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“More fish in the water/Kia maha atu nga ika ki roto i te wai”

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Measures to Support Reopening the Marlborough Sounds Amateur Blue Cod Fishery: Consultation on the regulatory measures included in the proposed management plan developed by the Marlborough Sounds Blue Cod Management Group.

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Introduction

1. This submission is made on behalf of the NZ Sport Fishing Council and option4. This submission is also made in the interests of assisting the Minister of Fisheries (the Minister) and Ministry of Fisheries (MFish) to achieve an abundant Blue Cod fishery in the Marlborough Sounds, to enable people to provide for their social, economic and cultural well-being.
2. The joint submitters appreciate the opportunity to comment on the Ministry of Fisheries (MFish) Initial Position Paper (IPP) for the future management of Marlborough Sounds Blue Cod. The IPP was released for consultation on 24 August, with submissions due by 4 October 2010.

3. Included in the IPP is the Marlborough Sounds Blue Cod Management Group's (BCMG) proposed management plan and the Ministry's initial appraisal of the plan's regulatory measures.
4. We agree with MFish's initial view that not all of the proposed management plan's measures are critical to achieving the fishery objectives, and that some of the measures would benefit from small modifications to how they are applied.
5. The joint submitters acknowledge and support the effort of both the Marlborough Recreational Fishers Association and TASFISH. While these groups may not agree on all aspects of the management proposals there is obvious commitment to ensuring a healthy Marlborough Sounds Blue Cod fishery.

Background

6. In October 2008 the Minister of Fisheries (the Minister) prohibited amateur fishers from taking Blue Cod within the Marlborough Sounds Management Area (MSMA) for a period of four years. Commercial fishing for Blue Cod is unaffected by this closure.
7. The Marlborough Sounds Blue Cod fishery is due to reopen in October 2012. The Minister has indicated the fishery may be reopened earlier if an adequate management plan can be implemented.
8. In March 2009 the Marlborough Sounds Blue Cod Management Group (BCMG) was established to formulate a draft plan that would:
 - ⇒ see the fishery opening in advance of the four-year closure, either wholly or partially;
 - ⇒ be easy for fishers to understand and practical for them to use;
 - ⇒ be straightforward for MFish officers to police; and
 - ⇒ require some form of amateur catch reporting.

Draft management plan

9. The Marlborough Sounds BCMG's proposed management plan, that forms part of the IPP, contains many proposals that were not agreed to by all members of the Management Group, but find their way into the proposals anyway. The joint submitters welcome this approach as the submission process should seek to gather as much information and opinion as possible to ensure that the Minister receives the best information before committing to a decision.
10. The joint submitters would like to see effective and principled fisheries management interventions to secure the goal of "more fish in the water/kia maha atu nga ika ki roto i te wai".
11. The joint submitters support in principle the reopening of the Marlborough Sounds Management Area to amateur fishing for Blue Cod, but remain cautious because there is so much debate around abundance levels.
12. Our objective is to achieve 'more fish in the water', but it is not clear from the evidence presented that there are any more fish in the Marlborough Sounds now as compared to the numbers of fish at the beginning of the closure.
13. Doubts have also been raised by some very experienced local fishers as to whether Blue Cod numbers are actually depleted. Reasons for this discrepancy are not clear, but they need to be identified and resolved. It could be that abundance is patchy within the Sounds or that the stock monitoring programme is not capturing the full extent of fish prevalence.
14. We also have serious concerns about some of the measures being proposed and make specific comments later in this submission.

