually that the fish are not there to catch or the TACC is overallocated in relation to the available stock.

Responsiveness

FNZ: The extent to which each option enables the fisheries management system to adapt to changes (e.g. changes in the abundance of fish stocks).

142. FNZ suggests this change would not add significant risks to sustainability however, there is no provision to measure any change in abundance. FNZ provides an example of the 10% ACE carry forward granted by the Minister to rock lobster fishers during the 2020 Covid crisis.

143. Existing provisions already enable 10% carry forward of uncaught ACE.

144. For most inshore fish stocks there is poor information available now, so a change from 10% carry forward to 15% carry forward will be unmeasurable. This puts the stock at risk and jeopardises the Minister's statutory responsibility to ***ensure sustainability***.

Efficiency

FNZ: The extent to which each option allows stakeholder and government resources (e.g. fisheries resources or fisheries management time) to be allocated in a way that delivers the maximum benefits at minimum cost.

145. Option 2, to grant additional ACE carry forward in exceptional circumstances, is already available under current legislation. Option 2 merely transfers the control of the fish stock to the quota owners. We do not accept this change.

146. While this might seem like a more efficient way to manage uncaught ACE, the public will have little chance to have input into the 'rapid' process. This is a major concern because we already struggle to influence processes seeking approval from MPI's Chief Executive due to the short submission timeframes.

Conclusion

147. Reject the amendment because the existing provisions are sufficient to enable 10% carry forward, that is the correct precautionary approach.

Carry forward of ACE for rock lobster stocks

FNZ problem definition

There are times when fishers are unable to catch the full ACE in a fishing year. This may be due to personal circumstances or one-off adverse external events. No provision for carry forward of rock lobster ACE.

FNZ Criteria	Our Rating - Rejected outright
Certainty Responsiveness Efficiency	FNZ Option 1 - Remove rock lobster from Schedule 5A, to enable ACE carry forward of 10% or 15%. FNZ Option 2 - Enable 10% ACE carry forward at the request of quota owners.

Certainty

FNZ: The potential for each policy option to allow stakeholders to predict how regulation would apply, so they can prepare for how that regulation might affect them.

148. Allowing carry forward of any stock increases the risk of overfishing.

149. The reason ACE is not fully caught is usually that the fish are not there to catch.

150. It is not clear from the proposal document if this amendment applies to packhorse crayfish (PCH) as well as spiny red rock lobsters. If PCH is included in this amendment our comments apply to both packhorse and spiny reds.

151. From the outset of the QMS the management of rock lobster was more conservative due to the high social, economic and cultural value of the fishery. Initially, they were only available on a maximum 25-year lease. Management has since changed to perpetual quotas so it's important some guardrails are maintained so the stock can be protected and enhanced for the benefit of future generations. Putting rock lobster stocks into Schedule 5A was a protection measure that is still valid today. It must be maintained to give us all more certainty that rock lobsters will be managed to meet the purpose and principles of the FA.

Responsiveness

FNZ: The extent to which each option enables the fisheries management system to adapt to changes (e.g. changes in the abundance of fish stocks).

152. FNZ suggests this change would not add significant risks to sustainability however, there is no provision to measure any change in abundance. This puts the stock at risk and jeopardises the Minister's statutory responsibility to ***ensure sustainability***.

153. Management of rock lobster stocks relies on CPUE being fed into computer generated models. This data is easily manipulated to deliver results that support greater commercial catches.

154. Experienced recreational fishers have witnessed a collapse of crayfish biomass on the east coast of the North Island yet the estimated stocks sizes in CRA 1, 2 & 3 is at odds with what is actually happening in the water.

155. Option 1 provides for the removal of rock lobster from Schedule 5A so that ACE carry forward would be available in every fishing year.

Efficiency

FNZ: The extent to which each option allows stakeholder and government resources (e.g. fisheries resources or fisheries management time) to be allocated in a way that delivers the maximum benefits at minimum cost.

156. We do not accept any moves to hand control of rock lobster stocks to quota owners. Only the Minister has a statutory duty to ***ensure sustainability***. Quota owners have their own objectives based on maximising returns at least cost. In most CRA stocks

this has come at the expense of the public's social, economic, environmental and cultural wellbeings and to the detriment of the environment, as evidenced by the proliferation of kina barrens.

Conclusion

157. Reject the amendment.

Increasing the threshold for suspension of fishing permit for non-payment of deemed value

FNZ problem definition

The threshold setting of $1000 for suspension of a fishing permit due to non-payment of deemed value invoices has not changed since 1996. Want to increase the threshold from over $1000 of unpaid fees, to $2000 of unpaid fees.

