



Our response to the 'Review of
Recreational Daily Bag Limits for
Finfish'

Te Ohu
Kaimoana


This is our response to the 'Review of Recreational Daily Bag Limits for Finfish'

1. This document provides our comments on the review of recreational daily bag limits for finfish set under the Fisheries (Amateur Fishing) Regulations 2013.
2. In this response, we acknowledge the integral role of recreational fishing as the lifeblood for many of our coastal communities, particularly for Māori. In our view, our communities that fish for their whānau, hapū and iwi sit outside our conceptualisation of the recreational sector. We note that some iwi actively encourage this form of fishing to occur in accordance with customary fishing regulations but in other situations individuals are able to make an open choice. Here we conceptualise the recreational sector as those who are not fishing to support coastal communities but may be fishing for sport, for tourism, for the freezer, and/or outside of their community - with limited to no understanding of the tikanga in the area where they fish.
3. We are encouraged to see Fisheries New Zealand taking steps to contribute to the active management of this component of the recreational catch in Aotearoa. A key issue facing fisheries across Aotearoa is the lack of integrity of the total allowable catch (TAC) settings in shared fisheries. This lack of integrity stems from the lack of attention to ensuring the recreational catch remains within the allowance set. We believe that to ensure sustainable fisheries, active management of the recreational sector is required.
4. Improved monitoring of the sectors daily catches is a step in the right direction. But from our perspective, it falls short of our minimum expectations of the recreational sectors contribution to sustainable management in a shared fisheries model. Further consideration needs to be given to areas such as reporting catch and managing what fish can be returned to Tangaroa and under what circumstances.
5. We do not intend to conflict with or override any response provided independently by iwi through their Mandated Iwi Organisations (MIOs) and/or Asset Holding Companies (AHCs).

We are Te Ohu Kaimoana

6. Te Tiriti o Waitangi guaranteed Māori tino rangatiratanga over their taonga, including fisheries. Tino rangatiratanga is about Māori acting with authority and independence over our own affairs. It is practiced through living according to tikanga and mātauranga Māori, and striving wherever possible to ensure that the homes, land, and resources (including fisheries) guaranteed to Māori under Te Tiriti o Waitangi are protected for the use of future generations. This view endures today and is embodied within our framework Te Hā o Tangaroa kia ora ai tāua (the breath of Tangaroa sustains us).

7. The obligations under Te Tiriti and the Māori Fisheries Deed of Settlement (the Fisheries Deed of Settlement) apply to the Crown whether there is an explicit reference to Te Tiriti in governing statute, in this case, the Fisheries Act 1996 (the Fisheries Act). These obligations are also confirmed in the Public Service Act 2020, section 14 (1) "the role of the public service includes supporting the Crown in its relationships with Māori under the Treaty of Waitangi".
8. Te Ohu Kai Moana Trustee Ltd (Te Ohu Kaimoana) was established to protect and enhance Te Tiriti and the Fisheries Deed of Settlement. The Fisheries Deed of Settlement and the Maori Fisheries Act 2004 (the Maori Fisheries Act) that followed it are expressions of the Crown's obligation to uphold Te Tiriti, particularly the guarantee that Māori would maintain tino rangatiratanga over our fisheries resources.
9. Our purpose, set out in section 32 of the Maori Fisheries Act, 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 Māori 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."
10. We work on behalf of 58 Mandated Iwi Organisations (MIOs)¹ who represent iwi throughout Aotearoa. Asset Holding Companies (AHCs) hold Fisheries Settlement Assets on behalf of their MIOs. The assets include Individual Transferable Quota (ITQ) and shares in Aotearoa Fisheries Limited which, in turn, owns 50% of the Sealord Group.
11. Our role in this review process arises from our responsibility to protect the rights and interests of iwi/Māori under Te Tiriti in accordance with the Fisheries Deed of Settlement. Māori rights in fisheries are not just a right to harvest but also to use the resource in a way that provides for social, cultural and economic wellbeing now, and for future generations. Te Hā o Tangaroa kia ora ai tāua, the basis for our advice, does not mean that Māori have a right to use fisheries resources to the detriment of Tangaroa: rights are an extension of responsibility.