15. The tension seems to be around the notion of a reopening that depends on controls to further reduce catch – minimum and maximum size limits, closed season, hook size and number, accumulation, boat limits, contrasted to the notion of a reopening being dependent on stock abundance and size structure that is determined by the ongoing relative abundance surveys.
16. In the first case, the assumption is that the risks of incidental mortality associated with catch and release are eliminated. That a high level of voluntary compliance will be achieved.
17. The second case relies on a time series of relative abundance data demonstrating an increase in numbers of legal sized fish that will support an amateur fishery. This case is compromised by the failure to include the latest survey data in the IPP, as this is surely the most important information contributing to this debate. Without it we cannot make a sound judgement as to the merits of each possibility.
18. Instead, we are left debating the efficacy of large hooks, lower bag limits, fishing slots, closed seasons and licenses to provide for a rebuild of Blue Cod stocks within the Marlborough Sounds Management Area, and no complete story to enable an assessment to the effects of the closure to date and the efficacy of maintaining the closure for another two years to achieve a rebuild target.
19. The MFish IPP is premature and encourages speculation at a time when the Ministry and Minister of Fisheries need to show leadership and set a standard for the expression of kaitiakitanga [guardianship of the resource and people].
20. Far more important than having two cod tomorrow is the assurance that our grandchildren will be able to take their two per day.
21. All the work done on submissions in response to the current IPP risks being overwritten by the survey results that will be available to the Ministry only. There really is not much point in getting too bound to such an obviously flawed process - what we see is speculation and claims that suit agendas other than rebuilding the Marlborough Sounds Blue Cod stock and enabling a healthy amateur fishery.
22. Moreover, any new measures need to be considered as part of the overall management of BCO7 and the wider area. Displacement of fishing effort and localised depletion is a real possibility given the higher daily bag limits that apply in neighbouring areas. Currently the Kaikoura limit is 10 and 20 south of Farewell Spit in the Challenger region.
23. From a compliance perspective it would be relatively simple to require all vessels within the Marlborough Sounds Management Area to comply with the local regulations including daily bag limits.

Legislative obligations

24. Before addressing issues relating to amateur fishing, we need to highlight the Minister's legislative obligations in regards to the Purpose and Principles of the Fisheries Act 1996.
25. Section 8 of the Fisheries Act requires the Minister to sustainably manage fisheries to enable people to provide for their social, economic and cultural wellbeing.
26. Abundance levels of Blue Cod in the Marlborough Sounds are not providing for the public's wellbeing, and the current fishing prohibition adds to this limitation. And, the fishing ban only applies to amateur fishers.
27. It is not credible to claim the depletion in the Marlborough Sounds is the result of amateur fishing only. A dead fish is a dead fish; all mortality contributes to the depletion and needs to be taken into account.

28. It is outrageous that commercial fishing in the Marlborough Sounds continues while a ban is imposed on amateur fishers, this is simply a reallocation of catch in favour of destructive commercial practice.
29. The current total allowable catch (TAC), allowances and total allowable commercial catch (TACC) are set out in the below -

Blue Cod 7 (BCO 7)				
TAC (tonnes, t)	Customary allowance (t)	Recreational allowance (t)	Other mortality (t)	TACC (t)
343	27	177	69	70

30. Given the current closure and debated abundance issues the recreational allowance is clearly not being met. We can only assume the customary allowance is not being met either, but there are few details available, yet commercial harvest continues.
31. The allowances set aside by the Minister are to provide non-commercial interests, namely customary and recreational, with an amount that will *'allow for'* these *interests*. Interests are broader than just catch, and closure or no closure the statutory obligations on the Minister remain.
32. Prior to any further limitations being placed on non-commercial interests, there is a serious need to examine the level of commercial catch. Indeed, given the failure to provide for any non-commercial catch the ongoing commercial catch would test the bounds of reasonableness.
33. It is of major concern that the 69 tonne allowance set aside for other fishing related mortality is virtually equal to the 70 tonne total allowable commercial catch (TACC). This would seem to indicate an unacceptably high level of mortality and represents waste at a time of scarcity.
34. Given the current state of the fishery MFish needs to examine the reasons for this mortality rate and determine ways to minimise or eliminate it.
35. We also note that the 70 tonne TACC does not constrain commercial catch. MFish advise that approximately 22 tonnes of that harvest is taken from stat area 17, which includes the Marlborough Sounds and a larger area beyond the Sounds, and around 14 of that 22 tonnes is taken within the Sounds.
36. Throughout the earlier Blue Cod debate and since the draft plan has been released there have been many concerns raised about the level and type of commercial fishing within the inner and outer Marlborough Sounds.
37. Section 11 of the Fisheries Act empowers the Minister to implement sustainability measures that can be applied to a fish stock or area. These include catch limits, restrictions on area, methods, seasons or vessels.
38. Moreover, section 20(3) states *"the Minister may set or vary any total allowable commercial catch at, or to, zero"*. Several Court rulings in the past few years have confirmed this Ministerial function.
39. Until abundance is restored the Marlborough Sounds should be declared a recreational-only fishing area; and/or the BCO 7 fish stock ought to have a TACC set at zero.

