



**Review of North Island Eel
Sustainability Measures
for 1 October 2018 - 2018/04**

Te Ohu
Kaimoana


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Introduction

1. Fisheries New Zealand (FNZ) is conducting a review of the sustainability measures for shortfin (SFE) and longfin (LFE) eel stocks in the North Island Quota Management Areas (QMAs 20-23). FNZ considers SFE stocks to be stable and therefore only propose maintaining the status quo. For LFE, FNZ is proposing to either retain or decrease the commercial catch limits set in 2008.
2. Eels (tuna) are a taonga species that share whakapapa with Māori and Te Ohu Kaimoana welcomes the opportunity to respond to the “Review of North Island Eel Sustainability Measures for 2018/19” consultation document, released 20 June 2018.
3. In developing this response, we have made our draft available to Mandated Iwi Organisations (MIOs) and Asset Holding Companies (AHCs) for input. Their feedback is reflected in our response. We do not intend for this response to derogate from or override any response or feedback provided independently by iwi, through their MIOs and/or AHCs. Te Ohu Kaimoana recognises that for these species, there is a broad range of views with regards to its management.

Who We Are

4. Te Ohu Kaimoana was established to implement, protect and advance the Fisheries Settlement. Its purpose, set out in section 32 of the Māori Fisheries Act 2004, is to “advance the interests of iwi, individually and collectively, primarily in the development of fisheries, fishing and fisheries-related activities, in order to;
 - Ultimately benefit the members of iwi and Māori generally; and
 - Further the agreements made in the Deed of Settlement; and
 - Assist the Crown to discharge its obligations under the Deed of Settlement and the Treaty of Waitangi; and
 - Contribute to the achievement of an enduring settlement of the claims and grievances referred to in the Deed of Settlement.”
5. Te Ohu Kaimoana is the agent of 58 MIOs, who in turn represent all Māori who own the Fisheries Settlement Assets (Individual Transferable Quota and shares in Aotearoa Fisheries Limited which, in turn, owns 50% of Sealord Group).

Principles

6. This response to the IPP sets out several important matters of principle that should guide the Minister and puts forward our recommendations on the sustainability measures and allocation decisions that should be applied.

When adjusting the TAC, the Minister must ensure the integrity of Fisheries Settlement rights is maintained

7. To protect Māori fisheries settlement rights, the following approach should be taken to adjusting the TAC:
 - All increases to a TAC should be allocated to the commercial sector after providing for non-commercial customary rights
 - The customary allowance is based on customary needs and managed through kaitiaki. If abundance of a stock drops, kaitiaki will respond appropriately
 - The recreational allowance should not be increased above the level it was first set by the Minister when the Total Allowable Catch (TAC) was set for any particular stock
 - If, in order to ensure sustainability, the recreational allowance is subsequently reduced below its initial level, it may be increased back to its initial level but no higher.
8. In our view this approach should be adopted as the default option and apply whether or not the stock is at, above or below the target stock level at the time the TAC is set. Variations on this approach should only be considered by the Minister if all extractive interests reach agreement for an alternative approach. Our rationale for this approach is set out below.
9. When the Interim Fisheries Settlement was agreed between Māori and the Crown in 1988, the Crown undertook to provide Māori with 10% of the quota for all stocks in the QMS at that time. When the Deed of Settlement was finalised, it was agreed that all stocks introduced to the QMS from that time would generate a 20% share for Māori. As part of this agreement, Māori agreed that the QMS was an appropriate regime for managing commercial fisheries. At the time of the Settlement the only proportional interests held were quota owners (who owned a share of the TACC). Allowances for customary and recreational interest were for a fixed amount.
10. This rights-based system formed the basis for the commercial part of the settlement and underpins sound management of commercial fishing, in which rights holders take responsibility for managing their share of the overall TAC. The expectation was that the benefits of good stock management would accrue to those who had a proportionate interest in the fishery, notwithstanding the priority right held by customary interests in the event that needs increased.
11. As part of the Settlement, it was also agreed that the Minister would develop policies to help recognise use and management practices of Māori in the exercise of non-commercial fishing rights and recommend the making of regulations to recognise and provide for customary food gathering by Māori and the special relationship between tangata whenua and those places which are of customary food gathering importance to the extent such food gathering is neither commercial in any way nor for pecuniary gain or trade. Within the customary regulations, kaitiaki take responsibility for managing customary fishing, including issuing authorisations and reporting catch.
12. When agreeing to the provisions of the Deed of Settlement, Māori expected the value and integrity of the Settlement to be retained. After all, the Settlement is full and final: any action the Crown takes to undermine the value of settlement quota or fails to recognize customary non-commercial needs is a matter of bad faith.

