

**PROPOSAL TO REVIEW THE TAC OF THE NORTHLAND SCALLOP  
FISHERY (SCA1) FOR THE 2006-07 FISHING SEASON**

**SUBMISSION ON BEHALF OF THE NEW ZEALAND BIG GAME FISHING  
COUNCIL INC. AND OPTION4**

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## **Executive Summary**

This document comprises the submission from the New Zealand Big Game Fishing Council Inc. and option4 (the submitters). NGOs which promote the interests of non-commercial marine fishers in New Zealand.

The NZBGFC and option4 accept that the Northland scallop fishery is highly variable and acknowledges the need for caution when setting the TAC. We remind the Ministry and the Minister that the public regard scallops as kaimoana, it is not a sport fishery and people harvest scallops to feed their families.

We believe that the box dredge technology used to harvest scallops commercially is destructive and the impact of using this outdated technology is detrimental to the environment in reducing biodiversity and productivity of the fishery.

Because of this we are concerned that the environmental purpose and principles of the Fisheries Act 1996 are not being met in the scallop fisheries and there are no incentives for commercial fishers to change.

The baseline level for both customary Maori and recreational fishers should be increased to 15t each per season based on the likely maximum harvest that would allow for these interests. This would mean that no annual adjustment was necessary for the non-commercial sector.

The NZBGFC and option4 submit that the following allocation and allowances should apply to the Northland scallop fishery for the 2006-07 fishing year:

1. TAC be set at 114t
2. The baseline level for customary Maori be set at 15t
3. The baseline level for recreational fishers be set at 15t
4. Levels for fishing related mortality be set at 24t
5. The TACC remain at 40t and additional ACE of 30t be provided.

We reject both proposals to provide 60t of additional ACE for the 2006-07 fishing year.

## **1. Introduction**

### **Background**

The Ministry of Fisheries (MFish) has invited stakeholders to provide submissions on the proposal for an in-season TAC increase for the Northland scallop fishery (SCA1) for the 2006-07 fishing year.

The Ministry is formally consulting on behalf of the Minister of Fisheries in relation to the proposed change, in accordance with the Minister's statutory obligations to consult under section 12 of the Fisheries Act 1996 (the Act). The Initial Position Paper (dated 2 August) provides the Ministry's initial position to provide for an in-season adjustment to the TAC under section 13 (7) of the Act.

A consultation meeting was scheduled in Whangarei on the 18<sup>th</sup> August at the Settlers Hotel, from 1 – 4 pm. Submissions are due by Thursday 24<sup>th</sup> August 2006.

## 2. History

The main commercial scallop areas have been surveyed annually for 12 of the last 15 years to help monitor the productivity of these stocks.

In the 1970s and 1980s scallop fishermen with their extremely destructive dredges kept finding new areas to fish. As one area became decimated and productivity fell because of the damage caused by the dredges, the fishermen simply moved to another area. The real consequences to productivity only became apparent once all the areas that could possibly be dredged had been dredged.

The most recent case in point is Spirits Bay, which was highly productive for a few years but now is a relatively minor part of the fishery. Concerns about the destruction of unique benthic communities caused by scallop dredges resulted in large areas being closed to bottom fishing methods in the late 1990s.

## 3. Sustainability

There obviously needs to be recognition of the adverse effect on benthic communities in the management of this fishery. The submitters believe the environmental principles of the Fisheries Act 1996 are not being met under the current management strategy and the Minister needs to instruct the Ministry of Fisheries to take measures to address the environmental issues.

Section 8 (1) states,

*“The purpose of this Act is to provide for the utilisation of fisheries resources while ensuring sustainability. (2) In this Act – Ensuring sustainability means - (b) Avoiding, remedying, or mitigating any adverse effects of fishing on the aquatic environment.”*

It is our belief it is the incessant use of heavy Victorian dredges, in the same area, every year has changed the environment. We also believe that the reason why we are getting some strange diseases/intruders infesting the scallops, such as black gill disease and tubeworms, is due to destructive commercial dredging directly impacting on the environment and quickly spreading these problems through the beds.

Section 9 of the Fisheries Act 1996 refers to the environmental principles that need to be taken into account:

*“ All persons exercising or performing functions, duties, or powers under this Act, in relation to the utilisation of fisheries resources or ensuring sustainability, shall take into account the following environmental principles:*

- a. Associated or dependent species should be maintained above a level that ensures their long-term viability:*
- b. Biological diversity of the aquatic environment should be maintained:*

- c. *Habitat of particular significance for fisheries management should be protected.*”

While there is natural variability in most scallop populations driven by variable recruitment, we believe that heavy dredging during poor years only makes the situation worse and delays recovery.