FNZ Criteria	Our Rating - Unnecessary
Certainty Responsiveness Efficiency	FNZ proposal - Change the monetary threshold for unpaid deemed value invoices.

Certainty

FNZ: The potential for each policy option to allow stakeholders to predict how regulation would apply, so they can prepare for how that regulation might affect them.

158. At first blush this seems like a trivial and unnecessary change that excuses debtors of their obligations.

159. FNZ advises the incidence of suspensions has been consistently low and declining over the years. However, FNZ has not provided any information describing how many permits were cancelled for unpaid fees between $1000 and $2000.

160. The one certainty is that deemed fish represent mortality to the fish stock that was not anticipated and allowed for in that year. There must be a penalty to causing this mortality and to incentivise a change in fishing method and/or behaviour.

Responsiveness

FNZ: The extent to which each option enables the fisheries management system to adapt to changes (e.g. changes in the abundance of fish stocks).

161. FNZ advises that some industry representatives consider the suspension for non-payment ought to be removed, or the threshold increased because the “current requirements are unnecessarily costly for fishers”.

162. FNZ also advises that the possibility of suspension “helps to ensure fishers meet their obligations”. We agree.

Efficiency

FNZ: The extent to which each option allows stakeholder and government resources (e.g. fisheries resources or fisheries management time) to be allocated in a way that delivers the maximum benefits at minimum cost.

163. Thresholds are part of doing business and must remain as an incentive to pay invoices on time as the fisher would have already received payment for the deemed fish.

Conclusion

164. Reject the amendment as unnecessary.

Part 2 - Greater protection for onboard camera footage and ensuring the onboard camera programme is workable

165. The first task for FNZ is to clearly state what the purpose is of the camera programme. From our perspective, the continuing process of increasing defences against continuous monitoring of commercial vessels by cameras is beginning to look like there remains little achievable purpose to the programme. In the early days of the programme, around $50M of public money was committed to this project, with some cost recovery expected. Perhaps the resources would be better served by hiring additional onboard observers.

Camera footage protections for onboard cameras

FNZ problem definition

Commercial fishers are concerned about whether there is sufficient protection for camera footage under the OIA. The risk is their concerns will erode fisher support for cameras and undermine accurate reporting that informs decision-making.

FNZ Objectives	Our Rating - Some merit in Option 1; Reject Option 2
Certainty Privacy and confidentiality Transparency	FNZ Option 1: Greater recognition for current approach to requests for footage. FNZ Option 2: Exemption of footage from the OIA.

166. We support FNZ's Option 1, to confirm FNZ practices for assessing requests for camera footage with the Ombudsman to ensure compliance with the Official Information Act (OIA), on the proviso that an independent body is required to oversee and report on the proportion of video that is actually reviewed, and compliance with reporting and discard regulations. The OIA would remain as the framework for assessing requests for onboard camera footage.

167. The submitters reject FNZ's Option 2 on the basis that camera footage must remain available to the public through the OIA process and with oversight by the Ombudsman. We object to any change to the Fisheries Act to enable FNZ's Option 2.

168. FNZ note that it is a "rare situation" that government owned cameras are installed on private property and workspaces.[12] There are two aspects to this statement:

[12] Proposed amendments to the Fisheries Act: Consultation Document. Fisheries New Zealand Discussion Paper No: 2025/03. February 2025. At 194.

a. The cameras are government owned because commercial fishing interests have resisted installation for many years[13].
b. We disagree with the rarity of cameras. It is extremely common these days for cameras to be installed in workplaces to monitor human activity. The unique element of this discussion is that private companies are permitted to exploit public resources with minimal public scrutiny of those activities.

169. It is unfortunate that measures to monitor fishing are routinely resisted, because we know from our own discussions with people that greater transparency means increased public confidence in commercial fishing practices.

170. We note the concerns about privacy however, given the limited number of onboard cameras and that they are deliberately set up to only capture the work area where fishing occurs, privacy issues ought to be minimal. Reality is, the public are not interested in what fishers are doing in their private time, the public merely want assurance that fishing activity is having the least possible impact on the marine environment.

171. Again, it comes back to FNZ's objective for this process, is the objective transparency or secrecy?

172. The concerns about misuse of released footage highlights the need for greater transparency, not less.

173. The fact remains that the only time camera footage has been instrumental in changing behaviour is when it is in the public domain. Permitting cameras to be switched off at times merely offers an unmonitored window when fish can be discarded without scrutiny.

174. We know the cameras are useful for capturing onboard fishing activity. A 2024 Ministry for Primary Industries report revealed a 46% increase in reported fish being tossed overboard after cameras went live on a portion of commercial vessels, proving their effectiveness at incentivising reporting.

