

22 February 2010

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Ministry of Fisheries
C/o Tracey Steel
PO Box 19747
WELLINGTON

Tena koe,

REVIEW OF SUSTAINABILITY MEASURES FOR SURF CLAMS (QMA2 AND QMA3)

INTRODUCTION

5. The Ministry of Fisheries is consulting stakeholders and tangata whenua on proposals to adjust surf clam TACs in QMA2 and QMA3. Our responses to the proposals are set out in this submission.

THE PURPOSE OF TE OHU KAI MOANA

6. Te Ohu is a statutory body established under s.31 of the Maori Fisheries Act 2004. The purpose of Te Ohu is to advance the interests of iwi individually and collectively, primarily in the development of fisheries, fishing, and fisheries-related activities, in order to-
- (a) ultimately benefit the members of iwi and Maori generally
 - (b) further the agreements made in the Deed of Settlement
 - (c) assist the Crown to discharge its obligations under the Deed of Settlement and the Treaty of Waitangi
 - (d) contribute to the achievement of an enduring settlement of the claims and grievances referred to in the Deed of Settlement
7. Te Ohu must administer the settlement assets in accordance with its purpose set out in the Act, including but not limited to the following duties:
- (e) to manage on a transitional basis, collectively or separately as Te Ohu considers appropriate, the settlement assets to be allocated to an iwi, until they are transferred to the Mandated Iwi Organisation of the iwi; and,
 - (f) in relation to fisheries, fishing and fishing-related activities, act to protect and enhance the interests of iwi and Maori in those activities
4. The Maori Fisheries Settlement in 1992 set out what was recognized through the courts and agreed at a political level. The process established that Maori customary rights to fishing included both commercial and non-commercial elements. The commercial

element was not just historic but also included future development dimensions. The Settlement established the former Treaty of Waitangi Fisheries Commission (now Te Ohu Kai Moana Trustees Ltd – as established through the Maori Fisheries Act 2004) and provided:

- recognition of the commercial dimensions by providing for transfer through Te Ohu of quota, cash and shares in fishing companies to iwi,
 - recognition of the non-commercial dimensions by agreeing to develop regulations to help recognise use and management practices; and,
 - protection and scope for exercise of rangatiratanga in respect of traditional fisheries including tauranga ika and mahinga mataitai.
5. As noted above Parliament established Te Ohu and gave it responsibility to advance the agreements made in the Deed of Settlement and to assist the Crown to discharge its obligations and do so in a manner that contributes to an enduring settlement.

CONSULTATION

6. Te Ohu has brought the surf clam proposals to the attention of iwi having an interest in QMA2 and QMA3. The responses we have received are reflected in this submission.

Table 1 Iwi having an interest in QMA2 and QMA3.

QMA2	QMA3
Ngati Porou	Ngai Tahu
Rongowhakaata	Ngati Rarua
Ngai Tamanuhiri	Ngati Toa
Te Aitanga a Mahaki	
Ngati Kahungunu	
Te Atiawa	
Ngati Toa	
Te Whanau Apanui	

SUMMARY OF RECOMMENDATIONS

7. Te Ohu:

(1) In relation to the QMA2 TAC:

- Reject Options 1 and 2 in their current form
- Recommend an increase in the combined QMA2 TACs from 43 tonnes to **803** tonnes

(2) In relation to QMA2 sector allowances:

- Recommend increasing the combined TACCs in QMA2 to **706** tonnes
- Recommend increasing the customary allowance to a combined allowance of 50 tonne

(3) In relation to the QMA3 TAC:

- Reject Options 1 and 2 in their current form
- Recommend an increase in the combined QMA3 TACs from 312 tonnes to **542** tonnes

(4) In relation to QMA3 sector allowance:

- Support an increase in the combined QMA3 TACCs from 312 tonnes to **466** tonnes
- Recommend increasing the customary allowance to a combined allowance of 50 tonne

(5) In relation to other matters concerning QMA2 and QMA3:

- Note that the proposed TACs are extremely conservative
- Note that stakeholders can take their allowances from anywhere within QMA2 and QMA3
- Note that commercial can only sell fish from areas that meet Food and Safety Authority standards
- Note that there are several significant beds within QMA and QMA3 that have not been included in the latest biomass surveys

Table 2 sets out the specific adjustments recommended by Te Ohu.

MFISH PROPOSALS

8. The Ministry of Fisheries (MFish) is considering options for reviewing: (1) the Total Allowable Catch (TAC); and, (2) associated sector allowances for a number of surf clam stocks in QMA 2 and QMA 3. There are seven main species of subtidal surf clams in New Zealand, including: *Paphies donacina* (PDO), *Spisula aequilatera* (SAE), *Mactra discors* (MDI), *Mactra murchisoni* (MMI), *Dosinia anus* (DAN), *Dosinia subrosea* (DSU), and *Bassina yatei* (BYA).
9. In the proposals, the TAC and associated sector allowances for PDO, SAE, MDI and DAN in QMA 2, and SAE, MMI, and DAN in QMA 3, are reviewed. Option 1 proposes to retain the existing TACs and sector allowances for surf clam stocks in QMA 2 and QMA 3. This is a status quo option. Option 2 proposes to increase the TACs, retain the existing customary and recreational allowances, provide for other sources of fishing-related mortality, and increase the TACCs for a number of surf clam stocks in QMA 2 and QMA 3. MFish suggest they have no information to suggest the non commercial allowances should be any different.