#### **4. Minimum Standards**

There should be minimum standards that need to be met in order to participate in harvesting in the scallop fishery.

The current system is devoid of incentives for fishers to experiment with more environmentally friendly fishing methods. Fishers should be rewarded for lowering the rate of damage caused to:

- The seabed environment
- Diverse benthic communities that provide attachment and shelter for spat and juveniles
- Scallops that pass underneath the dredge and are damaged
- Undersized scallops and legal-sized fish damaged in the dredge that would normally be dumped at sea due to their broken condition.

#### **5. Management**

##### **5.1 Management Framework**

The submitters consider the scallop fishery managers should be able to direct fishing effort, due to in-season increases of ACE, toward areas where the surveys have determined that scallop density is highest. In this season those areas are Bream Bay and Rangaunu Bay. This would ensure higher catch rates and overall less dredging would be required to reach the ACE limit. While higher fuel prices and a reduction in the number of vessels fishing may mean that fishers will do this anyway, the Ministry should have the ability to direct additional effort.

Dredging with the existing commercial dredges should only be allowed once scallop density rises to a certain level.

Other areas which are still recovering from damage from previous years of fishing should be left unfished until they show signs that the biodiversity has stabilised and the scallop population has recovered and is disease free.

We would support initiatives to better manage the scallop fishery for all stakeholders.

## **6. Ministry's Proposal**

### **6.1 Fishing Areas**

The Ministry state on page 5 of the IPP, "*many of Northland's harbours within SCA1 are closed by fisheries regulations to commercial scallop fishing. Therefore, to some extent, the non-commercial and commercial fishing sectors are separated spatially*".

The truth is there is only one scallop fishery and within that fishery commercial harvesters cannot use dredges outside the areas endorsed on their permits. Non-commercial fishers can fish anywhere (excluding marine reserves or other closed areas).

### **6.2 Increase in Abundance**

The increase in abundance recorded in the pre-season survey of scallops in the main commercial scallop fishing beds is encouraging. We note the beds off Rangaunu (17% of surveyed scallops) and Bream Bay (71% of surveyed scallops) have enjoyed the most substantial increase in abundance. The concern the submitters have is that if there is a large increase in TAC and additional ACE is given to commercial fishers, there is no direction as to where those extra scallops maybe harvested. It would be appropriate to tie most of any increase in ACE to the areas where the increases in abundance are greatest.

### **6.3 Options for 2006 Commercial Increase**

After discussions with the Directors of the Northland Scallop Enhancement Company the Ministry proposed an increase from the baseline 40 tonne meatweight to 70t, the same increase commercial fishers enjoyed in 2005. Since the meeting an increase to 100t has been proposed.

MFish have provided four options in their IPP. Two options include the 70t increase and the other two use 100t as a baseline.

The submitters support the baseline increase to 70t meatweight for the 2006-07 fishing year. This would be consistent with the requirements of the Fisheries Act to provide for utilisation while ensuring sustainability. We also accept that the baseline TACC will return to 40t at the start of the next fishing year.

### **6.4 Options for 2006 Non-Commercial Increase**

Within the IPP there are four management options, two do not provide for any increase to non-commercial allowances, options three and four propose an increase in the allowance by the same proportion as the commercial increase.

#### ***Proportional Allocation***

We submit the non-commercial allowances should be increased but not on a proportional basis. We do not believe there is any statutory requirement for proportional allocation within the Fisheries Act framework.

There is no evidence of public support for this type of allocation either. Proportional allocation was utterly rejected in the year 2000 during the Soundings debate, by over 60,000 people. While the Ministry may have a “policy preference” for proportional allocation we do not accept it in principle, nor is it appropriate in this case.

We accept the Minister has discretion on how he allocates fisheries resources but he also has to be fair in his decision making process. The courts have made reference to proportionalism; in 1997 Justice Tipping made the following statement<sup>1</sup>,

*“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.....”*

### ***Non-Commercial Increase***

In options three and four the Ministry have suggested that the non-commercial allowances of 7.5 tonne for recreational and customary fishers be increased to 13t each to allow for increased availability of scallops this season and then revert back to the original ‘baseline’ levels at the start of the next fishing year.

What the Ministry has failed to take into account is the change in regulations, which now allow for extra bag limits to be taken by a diver for up to two ‘safety people’ on board a boat. This will undoubtedly have an impact on the amount of scallops harvested by non-commercial fishers every year, not just this season. Mfish need to factor this increase into the baseline tonnage that Minister allows for recreational and customary fishers.