13. Thus, when adjusting the TAC, the Minister must ensure the integrity of Māori fishing rights is maintained. This means:
 - Priority should be given to the customary allowance for stocks that iwi and hapū require to meet their customary non-commercial needs
 - The proportion of the TAC that makes up the Total Allowable Catch should not be reduced by reallocations to the recreational sector. This ultimately has the effect of reducing the overall value of settlement quota.
14. Māori view recreational fishing as a privilege which should never be exercised at the expense of Māori commercial and non-commercial fishing rights. The recreational portion of the TAC is derived from article three of the Treaty of Waitangi. However, in recent times the recreational sector has effectively operated within an unconstrained allowance - which provides little incentive for the recreational sector to exercise responsibilities to constrain catch within the recreational limit. Similarly, this provides little incentive for the commercial sector to work collaboratively to increase stock abundance given the likelihood that any benefits of a rebuild will be allocated to the recreational sector. We acknowledge there are input controls such as bag limits; however, there is no effective constraint on total catch.
15. Te Ohu Kaimoana does not support decisions that increase the recreational allowance at the expense of the TACC. These kinds of re-allocations affect the rights of settlement quota holders and reduce the incentives on the commercial sector to take responsibility and invest in good management.
16. We accept that a recreational allowance is set when stocks are introduced into the QMS, and that the courts have ruled that the Minister has discretion to set the allowance up to the level of estimated catch. However, we do not accept any increases in this allowance after this time. From a fisheries management perspective, such decisions encourage a “race for fish” – which is what we are seeing in the case of Southern Bluefin Tuna. This kind of behavior should be what responsible fisheries management aims to avoid.
17. If the recreational sector wishes to see a system in which the allowance can be increased above its initial allocation – a full review of the framework for managing the recreational sector is required. This would require further consideration of options to more tightly managed recreational catch to ensure it stays within the recreational allowance. A system that allows for the recreational sector to increase catches would need to be carefully designed and take explicit account of obligations under the Deed of Settlement.

Duty to Act in a Manner Consistent with the Fisheries Settlement

18. Section 5 (b) obliges “all persons exercising or performing functions, duties, or powers conferred or imposed by or under it” to “act in a manner consistent with the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992”. That Act implements the Deed of Settlement between Māori and the Crown, which represented a full and final settlement of Māori claims to fisheries.
19. It follows that whenever the Minister makes a decision to implement a sustainability measure, he/she must ensure their decision is consistent with, and doesn’t undermine, the Fisheries Settlement. The following matters are particularly relevant.

North Island Tuna Sustainability Measures: Context

20. In 2018, the stock assessment results for each of the 4-north island QMAs became available. The assessment examined recruitment data and trends, age and size samples, longfin habitat availability, catch data including catch per unit effort (CPUE) analysis, spawning escapement, and enhancement. This information is used to estimate levels of abundance against the reference point of 40% B_0 . B_0 usually refers to the biomass that existed prior to human impacts on the environment. But for tuna, a large proportion of their habitat has undergone extensive and irreversible modification. As such, it is more appropriate to think about it as the biomass that would exist with no fishing given the current amount of unmodified habitat still available.
21. CPUE data for SFE stocks show positive trends, which indicates increasing abundance in the commercially fished areas. This implies that the current catch levels allow for sustainable utilisation while also allowing the abundance of shortfin tuna to increase.
22. The assessment for LFE stocks states there is a 60% probability the fishery in each QMA (within the areas commercially fished) is at or above the harvest strategy standard reference point of 40% B_0 . The assessment is based on there being no negative trends in recruitment and positive or stable CPUE trends across all QMAs. Some individual statistical areas demonstrate a slight downward trend in CPUE. 22% of North Island tuna habitat is actively commercially fished, meaning 78% of available habitat is acting as a refuge from fishing pressure. The assessment states that it is unlikely (less than 40% chance) that current fishing levels will result in a decline in abundance.
23. It is recognised by FNZ that mātauranga Māori is not formally incorporated into the stock assessment process. The concerns raised by iwi during the 2016-2017 consultations points to experiences of localised depletions stemming from a variety of pressures and spatial conflicts. The data used in the stock assessment process only covers areas that are commercially fished. As such, the stock assessment does not cover 78% of North Island freshwater.