Localised depletion of Blue Cod

40. The joint submitters note MFish's view in the IPP that previous initiatives to manage amateur catch of Blue Cod in the Marlborough Sounds, using bag and minimum size limits, did not increase Blue Cod abundance.

41. We also note there are widely differing views amongst local Marlborough Sounds fishers in regards to Blue Cod abundance.
42. Blue Cod have proven to be very susceptible to localised growth overfishing. Adults do not seem to range far from the site of recruitment and are easily caught on hooks, and readily potted.
43. The Marlborough Sounds Management Area is only one of several areas to have suffered serious localised depletion of Blue Cod. The matter is addressed with some urgency in the Sounds due to the popularity of recreational fishing for Blue Cod, forming the main target species in a high use amateur fishery.

Abundance survey

44. MFish advise in the IPP that preliminary results from an abundance survey are expected in October. These results will be used to “*inform final advice on management measures to the Minister*”. [17]. This is very poor process. How are interested parties expected to respond when not all the information is available?
45. While it might be politically attractive to run a process that purports to reopen the Marlborough Sounds earlier than expected, it is difficult for some stakeholders to engage meaningfully when the new information may actually require a new consultation process to be initiated. Notwithstanding that the nationwide multi-species recreational harvest survey, due to get underway in December 2011, will also add to the information base.
46. As we have seen with the recent kahawai decisions, new information and the manner in which it is presented by MFish can have a major effect on the final outcome, yet stakeholders are not being given the opportunity to comment on, and possibly modify, their views of the proposed management measures in the full knowledge of the abundance survey results.
47. It is very frustrating for stakeholders to devote time and precious resources to Ministry processes when the outcome is being influenced by material unseen by those who have the most to lose in this fishery, the non-commercial interests.
48. Before asking the public to bear the brunt of ongoing mis-management of BCO 7, the joint submitters insist that Ministry provide the results and analysis of the fishery-independent abundance surveys and existing data on recreational Catch Per Unit of Effort (CPUE) collected prior to the closure.
49. Given the high social, economic and social value of this fishery the public ought to be given the opportunity to review and comment on the ‘best available information’ that will be used to inform the Minister’s decision for the Marlborough Sounds Blue Cod fishery.

Local Area Management

50. The joint submitters are very supportive of efforts to give effect to the aspirations of local communities in delivering fisheries management outcomes. As local area management is empowered by fish plans it is vital that some semblance of national standards and principles are maintained.
51. In this respect we find synergy with the position of TASFISH that several proposals promoted by the Blue Cod Management Group are extraneous to the adopted goals of rebuilding localised Blue Cod populations in depleted areas, preventing future localised depletion, and providing for amateur use within environmental limits.

52. The proposed Blue Cod management plan needs to both incorporate sound principles and actions that will achieve the goals within the Marlborough Sounds Management Area and ignore the temptation to become entangled in debates and hypotheses in respect of other areas and agendas.