Scallops are such a variable fishery and the non-commercial sector has concerns about its long-term sustainability. A new baseline would be an appropriate recognition of the potential harvest levels from the Northland non-commercial scallop fishery.

When announcing his decisions for the Northland scallop fishery in 2005 the Minister justified not increasing the non-commercial allowances on the basis that no surveys had been conducted outside of the commercial fishing beds. The Minister decided,

*“not to increase the allowances for these sectors [recreational and customary] because I would like to see the development of a more robust system for assessing the scallop stocks in the non-commercial fishing areas”.*

If the Ministry does not consider it necessary to carry out pre-season surveys on the beds outside the main commercial areas then they should maintain the policy of setting the non-commercial baseline allowance at a high enough level so that it is seldom reached. Non-commercial fishers could then exercise their judgement whether it was worth fishing hard in a particular season (and coming close to the allowance) or to expend their efforts elsewhere and leave the beds to rebuild.

Likewise, we note that there is some willingness by commercial fishers not to fish to the maximum sustainable yield (CAY) in this or the previous year.

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<sup>1</sup> Tipping J, Court of Appeal CA82/97, 22 July 1997, Page 18  
Non-commercial submission

The policy of having baseline catch levels well above average catch is not new. The flounder 1 (FLA1) fishery is managed in a similar manner, whereby the TACC is set at a very high level. In 2005 the Ministry explained this management strategy as,

*“the existing management of FLA1 relies on a TACC well above current catches, to provide flexibility for commercial fishers to take flatfish in larger numbers in years of high abundance<sup>2</sup>”.*

There is no logical reason why the same strategy cannot be applied to the allowances for the non-commercial sector in the Northland scallop fishery.

We also note that the telephone diary survey of recreational harvest does not seem to capture the harvest of shellfish in Northland well, even for species such as tuatua and cockle that may have quite stable abundance.

Our estimate is a new baseline of 15t is required to cover recent regulation changes, underestimation in surveys, and the increase in population since 1992/93 when the 7.5 tonne estimate was made. If it is not possible to adjust the baseline non-commercial allowance during this process then we request that this measure be included for Northland and Coromandel in the next sustainability round.

### ***Daily Bag Limit Increase***

There are mixed opinions on whether the individual daily bag limit should be increased. The submitters acknowledge that an increase in the individual bag limit is important to some people but we have not had the opportunity to canvas all the people we represent due to the limited time for responding to this proposal. From our perspective the most meaningful and truthful gain would be found:

- In an increased baseline allowance for all non-commercial fishers
- That the new baseline allowance remains after the end of the fishing season

## **7. Fisheries Plans**

The Ministry acknowledge there is no approved Fisheries Plans for the Northland scallop fishery but suggest the Coromandel plan, currently being developed, could be a “useful template and starting point” for the Northland plan.

The submitters have had doubts about the practicalities of the Fisheries Plans process since they were first mooted by the Ministry last year. Those reservations have now been confirmed given the difficulties the recreational sector has experienced in the Coromandel process.

The non-commercial sector stands to lose the most in the Fisheries Plans process. Resources are hard to come by for amateur fishers who are expected to provide equal input to the fully funded commercial fishers’ lobbyists, scientists and lawyers. We have little hope of getting a fair and reasonable outcome from any Fisheries Plan process under the current regime.

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<sup>2</sup> Executive summary, Final Advice Paper, Ministry of Fisheries 2005, page 185.  
Non-commercial submission



The Ministry have previously acknowledged that there will only be multi-sector Fisheries Plans, no single sector plans. We believe co-operative plans are merely a smokescreen to cover the Ministry's failures in many other fisheries.

For twenty years the Ministry has failed to manage many of our important shared fisheries according to the Fisheries Act, i.e. at or above Bmsy. We have absolutely no faith in their ability to somehow change their management, just because a plan is in place. From what we have seen to date, we would be kidding ourselves if we thought the Ministry and industry participants in the Fisheries Plans process had our non-commercial interests at heart.

## **8. Recommendations**

- a. The baseline level for both customary Maori and recreational fishers be increased to 15t each per season based on the likely maximum harvest that would allow for these interests. This would mean that no annual adjustment was necessary for the non-commercial sector.
- b. Permission to use commercial dredges in the commercial scallop fishery area should be dependent on sufficient scallop density and sustainable management of the biodiversity in the areas fished.
- c. That a fixed minimum commercial quota is unnecessary if the surveys to estimate stock size are reasonably accurate.

## **9. Conclusion**

The NZBGFC and option4 thank the Ministry of Fisheries for the opportunity to have input into the process for this very important fishery for non-commercial fishers. We would like to be kept informed of future developments and to participate in further management decisions for this fishery.

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