¹ MIO as referred to in The Maori Fisheries Act 2004: in relation to an iwi, means an organisation recognised by Te Ohu Kai Moana Trustee Limited under section 13(1) as the representative organisation of that iwi under this Act, and a reference to a mandated Iwi organisation includes a reference to a recognised iwi organisation to the extent provided for by section 27.

We base our advice on Te hā o Tangaroa kia ora ai tāua

12. The reciprocal relationship that Māori have with Tangaroa is underpinned by whakapapa. Protection of this relationship with Tangaroa is an inherent part of our identity as Māori. There are multiple facets to the relationship with Tangaroa, all of which are inherent parts of Māori identity. In a contemporary context, the management and protection of fisheries resources, as a facet of the relationship with Tangaroa, is expressed through our expression of kaitiakitanga and tino rangatiratanga. This relationship is articulated in the Deed of Settlement.
13. Te Hā o Tangaroa kia ora ai tāua is an expression of the unique and lasting connection Māori have with the environment. It contains the principles we use to analyse and develop modern fisheries policy, and other policies that may affect the rights of iwi under the Deed of Settlement. In essence, Te Hā o Tangaroa kia ora ai tāua highlights the importance of our whakapapa to Tangaroa, ultimately ensuring our mutual health and wellbeing.
14. In accordance with this view, "conservation" is part of "sustainable use", it is carried out to sustainably use resources for the benefit of current and future generations. The Fisheries Act's purpose is "to provide for the utilisation of fisheries resources while ensuring sustainability." The purpose and principles of the Act echo Te Hā o Tangaroa kia ora ai tāua.

Our views

Key issues raised by the consultation document:

Ensuring the integrity of the total allowable catch (TAC) is key to managing fisheries sustainably.

1. Allocating the TAC across sectors for shared fisheries in New Zealand is contentious and often subject to political opportunism. As a result of this, meaningful approaches to constraining the recreational catch to the allowance that has been set are absent. This consultation provides the first real opportunity to take a small step towards meaningful management of the recreational sector.
2. Under the Fisheries Act 1996, the TAC is set at or above a level that can produce maximum sustainable yield². If catch isn't constrained to that level, then the integrity of the TAC is undermined and may lead to a sustainability risk to the fishery. Other sectors have a means of being managed and constrained to their allowance (including the total allowable commercial catch), while the recreational sector does not.

² The "or above" is certainly contemplated by the requirement to ensure the interdependence of stocks. In these situations the MSY cannot be taken from the fishery without reducing the size of the stock.

3. There are tools to manage the recreational sector through regulations such as as daily catch and bag limits, size limits, closed areas, and closed seasons. However, these tools are often not applied in a way that constrains the catch of the recreational sector to the allowance that has been set.
4. A recent example (and one that is mentioned in the consultation document) is southern bluefin tuna. The latest 2019/2020 estimate from the national panel survey for the recreational catch of southern bluefin is 49 tonnes (29 tonnes over the relevant allowance (at that time) of 20 tonnes). As a result, when New Zealand was allocated additional catch, it went in full to the recreational sector. Yet the sector lacks any form of accountability to fish responsibly by either reporting that catch or staying within the allowance once set. In contrast the commercial sector reports every fish that is caught, where it was taken and accounts for the catch within the total allowable commercial catch. The economic benefits of commercial fishing accrue to the Aotearoa economy and a share of those benefits goes directly to iwi. A failure to allocate additional yield to the TACC means that iwi cannot enjoy economic benefits that are expected to accrue from rights allocated in accordance with the Deed of Settlement in situations where fish stock abundance increases and additional yield is made possible.

Better information is required from the recreational sector to inform fisheries management.

5. The recreational sector is the only sector that has no reporting obligations³. Real catch data from the recreational sector will better inform fisheries science and lead to better management decisions.

Related fisheries management reform

6. A range of reforms impacting on fisheries management and oceans management more generally are underway but focus on the commercial sector. The changes that this consultation is looking to address should fit within wider reform work aimed at improving the integrity of the TAC. The current issues for iwi/Māori in managing COVID 19 impacts mean that they are not well placed to engage in ad hoc reform processes.