Monitoring

53. There is an ongoing time series of fishery independent monitoring of Blue Cod relative abundance in the Marlborough Sounds using pots. The survey which has just been completed will be very useful in assessing resilience in this fish stock.
54. Areas that have been closed but have not recovered probably have low productivity or the habitat has been degraded by runoff, marine farming and sedimentation. There has been displacement of fishing effort to the outer Sounds where abundance was good in 2007. It would be encouraging if this population has held up over the last three years. This monitoring program must form the basis of any reopening.
55. The effectiveness of any of the proposed management interventions can only be assessed with the benefits of a robust monitoring program that will inform on the effectiveness of each initiative. Without this any reopening proceeds only on hope and is susceptible to future claim and counter claim.
56. The addition of underwater video as an adjunct to the potting surveys may improve future fisheries-independent monitoring methods. The joint submitters support the Blue Cod Management Group's plan increase in the frequency of monitoring to a two-year cycle.
57. In 2009 MFish sponsored two workshops to improve research methodology for generating amateur harvest estimates. Leading researchers and managers from New Zealand, Australian and USA participated. A session was spent on the approach to regional scale surveys with the MS Blue Cod fishery as the case study. The group concluded that getting a Blue Cod harvest estimate in a reliable, repeatable way seems to be a technical design issue rather than a community initiative (although there are other aspects of Blue Cod management that require fisher support and participation). There is sufficient data from previous and current surveys to assist with design development. The special difficulties with people staying in remote baches need to be addressed in the design.
58. The workshops also discussed national scale catch estimation surveys in New Zealand that have so far been plagued with problems. The Ministry developed proposals for research to improve amateur catch estimation and the Minister has supported a large scale multi species (LSMS) survey in 2011-12 with pilot studies starting this year.
59. Funding for any additional BCO7 or Marlborough Sounds regional survey will be difficult in the next two years. The LSMS survey will provide a one-off harvest estimate but will not provide a tool for detailed monitoring.
60. Compulsory charter boat registration has been introduced and reporting of retained catch in BCO7 will start in November 2010. Over time catch per unit effort (CPUE) of fishers on charter boats may be useful for monitoring fishery performance. Obviously Blue Cod catch within the Marlborough Sounds Management Area will not be recorded until the fishery is reopened.
61. If the daily bag limit is set at two per person it is likely that all fishers on a charter trip within the Marlborough Sounds Management Area will catch their limit. This could continue for some time even if abundance declines. Therefore charter fisher CPUE in the Marlborough Sounds Management Area will be hyper-stable and of no use for monitoring changes in abundance of Blue Cod.

Proposed regulatory measures

62. The joint submitters support the notion of limiting and conditioning catch by input controls. The unwanted fishing consequences of juvenile mortality, catch and release mortality, excess catch to daily bag limit etc are best directly addressed by input controls.
63. It is important that regular reviews are undertaken to monitor whether the input controls are having the desired effect and if changes are necessary. It would be useful for these reviews to measure the level of public support and change in compliance rates over time.

Expansion of the Marlborough Sounds Area boundaries

64. We note there are differing views on expanding the Marlborough Sounds Management Area boundaries. TASFISH consider this aspect beyond the scope of the Management Group's Terms of Reference, while the Marlborough Recreational Fishers Association agree there ought to be boundary changes, but later, not on reopening of the Blue Cod fishery.
65. The joint submitters agree that the issue of serial depletion and amending regulations relating to areas outside the current Marlborough Sounds Management Area are beyond the scope of the Management Group.
66. While the issues raised may be genuine and in need of attention, this forum is charged with crafting a plan that re-opens the Marlborough Sounds Management Area to amateur fishing and addressing abundance issues within the current boundaries.
67. We would encourage MFish to engage with the Marlborough, Tasman-based and other interested groups to ensure any future boundary changes are well supported by the public.

Maximum of two hooks per line

68. There has been no evidence offered to quantify benefits accruing from a two hook limit, or the difference in fishing mortality of having three or one hook per line.
69. Given the variety of fishing techniques available, the various target species and the numerous access points within the Marlborough Sounds we submit this proposal is an impractical management measure. That is because:
 - ⇒ it would not be easy to monitor from a compliance aspect;
 - ⇒ there do not seem to be any proposals to monitor the success, or failure, of this measure; and
 - ⇒ there would be unintended consequences on people fishing for species other than Blue Cod.
70. If the objective is to lower total mortality on the fish stock then widespread public support and discretion is required. Hook limits are best decided by the locals. A Code of Practice has already been developed. This needs MFish support to gain wider circulation and public awareness.
71. We note the Marlborough Recreational Fishers Association supports the Code of Practise approach, and advocates that fishers be encouraged to use one size 6/0 hook per line. TASFISH supports the two hook limit when fishing for any species within the Marlborough Sounds.