175. Since the introduction of onboard monitoring cameras, reports of kingfish discards rose 950%, and snapper over 1200%. Reported interactions with dolphins, seabirds and other protected species are on the rise. Albatross reports were up by 370%.[14]

176. If protections are provided to ensure no camera footage enters the public domain, then how is the footage to be monitored and how will the results be reported to Parliament?

[13] https://rescuefish.co.nz/wp-content/uploads/2020/06/Talley-cameras-discards-2-July-2018.pdf

[14] Overview of the rollout of on-board cameras on commercial fishing vessels. Fisheries New Zealand. 9 February 2024.

177. It is ridiculous to suggest the footage be monitored by any entity connected to the commercial fishing industry, and only summaries released to the public.

Conclusion

178. An independent body is required to oversee and report on the proportion of video that is actually reviewed and compliance with reporting and discard regulations. FNZ needs to maximise the utility of onboard cameras to ensure compliance and even collect biological information, such as length frequency, to justify the huge investment of time and money to date. If this is not an option then perhaps the programme ought to be discontinued, because we have reached the point where these proposals are only concerned with ensuring there is no public exposure of camera footage rather than the purpose and efficacy of the programme in general. If this is so, then the intent expressed by some high profile industry people of defeating the camera monitoring programme is successful.

Question for FNZ

179. What is FNZ's objective for this process, is the objective transparency or secrecy?

Amendments to the scope of onboard cameras

FNZ problem definition

Clarify what classes of vessels are excluded from the requirement to have onboard cameras monitoring fishing activity. Namely, exclude vessels greater than 32m in length and vessels less than 8m in length.

FNZ Objectives	Our Rating - Some merit in Option 1 for small vessels
Certainty Privacy and confidentiality Transparency	FNZ Option 1: Remove requirement for any vessel less than 8m to operate onboard cameras. FNZ other Options: Rejected.

180. We support the widespread rollout of onboard cameras on all commercial fishing vessels over 8 metres in length, to verify reporting of the capture of protected species and reduce discarding and waste of fish that must be legally retained.

Clarifying camera use requirements

FNZ problem definition

Clarify when onboard cameras need to be 'active' to record fishers' activity.

FNZ Objectives	Our Rating - Option 1 - support. Option 2 - rejected
Monitoring effectiveness Efficiency Privacy and confidentiality	FNZ Option 1: Require onboard cameras to operate port to port. **Support** FNZ Option 2: Require onboard cameras to operate during fishing and transit to and from fishing locations. **Rejected**.

181. We support the requirement for cameras to be actively monitoring the onboard fishing areas port to port.

182. We support the current requirement for cameras to be active when vessels are transporting fish. The current definition of "Transportation" is defined in section 2 of the FA, as: "the receiving and carriage of fish, aquatic life, or seaweed by any vessel; or the storage and refrigeration of fish, aquatic life, or seaweed by any vessel for the purpose of carriage". What part of this definition is not clear?

183. Without port to port monitoring, there are opportunities for fishing, discarding or dumping to occur without scrutiny. Anecdotal reports of past fishing behaviour aboard commercial vessels indicate the dumping overboard of fish while at anchor was a routine activity, particularly in the remote areas of the Hauraki Gulf.

184. We do not support the existing provisions that enable cameras to be switched to 'STANDBY' mode when using potting, trolling or drop lining, at anchor, not transporting fish, and when fishing for customary purposes. We understand data storage may be an issue, however, the use AI ought to filter the irrelevant footage from fishing activity.

185. A 2024 MPI report revealed a 46% increase in fish being tossed overboard after cameras went live on a portion of commercial vessels. **Cameras are clearly effective at incentivising improved reporting while they are turned on.**

186. Two MPI research projects, FAR2016/57 and FAR2021/37, cover the operation of cameras to monitor catches aboard commercial fishing vessels. Even with AI, the research found that there is no way to determine from the camera footage the exact size of fish or weight of a bin of fish that is kept or discarded overboard. This means management will still need to rely on trust and the self-reported data provided by commercial fishers. Until technology and placement improve, cameras are no substitute for onboard human observers, yet we know that the current rates of observer coverage of inshore commercial fishing has almost ceased.

187. FNZ are concerned that operating cameras port to port will mean that footage is recorded every time a fisher is in view of a camera, regardless of whether fishing was occurring. However, improvements in AI since the outset of the camera programme means analysis of footage is more refined and irrelevant footage can be discounted at a faster, more efficient rate.