Proposed Options

24. For SFE stocks, FNZ has proposed one option: To maintain the status quo.

Table 1. FNZ's proposed SFE TAC settings in tonnes (t) from 1 October 2018.

	QMA 20	QMA 21	QMA 22	QMA 23
TAC	148	181	121	36
TACC	86	134	94	23
Customary	30	24	14	6
Recreational	28	19	11	5
Other Mortality	4	4	2	2

25. For LFE stocks, FNZ have proposed two options:
 - Option 1: To maintain the status quo
 - Option 2: To cut the TAC and TACC across all QMAs (Average TAC cut of 15%, average TACC cut of 32% across all QMAs)

Table 2. FNZ’s proposed LFE TAC settings in tonnes (t) as of 1 October 2018

	QMA 20		QMA 21		QMA 22		QMA 23	
	Option 1	Option 2	Option 1	Option 2	Option 1	Option 2	Option 1	Option 2
TAC	39	34	60	51	34	26	34	30
TACC	19	14	32	23	21	13	9	5
Customary	10	10	16	16	6	6	14	14
Recreational	8	8	10	10	5	5	9	9
Other Mortality	2	2	2	2	2	2	2	2

26. Option 1 would effectively be maintaining the sustainability measures put in place following the cuts in 2008. FNZ has stated that feedback from tangata whenua calls for managing LFE to a higher reference point than 40% B₀. As such, they have included Option 2 to reflect this desire and to increase the rate of growth in stocks.

27. FNZ has indicated that they are open to proposals calling for intermediate options between 1 and 2.

Our Position

SFE 20-23

28. Te Ohu Kaimoana supports a *variation* of Option 1: to maintain the current TAC and TACC levels for each QMA.

29. Te Ohu Kaimoana proposes that for SFE 21, 22, and 23, the non-commercial TAC is redistributed, with 80% being customary and 20% being recreational.

Table 3. Proposed TAC settings in tonnes (t) for SFE 20-23

	QMA 20	QMA 21	QMA 22	QMA 23
TAC	148	181	121	36
TACC	86	134	94	23
Customary	30	34	20	9
Recreational	28	9	5	2
Other Mortality	4	4	2	2

LFE 20-23

30. For all LFE QMAs, we propose adding the following regulations to the recreational sector:

- Setting an upper size limit of 4kg
- Introducing a requirement for all recreational fishers using fyke nets to implement 31mm escapement tubes, effectively introducing a minimum size of 300g

31. Te Ohu Kaimoana does not accept that a blanket cut across all North Island QMAs for longfin is appropriate. As such, we make separate recommendations for each.

In relation to LFE 21

32. Te Ohu Kaimoana supports a variation of Option 1: to maintain the current TAC and TACC levels. However, Te Ohu Kaimoana proposes that the non-commercial TAC be redistributed, with 80% being customary and 20% being recreational.

In relation to LFE 20, 22, and 23

33. For LFE 20, Te Ohu Kaimoana supports Option 2: a cut to the TAC and TACC of 5t, representing a 26% cut to the TACC and a 13% cut to the TAC.
34. For LFE 22, Te Ohu Kaimoana supports Option 2: a cut to the TAC and TACC of 8t, representing a 38% cut to the TACC and a 24% cut to the TAC. Further, Te Ohu Kaimoana proposes that the non-commercial TAC be redistributed, with 80% being customary and 20% being recreational.
35. For LFE 23, Te Ohu Kaimoana supports Option 2: a cut to the TAC and TACC of 4t, representing a 44% cut to the TACC and a 13% cut to the TAC. Further, Te Ohu Kaimoana proposes that the non-commercial TAC be redistributed, with 80% being customary and 20% being recreational.