Maximum daily bag of two Blue Cod

72. Again, there are a variety of views on the proposal to limit the daily bag to two Blue Cod per person. Most of the difference stems from the various perceptions on whether there is an abundance issue within the inner Sounds.
73. Bag limits serve to limit catch and distribute a scarce resource amongst amateur fishers. Two Blue Cod per person per day seems an arbitrary choice made without the benefit of a table displaying the projected catch details of a bag limit of say one, two or three.

74. Low community buy-in from Tasman/Golden Bay fishers has been identified as a risk if the daily bag limit is reduced from three to two in the wider Challenger (East) Area. We would suggest that low community buy-in is a risk in all affected areas and increasing catch and release mortality is a possibility.
75. The plan would benefit from deciding what indicators will be used to set and adjust daily bag limits as the expected stock abundance increases or fishing participation rates change over time.
76. The alternative proposed in the plan, to amend regulation 28 of the Fisheries (Amateur Fishing) Regulations, to prohibit fishers selecting which legal fish to keep is impractical and immeasurable as there is no baseline.

Maximum daily boat limit of 10

77. The proposed maximum daily boat limit of ten Blue Cod for all vessels is not supported. Such a proposal only achieves its objective of constraining total catch by denying some participants their daily entitlement, an entitlement extended to one and all to share the yield from the Marlborough Sounds Blue Cod fishery.
78. We note TASFISH's submission that this measure was discussed by the Blue Cod Management Group as a way of addressing charter boats doing more than one trip per day. We agree with TASFISH that limiting all recreational fishers to a boat limit of 10 does not address the charter boat issue, and that charter boat reporting is being introduced from 1 November 2010.
79. We agree with the Marlborough Recreational Fishers Association that this measure is unjust and discriminatory against those fishers who do not own a boat because of income or physical limitations, often these are older people. It also discriminates against anyone fishing from a larger boat.
80. As TASFISH have submitted, it is a nonsense to restrict 10 fishers on board a larger vessel to only half the number of fish as 10 fishers aboard two smaller boats.
81. This proposal appears to respond to a bias against allowing people to fish from charter boats and seems directed at reducing the number of charter boats operating in the Marlborough Sounds Management Area by denying catch opportunity to their clients.

Personal accumulation limit of two daily bag limits

82. Implementing a personal accumulation limit of two daily bag limits per person is supported by both the Marlborough Recreational Fishers Association and TASFISH.
83. Currently, the point of contention is whether that daily bag limit is two or three fish.
84. We submit that MFish needs to consult further with local users of the fishery to seek some level of agreement, otherwise compliance and enforcement will become a major issue.
85. We note the suggestion that the accumulation level may be reviewed in the future in response to abundance issues. While this suggestion sounds good we would question whether it is realistic.
86. When was the last time an accumulation limit or bag limit was reviewed upwards, in favour of the public users of the fishery?
87. In future it would be better for MFish to either omit such suggestions or provide some information in support.

88. It is impractical to suggest the possession limit will apply to baches and homes as it will be a nightmare for fisheries officers to enforce.
89. Applying possession limits to people in vehicles is a sensible measure if limits apply to boat fishers because there is a high prevalence of trailer boat fishing within the Sounds.