188. There are economic drivers within the QMS that lead to fish dumping. Until those systemic issues are resolved, fishers will continue to find ways to discard uneconomic catch and retain catch that is profitable. Port to port monitoring may help to expedite the changes required to the QMS.

189. FNZ suggests that under Option 2 they would retain the regulatory authority to require specific vessels to operate cameras port to port, "to assist monitoring compliance with the regulations".[15] It would be more cost effective to require port to port monitoring and using AI to identify patterns of behaviour.

Implementation, monitoring and evaluation for Part 2

190. FNZ suggests that they have "well established practices and systems for managing and responding to OIA requests".[16] Current perception is that the OIA request process is fraught and that MPI can be obstructive rather than helpful in terms of delivering information requested. This increases the perception that MPI are hiding information from the public. We would recommend more transparency to improve public perception of commercial fishing practices and MPI procedures.

[15] Proposed amendments to the Fisheries Act: Consultation Document. Fisheries New Zealand Discussion Paper No: 2025/03. February 2025. [At 256.]
[16] [At 258]

Part 3 - Implementing new rules for commercial fishers that set out when QMS fish must be landed and when they can be returned to the sea

Monitored returns

191. We have made numerous submissions in the past on monitoring of commercial catches, and the land-all catch policy. The current proposed amendment to the FA seeks to weaken the protections of fish from capture and discards/dumping of fish overboard.

192. The issue of discards is not new. The 2016 Heron Report quotes the MPI Director of Fisheries Management, David Turner, in a 2014 report to colleagues making the following statement (in part) -

> "....discarding is a systemic failure of the current system and something we have not been able to get on top of from day 1 of the QMS. FM [Fisheries Management] can't quantify the tonnages involved but we suspect they are significant to the point that they are impacting on stocks. We estimate that if we found the golden bullet to stop discarding, we would probably put over half of the inshore fleet out of business overnight through lack of ACE availability to cover by-catch."[17]

193. Two MPI research projects, FAR 2016/57 and FAR 2021/37 discuss the operation of cameras to monitor commercial catches. It's been made very clear to working groups, commercial interests and officials that onboard cameras are not capable of discerning species and quantities of fish in bins dumped back to the sea.

194. Until technology, placement and incentives improve, cameras are no substitute for onboard human observers. The issues preventing observer coverage on most inshore commercial fishing vessels need to be resolved.

195. We have previously submitted a simple solution. That is, to have a science-based approach to the large investment made in the rollout of onboard cameras. Having a significant proportion of vessels fitted with cameras directly over a conveyor or fish table recording all catch on that vessel, and using AI technology to record the species and size of fish with all location and fishing gear parameters would be a game changer. This would significantly improve data collection for management and stock assessment purposes.

196. To now suggest that fish can be tossed overboard on the basis that an observer is onboard or if a camera is onboard is to knowingly permit the ongoing wastage of fish, some of which would be perfectly edible and desired by people onshore.

[17] Independent Review of MPI/MFish Prosecution Decisions Operations Achilles, Hippocamp and Overdue. Michael Heron QC. 15 September 2016. [At 24]

197. It is concerning that there is still no incentive for fishers to transition away from using bulk harvesting methods to catch fish. If we want to improve productivity of the marine environment, we need a change in fishing techniques and behaviour. Improving productivity and abundance of fish means more selective fishing techniques can be deployed to catch more and bigger fish and avoid unwanted catch so fewer fish are crushed or handled, tossed overboard and wasted.

198. FNZ has proposed that the requirement to balance monitored returns provides incentives for commercial fishers to fish selectively and make the best use of what is caught. FNZ suggests that fish returned to sea alive do not need to be balanced with ACE, whereas damaged or dead fish can be returned to the sea and balanced against ACE. Realistically, fishers are not going to pay deemed value penalties for fish they toss over the side.

Questions for FNZ

199. Given the limitations of cameras to verify species and bin weights:
   a. How will FNZ verify that the species and amounts of fish tossed overboard aligns with the self-reported data from commercial fishers?
   b. What protections are in place to stop fishers discarding dead or damaged fish and recording them as 'live' so they do not have to be balanced with ACE?
   c. Many species caught in the mixed finfish trawl fisheries have uncatchable TACCs, this makes it attractive to record discarded fish as being within that uncatchable TACC to avoid deemed value payments for species that are fully caught, or for which no ACE is available. How will MPI stop fishers misreporting species tossed overboard to avoid deemed value penalties or ACE balancing?

200. Currently cameras collect no useful biological data.
   a. What government reforms are required to allow fisheries observers back on inshore commercial vessels, as they have been doing for over 30 years?