Table 4. Proposed TAC settings in tonnes (t) for LFE 20-23

	LFE 20	LFE 21	LFE 22	LFE 23
TAC	34	60	26	30
TACC	14	32	13	5
Customary	10	21	9	18
Recreational	8	5	2	5
Other Mortality	2	2	2	2

Commentary

General Commentary

36. In late 2016 and early 2017, FNZ consulted iwi and stakeholders about reviewing North Island tuna stocks. Te Ohu Kaimoana attended most of these consultations where iwi raised numerous concerns. From our notes we have summarised the issues that were raised:
- Depleted longfin stocks
 - Commercial fishers
 - Pollution
 - Habitat destruction
 - Hydro stations
 - Storm water pumps
 - Tikanga
 - Farming tuna
37. There was clearly concern that longfin tuna stocks were now significantly less than what they used to be, and that action is required. There was strong support for both mātauranga Māori and science driven management. There was also an acknowledgement by a number of attendees that commercial fishers

are not to blame for all the problems confronting tuna. Hydro stations, flood pumps, and habitat destruction were identified as having a devastating effect on tuna abundance.

SFE Commentary

38. FNZ acknowledges that there is currently no sustainability concern with SFE stocks. The best available scientific data shows that under current catch levels, SFE stocks are increasing. Further, this rate of growth can be enhanced by taking actions to address other sources of mortality for shortfin (i.e. habitat loss, water quality, barriers to migration).
39. We note that the feedback from meetings we attended was generally positive when it came to shortfin.
40. The initiatives discussed below for LFE stocks will also benefit SFE stocks through increased coverage and reliability of data and improved habitats.

LFE Commentary

41. The sustainability measures and catch limits for all shortfin (SFE) and longfin (LFE) stocks in the North Island were last reviewed in 2008 with the Crown opting for steep cuts to catch limits. The TAC and Total Allowable Commercial Catch (TACC) for the four QMAs were cut. The SFE TACs and TACCs were cut between 10% and 38%, and LFE TACs and TACCs were cut between 35% and 78%. In each QMA, allowances were put in place for customary, recreational, and other mortalities, and a daily bag limit of 6 tuna would apply to recreational fishers. Several voluntary and legislated measures have since been put in place to address sustainability concerns. For example, there is a voluntary commercial ban on harvesting migrating longfin and many commercial fishers avoid targeting longfin. Trap and transfer programs run by iwi, hapū, industry, and some power companies have been instrumental in ensuring elvers are able to restock populations above major barriers and provides a chance for migrating tuna to make it safely to the sea.
42. Public and iwi concern over a decline in longfin populations in subsequent years resulted in the 2013 report by the Parliamentary Commissioner for the Environment on the threats facing longfin. In that report, the Commissioner called on the Minister to close the commercial longfin fishery and to establish a fully independent peer-review panel to assess the full range of scientific information available on the status of longfin. The independent panel concluded in their review that following a decline from the early 1990s to the late 2000s, populations had stabilised and, in some cases, increased.
43. Current management practices have successfully grown the fishery since 2007. Iwi have been voluntarily shelving their longfin ACE since 2013 out of concern for sustainability and this has contributed significantly to the rebuild. Te Ohu Kaimoana's understanding is that iwi will continue to shelve their ACE for the foreseeable future which will continue to be a major factor in growing populations. This has been further enhanced by the voluntary industry initiatives and legislated regulations described above. CPUE analysis across all QMAs shows stable or increasing CPUE and there is a less than 40% chance that current catch levels in fished areas will result in a decline. This information demonstrates that current management practices are resulting in growth for longfin. This suggests that maintaining current catch levels and additional programmes designed to enhance habitat will result in further gains to longfin abundance.
44. Tangata whenua have raised concerns and described low abundance in their areas. Local studies demonstrate that there are areas where populations are not as high as they once were. For example, the Mauri Compass project being trialled by Ian Ruru in the Waipaoa River highlighted concerns with the mauri of the Waipaoa River. The mauricompass.com framework incorporated both mātauranga Māori

and formal stock assessment processes for this specific waterway. The results highlighted the differences between FMA-wide and localised stock assessment views on abundance, specifically noting a 90% decrease in shortfin and longfin numbers since 2008. While these concerns are legitimate, they point to localised depletions rather than large scale sustainability concerns. Further, they highlight the impact of habitat degradation and issues surrounding water quality on the wellbeing of tuna. Localised depletion is concerning for iwi as this diminishes their ability to exercise customary non-commercial rights and recreational fishing activities within their rohe. Te Ohu Kaimoana understands that Te Aitanga a Mahaki are calling on the Minister to close the Waipaoa River to commercial fishing until populations return to the 2008 baseline assessment in response to these observations. Te Ohu Kaimoana supports iwi to make decisions with regards to their rohe.