A slot fishery with minimum and maximum size limits

90. The joint submitters note the differing views on the proposed slot fishery, with minimum and maximum legal size limits, and the various opinions on those limits. The proposed minimum legal size limit (MLS) is 33cm. The proposed maximum legal size limit (MaxLS) is 45cm. These limits will only apply to amateur fishers.
91. We note that neither the Marlborough Recreational Fishers Association nor TASFISH support the MaxLS of 45cm, and want this aspect promoted through the Code of Practice.
92. The joint submitters object, on principle, to these proposed limitations only applying to amateur fishers. Cod caught in commercial pots would easily be sorted into minimum and maximum size limits. However, this is likely to encourage a shift from potting to trawling unless a trawl ban is imposed within the Marlborough Sounds Management Area.
93. The costs and benefits of using a MLS are generally well understood. With respect to Blue Cod it is the level of catch that is under the MLS and unable to survive release that decides the size of any proposed minimum size limit.
94. The suggested MLS of 33cm relies to a large extent on the complimentary Code of Practice to mitigate the risk of discarding moribund fish. The ongoing monitoring programme needs to measure this aspect thoroughly to ensure that the potential costs of a 33cm MLS (moribund discards and high-grading) do not have the opposite effect – a detrimental impact on Blue Cod abundance.
95. The costs and benefits of a maximum legal size (MaxLS) are much less well understood than those for a minimum size. The genetic tendency to favour the larger and most successful specimens by having them dominate successful egg production is lost when stocks are fished down. A MaxLS for Blue Cod would go some way towards addressing this issue by attempting to leave more large and older fish in the breeding pool.
96. Without further information it is difficult to determine whether 45cm is a reasonable size and if it will achieve the desired outcome. Slots work best when the slot is small and release mortality is low.

Seasonal closure

97. The joint submitters do not support the annual seasonal closure from 1 September to 31 January as proposed by the Blue Cod Management Group. More clarity is needed around the goals and outcomes. We support the goal of providing for amateur use of the fishery without compromising long-term sustainability.
98. For many holiday-makers living outside the area, including those who own boats or property in the area, the Blue Cod fishery would effectively not reopen at all, as their major holiday period is in December and January.
99. If the goal is to allow undisturbed spawning period because of the particular characteristics of Blue Cod biology, then focus restrictions or closure on the main spawning season.
100. If the goal is to significantly reduce recreational harvest then in our view this must be done in a way that shares the sustainable yield equitably across all fishers.

101. The quota management system (QMS) is not good at managing local fisheries. Local depletion is a fact in many areas especially for paua, rock lobster, groper etc. There will be low productivity areas within the Marlborough Sounds that will not be able to sustain much harvest, with or without a closed season. Imposing a closure that is too severe would alienate some fishers.
102. The Blue Cod Management Group needs to gain the full support for the final management regime from as many people as possible. Closing the fishery over summer could be divisive.
103. The joint submitters share the concerns that there could be a large spike in fishing activity if the season was opened during the peak season.
104. If MFish proceed with a closure we believe that a three month closure from 1 September to 30 November would adequately provide protection over the main spawning season and have a less chaotic opening day than the 1 January alternative opening day proposed in the IPP.
105. As with all proposals, the costs and benefits of each management measure will need regular review.

No-take zone around Maud Island

106. We note both the Marlborough Recreational Fishers Association and TASFISH support a no-take zone around Maud Island.
107. If a no-take zone is to be established around Maud Island then the fishing prohibition ought to apply equally to all fishers. This would be the only fair way to apply the no-take rule and most practical from a compliance perspective.

Amateur fishing permit

108. The joint submitters strongly object to any scheme that requires amateur fishers to hold a specific Marlborough Sounds amateur Blue Cod fishing permit, when fishing in the Sounds area.
109. We also object to the list of benefits, supporting the permit scheme, as presented in the MFish IPP.
110. If permitted fishing is to be introduced into New Zealand's fisheries then widespread public discussion needs to occur.
111. Limiting the permit discussion on a per-fishery basis is poor practice and will be widely condemned if any attempt is made to proceed on this basis.

The joint submitters of the New Zealand Sport Fishing Council and option4 appreciate the opportunity to submit on this review. We look forward to MFish addressing our concerns. We would like to be kept informed of future developments.

Yours faithfully,

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