GENERAL COMMENTS

Total allowable catch

10. Te Ohu believes that the TACs for QMA2 and QMA3 should be increased to 803 tonnes and 542 tonnes respectively.
11. We note that the estimates for each species are extremely conservative and based upon the lower confidence levels.
12. Te Ohu recommends a review of the TACs and allowances within 5 years. By then industry will have built up a better profile of the surf clam beds which will help us to improve the way the fishery is managed. The social, cultural, and commercial needs of stakeholders will also be better understood within this period.

Total allowable commercial catch

13. Te Ohu supports an increase to the TACCs in QMA2 and QMA3. In QMA2 we support an increase of 706 tonnes and in QMA3 466 tonnes.

Customary allowance

14. MFish state there is no available information to suggest that the existing sector allowances for customary are inadequate. MFish also state that the surf clam stocks being reviewed are generally inaccessible to common customary and recreational sector shellfish collection methods due to their subtidal location. From our perspective it may have been the case in the past but it's unlikely to be part of the picture moving forward. Iwi are working with their commercial entities or Asset Holding Company's (AHCs) to gain access to fish for customary non commercial purposes. AHCs are working with quota owners, harvesters, and processors to achieve their commercial and non commercial imperatives. The opportunity for iwi to access surf clam stocks and to alleviate pressure on the many marae who have complained of a shortage of stocks to meet customary needs is significant.

15. Iwi are not allowed to obtain pecuniary gain from fish that has been caught for customary non commercial purposes. However iwi can utilise their commercial fishing vessels, or any other vessel, to catch the fish. They can also use commercial premises to process and store fish for customary purposes. In conjunction with other stake holders they could also develop a management plan that incorporates the aspirations of the sectors.
16. Te Ohu proposes that new allowances be established for customary fishing to reflect the interest iwi has in developing not only their commercial, but also their non-commercial customary interests in this fishery. We understand from iwi in QMA2 that 50 tonnes is an appropriate allowance for customary and that they could harvest it using commercial boats, both within and outside those areas that will be fished commercially, as well as using the option of non-commercial boats.
17. To make a rough estimate, we believe that in QMA 2, around 35 tonnes could be taken using commercial boats in those areas that are fished commercially, and in QMA 3, around 25 tonnes. We would see the breakdown across the species as follows

Table 1

Species	tonnes
PDO2	20
SAE2	10
MDI	2
DAN	2
	Total 34 tonnes
SAE3	20
MMI3	2
DAN3	2
	Total 24 tonnes

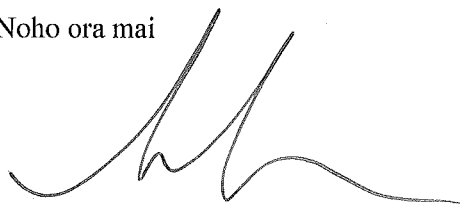
18. However we recognise that those areas presently fished commercially are limited by sanitation and biotoxin requirements – and that there are many more areas available to customary fishing within QMAs 2 and 3 that are not subject to these requirements.
19. In recognition of the total amounts we propose, we recommend that the TACs for these species be increased to accommodate these additional amounts. This would mean an increase in the TACs for each as follows:

Table 1. Options (tonnes) for setting TACs, sector allowances and TACCs for surf clam stocks in QMA2 and QMA3.

Stock	TAC (t)	Customary allowance (t)	Recreational Allowance (t)	Commercial Catch (TACC) (t)	Other sources of mortality
PDO 2 (tuatua)					
Option 1 (status quo)	23	9	9	9	0
Option 2	509	9	9	491	25
<i>Te Ohu preference</i>	525	20	9	471	25
SAE 2 (diamond shell)					
Option 1 (status quo)	1	-	-	1	0
Option 2	132	-	-	125	7
<i>Te Ohu preference</i>	142	20	-	115	7
MDI (Mactra)					
Option 1 (status quo)	1	-	-	1	0
Option 2	66	-	-	63	3
<i>Te Ohu preference</i>	69	5	-	61	3
DAN 2					
Option 1 (status quo)	18	-	-	18	0
Option 2	64	-	-	61	3
<i>Te Ohu preference</i>	67	5	-	59	3
SAE 3					
Option 1 (status quo)	264	-	-	264	0
Option 2	415	-	-	394	21
<i>Te Ohu preference</i>	435	40	-	374	21
MMI 3					
Option 1 (status quo)	44	-	-	44	0
Option 2	48	-	-	46	2
<i>Te Ohu preference</i>	51	5	-	44	2
DAN 3					
Option 1 (status quo)	4	-	-	4	0
Option 2	53	-	-	50	3
<i>Te Ohu preference</i>	56	5	-	48	3

Please contact the writer if you would like to discuss any matters

Noho ora mai



Alan Riwaka
Senior Fisheries Management Advisor