45. At the 2017 Tuna Conference, it was made clear that iwi and hapū have strong concerns regarding the wellbeing of the longfin tuna. Anthropogenic pressures such as hydroelectric dams, pollution and the introduction of exotic predators such as trout have had adverse effects on longfin populations and these were identified by conference attendees. Those at the conference were concerned that the steady undermining of the status of tuna is akin to undermining Māori whakapapa. The preferred approach is to allow iwi and hapū to make their own decisions regarding this fishery. Collaborative approaches carry a higher chance of success.

Collaborative approach required in addressing localised depletion

46. Collaborative, fine-scale initiatives between iwi, industry, and other stakeholders are better suited to address the concerns raised by iwi and the public. Efforts between iwi, hapū, industry, the Bay of Plenty Regional Council, in the Rangitaiki River catchment in QMA 21 serve as an example of this. With the support of Te Ohu Kaimoana, they have formed a Rangitaiki Tuna Steering Group that works in conjunction with the Rangitaiki River forum with a goal of developing plans to address and manage habitat related challenges and increase the robustness of stock data. Further, industry, iwi, and hapū have agreed a tuna harvest strategy for the Rangitaiki catchment that will address sectoral conflicts in the fishery and further grow LFE stocks. For more detail on the work in the Rangitaiki, please see Appendix A. Industry, as represented by the Eel Enhancement Company, has already committed to working with iwi, hapū, and communities in other QMAs on challenges and initiatives relating to this fishery. Further, industry has agreed to review areas where CPUE is low and take corrective measures, including fishing different areas, to relieve pressure.
47. TAC and TACC cuts are a recognised tool for addressing sustainability concerns; however, they are a blunt tool that is ill-equipped to address such fine-scale challenges. TAC/TACC cuts do not address habitat challenges and would do nothing to alleviate pressure from other primary threats facing tuna. FNZ would see better results from facilitating the expansion of the Kaimoana Regulations, allowing iwi to exert greater influence over their local fisheries, and providing support to kaitiaki. Further, broad-stroke approaches to sustainability issues neglect specific conditions facing different areas. FNZ needs to be active in working with iwi, hapū, councils, and the Department of Conservation to address habitat concerns.

Māori Participation in Tuna monitoring and evaluation

48. The discrepancy between on-the-ground accounts and the stock assessment process reiterates the need to fill gaps in current research. Many iwi and hapū around New Zealand have identified that there is a need to expand on the existing biophysical monitoring programmes occurring in their catchments to capture information regarding the state of iwi/hapū values and cultural uses to evaluate the success (or otherwise) of management decision making and restoration actions.

49. FNZ admits that mātauranga Māori is not currently part of the formal process and CPUE data only covers commercially fished areas. That leaves 78% of unfished waterways where accurate data is unavailable. Industry has agreed to work with iwi and hapū to facilitate expanded surveys and research programs. Survey and research programs need to be expanded to unfished areas and FNZ must play a role. Te Ohu Kaimoana urges FNZ to support these initiatives and actively work with iwi, hapū, and Te Ohu Kaimoana to integrate mātauranga Māori and on-the-ground reports into the stock assessment program.

General

50. FNZ has a role to play in ensuring iwi and hapū can fully benefit from their customary allowance. As part of this, Te Ohu Kaimoana argues that FNZ must support the implementation of customary regulations across all North Island freshwater fisheries. This includes providing support for kaitiaki.

51. Our recommendations regarding introducing minimum and maximum sizes for the recreational sector is intended to ensure the recreational fishery does not have any unintended adverse effects on the rebuild.