Our positions on the consultation:

Our position on the primary proposal:

- Recreational fishers should have a daily bag limit for all finfish.
 - The limits for individual species should be consolidated into the overall daily bag limit.
7. We support establishing a daily bag limit for all finfish and consolidating daily bag limits within it to remove confusion about the rules for recreational fishers. We believe that this adjustment will simplify the communication and enforcement of the rules. If Fisheries New Zealand continue to overlook unconstrained take of species outside of the daily bag limit, then it will inevitably have damaging effects to the health and sustainability of these species.

³ Apart from the limited reporting that may apply to operators of recreational charter vessels.

8. There may be a case for having a parallel system for tuna, freshwater eels. Tuna is unlikely to be caught on the same fishing trip as marine finfish and the consultation document doesn't offer any rationale on why tuna should be included in the consolidated daily bag limit. Our view is that we support freshwater species being kept separate from the consolidated daily bag limit so that an explicit focus can be given to fishing responsibly for our freshwater taonga.

Our position on the secondary proposals:

- Differential daily bag limits in the North and South Island:
 - Fisheries New Zealand need to work with iwi to set the daily bag limits (with individual species limits within the bag) within different fisheries management areas, and where necessary sub-areas within fisheries management areas.
9. We support a regional determination of daily bag limits. However, for this to work, it is essential that Fisheries New Zealand's determination of the daily bag limits is informed by iwi. Our whānau/hapū/iwi have a whakapapa relationship with the moana. Our fishing practices are intergenerational and informed by mātauranga and tikanga. Ensuring that iwi inform the determination of daily bag limits both, supports the sustainability of Tangaroa, and supports the requirement of Fisheries New Zealand to work in partnership with Māori.
 - Setting of a daily bag limit for bait fish:
 - Bait fish should be excluded from the finfish combined daily bag limits and have their own combined limit.
 - A bait fish daily bag limit of 50 is too high.
 10. We support setting a separate daily bag limit for bait fish. Separating the management settings for bait fish will likely improve processes for enforcement. In addition, we support setting a maximum size limit for bait fish. We recognise that bait fish are often juveniles of species that will be otherwise covered by the general daily bag limits and so there may need to be maximum size limit for what are deemed to be baitfish.
 11. We advise working with iwi to determine an appropriate daily bag limit for bait fish. In our view, a setting of 50 baitfish is too high. The consultation document does not provide enough thought and rationale into the suggested setting of 50 baitfish as a daily bag limit. Baitfish species include important prey species so hold an integral role in the ecosystem, it is essential that this level of interdependence is reflected in the management settings.

Our position on the additional proposal:

- We support setting daily bag limits by gazette notice as it allows for more agile and timely management decisions.

12. Setting of daily bag limits under gazette notice rather than regulation needs to be part of the wider reform agenda. An example of the difficulty in using regulation to set daily bag limits was evident in CRA2, where it took two years to adjust the bag limit from six to three in a situation where the fishery was facing substantial sustainability concerns throughout that period. Enabling flexibility and timely management of daily bag limits would render them a more useful tool for managing the catch by the recreational sector.
13. We suggest that the government should give greater priority to improving the management of the recreational sector in order to meet its international and Te Tiriti obligations. Here, we draw on our participation in CCSBT⁴, and reiterate the government's responsibility to constrain catch (including recreational catch) to its allocated allowance. In the most recent CCSBT allocation of Southern Bluefin Tuna, Aotearoa received 14 tonne tonnes increase. The 14 tonnes were subsequently awarded to the recreational sector following the review of Sustainability measures for the 1 October 2021 fishing year. Prior to this the sector was estimated to be catching 29 tonnes over their allowance. To ensure the integrity of a TAC and New Zealand's obligation to the CCBST, a new management system needs to be designed for Southern Bluefin Tuna. In our view, the recreational sector, as conceptualised above, should face the full suite of reporting obligations for a stock of this nature. And face the consequences of failing to comply with those obligations.

Nāku noa, nā



Lisa te Heuheu

Te Mātārae

⁴ The Commission for the Conservation of Southern Bluefin Tuna (CCSBT) is the regional fisheries management organisation responsible for managing and conserving southern bluefin tuna. The CCSBT is responsible for setting a global catch limit which is allocated amongst member countries. New Zealand, as a founding member country has a binding obligation to manage catches of southern bluefin within its allocation and must account for all sources of mortality, including discards, commercial recreational, and customary catches.

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