Part 4 - Alternative policy - Rescue Fish Ika Rauora

An alternative to the QMS

201. New Zealand adopted the QMS in 1986 to improve economic efficiency and manage fisheries resources sustainably. Forty years later we have not achieved those goals. Instead, the QMS has evolved into a system that relies on quota consolidation, rent seeking by quota owners, and private control over a public resource, all while ignoring the needs of small-scale, regionally based fishermen and women.

202. Māori are particularly disadvantaged by current laws and practices. Māori have few opportunities to meaningfully contribute to ensuring abundance for current and future generations. The public is becoming increasingly frustrated that the rights-based QMS has deprived them of the abundance and diversity their grandparents enjoyed.

203. The governance and management of New Zealand's fisheries is in crisis. We need to address issues related to fish depletion and the loss of marine biodiversity.

204. The New Zealand Sport Fishing Council and subsidiary LegaSea have invested more than a million dollars into developing an alternative to the QMS. The alternative policy is Rescue Fish Ika Rauora. The Rescue Fish package has been developed to deliver the economic, cultural and social potential that New Zealanders aspired to when the QMS was introduced.

205. The first iteration of the Rescue Fish policy was released in May 2020. It explored a government buyback of existing quota rights in both deepwater and inshore fish stocks. After much debate and feedback, it is obvious that the inshore and offshore fisheries have very different dynamics and must be managed separately. The urgent need is to start with reforming management of inshore fish stocks.

206. Recent polling[18] shows strong public opposition to some aspects of the proposed reform, and strong support (78% of New Zealand adults) for ensuring access to fish for local consumption ought to be a priority.

207. If New Zealand is committed to increasing exports, then we must do better than just bulk exporting whole, frozen fish for less than $5 per kilo. Adding value to fish prior to export could simply be processing fish prior to export or making specialist cuts to suit niche markets.

208. Rescue Fish is a response to depletion and the plight of small-scale inshore fishers, most of whom do not own their quota. They are ACE fishers, leasing from investors or corporate quota holders, often at rates that leave them with little or no profit.

[18] Fisheries policies support. Horizon Research. February 2025.

Many quota owners do not fish; they control access to the resource, sitting back while independent fishers shoulder all the costs and risks.

209. Fishers must lease ACE at price per kilo, meaning they pay for the right to catch fish before they have even left the wharf. On top of that they face operational costs - fuel, wages, compliance fees - all of which continue to rise. If they do not catch enough fish, they still owe the quota holder their lease fee. If the fisher catches fish they do not have ACE for, they are forced to pay a deemed value penalty to the government, which often wipes out any profit they might have made from a trip.

210. The system is stacked against small-scale fishers, designed to extract maximum economic rent for quota holders while the people actually doing the fishing struggle to stay afloat.

211. This is why the bycatch debate is so frustrating. Bycatch isn't a fluke or a fisher problem, it is a direct result of the legalised mass harvest methods that dominate New Zealand's fisheries. Trawling, seining, and dredging don't discriminate, they are used to harvest undersized fish, non-target species, and protected marine life. Because of the way the QMS is structured, fishers operating these methods end up in an impossible position. If they land bycatch, they have to pay for it; if they can discard and keep fishing they will, because the alternative is more financial stress. The quota holders still get their money either way, and the current proposals seek to legitimise this wastage.

212. While discards are a problem, the fundamental issue is that our fisheries are depleting, sinking under a system that drives fishers into making economic decisions while corporate interests extract wealth from leasing out a public resource.

213. If we want more fish in the water, then we need to shift away from a model that treats our fisheries as a trading commodity for big business.

214. We need to replace the QMS because it is a broken system, and it is failing Kiwis. We need to address over allocation of fish stocks, and move away from destructive, high bycatch fishing methods that damage marine ecosystems. Then focus on sustainable, selective practices that do not waste so much of what is taken from the ocean.

215. This submission is not about being anti-commercial. It is about being pro-sustainable, pro-community and pro-New Zealand. We believe:

a. Small-scale artisanal fishers need to be able to make a fair living and sell their catch to their local community.
b. Young people need to be able to enter fishing and thrive under the tutelage of experienced operators.
c. Kiwis need to be able to afford local seafood; and
d. Our fisheries ought to be managed for long-term health, not short-term profit for a handful of corporate shareholders.

216. The Rescue Fish Ika Rauora policy seeks an outcome that will provide for thriving small-scale commercial fishing operations, encourage regional whanau businesses, job growth, higher returns for fishers and an ongoing income stream for the country. More fish in the sea is a win for our fish and people. Rescue Fish is a solution to the current crisis, we just need to take the first bold steps.