52. FNZ notes that one of the justifications for proposing Option 2 is that feedback from pre-consultations indicated a desire to manage LFE to a higher reference point than 40% B_0 . In principle, Te Ohu Kaimoana supports managing tuna to a higher reference point given that longfin tuna is a taonga and tuna in general have biological and life-cycle characteristics that pose a challenge to management. However, it is inappropriate to propose new TAC/TACC settings to meet an as-yet undefined reference point. Any formal target needs to be determined by iwi and other quota owners and the implications of managing to a higher reference point need to be fully discussed and understood through the working group process.

53. Te Ohu Kaimoana is supportive of cuts to the TAC and TACC in LFE 20, 22, and 23. The cuts in these areas are not substantial and should not cause significant harm to quota owners. The cuts proposed in these QMAs are representative of feedback received from iwi in conversations and meetings held on this review. However, it should be noted that within each QMA, there was a diversity of views. Iwi in all QMAs have signalled a desire to proceed with iwi-driven plans to address local conditions.

54. As a taonga, efforts need to be taken to ensure that future generations will be able to maintain their connection to tuna. While cuts do not address the primary threats to tuna, they do alleviate some pressure and should not hinder efforts to ensure the long-term sustainable utilisation of tuna.

55. Feedback from Te Kupenga o Maniapoto raised concerns regarding the impact of TAC/TACC cuts on Māori employment. It was noted that 10 iwi members were employed in the tuna industry in some fashion and that a cut could have a negative impact on them.

Commentary Regarding the Redistribution of Non-Commercial TAC

56. When the TAC was initially set for SFE and LFE stocks, actual interests in the fishery were not adequately reflected. As a taonga, the primary non-commercial interests in the fishery were Māori and this remains the case today. Iwi are the most prolific participants in the recreational tuna fishery; however, this is the exercising of customary rights under the amateur regulations. Redistributing along the lines proposed will correct the oversight made when setting the initial TAC and more accurately reflect current take within the fishery.

57. In fact, bringing more of the catch under the customary sector, where efforts are underway to increase the uptake of formalized customary reporting tools, could increase the amount of data available from non-commercial sectors. This carries the possible benefit of an increase in the accuracy of stock

assessments. Further, by expanding the Kaimoana regulations across the entire North Island and assisting iwi and hapū to fully benefit from these regulations, kaitiaki and Māori more broadly will be in a better position to manage their taonga.

58. This proposal was discussed with iwi and it received broad support across QMAs 21, 22, and 23. Iwi in QMA 20 rejected this proposal as many people in Northland rely on fishing under the amateur regulations to put food on the table. As such, Te Ohu Kaimoana does not propose this re-allocation within QMA 20.

Noho ora mai rā,

A handwritten signature in blue ink, appearing to read 'Dion Tuuta', is positioned above the printed name and title.

Dion Tuuta
CHIEF EXECUTIVE

Appendix A: Rangitaiki River Catchment Harvest Strategy

Vision and Goals

Vision: The Tuna are fat and plentiful in the Rangitaiki River Catchment

Goal 1: Develop a harvest strategy for the Rangitaiki River Catchment

Goal 2: Put in place the systems and infrastructure to support the implementation of the harvest strategy

Sub-Area TAC Settings in Tonnes (t) for the Rangitaiki Catchment – QMA 21

	Shortfin	Longfin
TAC	16.2	0
TACC	7	0
Customary	7	0
Recreation	2	0
Other fishing related mortality	0.2	0

Agreements between Rangitaiki River Iwi and Industry

1. A rahui will be placed on the catching of longfin tuna within the Rangitaiki River Catchment, until the next tuna review in 5 yrs.
2. Commercial fishing is to stay within existing fished areas (Below Edgecombe, Matahina and Aniwhenua – farm the lakes)
3. Tikanga/protocols to apply to commercial fishers. Emphasis on local fishers (linked to 4).
4. Kaitiaki/iwi will input to commercial annual harvest plans
5. Support in principle the establishment of mataitai – areas to be identified once iwi have consulted their respective people
6. Supporting trap and transfer programme

Other proposed measures to support customary

1. Put in place Kaitiaki for the entire Rangitaiki River Catchment. One application to be made in the name of all the iwi.
2. Put in place data base for customary catch, and training – owned by iwi – supported by Te Ohu Kaimoana