

27th July 2018

Mr D Vallieres
Ministry for Primary Industries
PO Box 2526
Wellington 6140

Attention: Highly Migratory Species Team

Dear Dominic

COMMENTS ON 2018 SUSTAINABILITY ROUND FOR STN

Introduction

1. FINZ has issued Discussion Paper No. 2018/05 on the Sustainability Controls for 1 October 2018 stocks and invited responses on the proposals that were released for consultation on 2 July 2018. This response is in relation to the proposed TAC/TACC increase for southern bluefin tuna (STN).
2. This response is presented on behalf of the FINZ Highly Migratory Species (HMS) Committee that works directly with and on behalf of STN quota owners.
3. There is a diversity of views associated with the Options provided in the consultation paper. For that reason, FINZ has not provided a position on any one Option but instead its submission focuses on the more fundamental concerns relating to the management of the STN recreational fishery.
4. We note that companies and other quota-holders may also make their own submissions on the proposals and make specific reference to their preferred option as they consider appropriate.
5. The submission is in three parts and covers:
 - a. Allocation concerns
 - b. Recreational management
 - c. International obligations

Allocation concerns

6. FINZ are cognisant of Te Ohu Kaimoana's position with regards to the 1992 Deed of Settlement and are aware that Te Ohu Kaimoana supports maintaining the recreational allowance at 8 tonnes and contends any change in allocation proportions would be in breach of the 1992 Deed of Settlement.
7. Whilst the issue of the 1992 Deed of Settlement is primarily an issue to be addressed between the Crown and Maori as parties to the 1992 Deed of Settlement, it is noted that this has far reaching implications for New Zealand and all fisheries decisions. It is of paramount importance that the development and agreement of a coherent policy for allocation of TACs be established as soon as possible.
8. The following response provides comments on the consultation document whilst recognising that the arrangements between Te Ohu Kaimoana and the Crown need to be addressed first.

Recreational management

Unconstrained effort

9. Fisheries NZ acknowledged as part of the in-season consultation process, that for the remainder of the 2017/18 fishing year, the recreational fishery will remain unconstrained. The only management of the fishery being bad weather, the availability of fish and the ability of recreational fishers to catch those fish.
10. It is wholly inappropriate to consider any recreational increase without implementing an effective management system to address this shortcoming.
11. It has been recorded that on one weekend day during the recreational season, there were approximately 200 boats fishing for STN out of Waihou Bay (the recreational fishery spans at least two months in Waihou Bay alone). The table below shows the reality of this uncontrolled fishing effort based on the average weight of a recreational STN, estimated at 72kg.

12. In short, we submit that it is inappropriate to consult on changes to the recreational allowance when MPI and the NZSFC both accept that the recreational sector is unconstrained. It is contrary to good practice fisheries management and the Minister’s legal obligations to progress without some reasonable expectation that the recreational catch will be constrained to the allowance provided.
13. Such action, or lack thereof, also damages New Zealand’s international reputation by increasing the risk that New Zealand breaches its international obligations (discussed further below).
14. demonstrates that even on one day, based on the estimate of 200 vessels, that several tonnes of STN can be removed from the fishery. Regardless of what allowance the Minister may set, this clearly indicates how an unconstrained fishery has the potential to damage the rebuild of the STN fishery. Recreational effort controls are imperative to ensure a well-managed fishery and should be considered and implemented well before any consideration of recreational allowances.

Table 1: Impact of uncontrolled recreational effort in the STN fishery.

Proposed Management measures	Estimated 2016/17 effort figures based on one day *	Fish numbers (based on a 100% trip success rate)	STN catch (based on an average 72kg fish)	
			kilos	tonnes
STN daily bag limit of one	200	200	14,400	14.4
STN daily bag limit of two	200	400	28,800	28.8
STN boat limit of three	200	600	43,200	43.2

*assuming one person on a vessel.

Inadequate response

15. We consider that the consultation document is inadequate in that, while it provides three options for recreational bag limits, it fails to provide any assessment of the volumes of recreational catch that would result. Nor do we consider that MPI has undertaken sufficient research to assure the Minister or the public that the proposed measures will in fact constrain catch to the recreational allowances proposed.
16. The NZSFC in-season submission indeed notes that the Minister has a statutory obligation to manage New Zealand within its international allocation.¹ This should be through management of all sectors—the commercial sector should not bear the management, compliance and research costs of a New Zealand STN fishery while subsidising a recreational fishery.
17. It is notable that the NZSFC submission on the in-season increase acknowledged the over-catch of the recreational allowance in the 2016/17 fishing year. The 2017 Plenary states that “in the few instances when the New Zealand allocation has been exceeded, the domestic catch limit has been reduced in the following year by an equivalent amount”.² Rather than the recreational allowance being reduced to recognise previous over-catch, it is instead being considered for an increase.
18. The voluntary measures proposed by the recreational fishery for the current fishing year (2017/18), whilst admirable for the current season, are not a long-term management solution as they do not provide an enforceable, regulated management system. Importantly neither do they incorporate charter vessels.
19. Charter vessels cannot be considered part of any recreational allowance. These are commercial operations, and as such, should be required to have quota as with all commercial operators and fish within the constraints of their quota. Charter vessel operators, like any other small business, have to fulfil legal obligations such as tax, employment or health and safety obligations. It is therefore unfathomable as to why FNZ label these operations as recreational whilst by every other government department they are recognised as small commercial businesses.
20. Unlike the recreational sector who are amateur fishers fishing to the best of their ability and resources, charter vessels are professionally-resourced and operated akin to commercial vessels. They should be managed as such. We recognise that the management of charter vessels is part of a wider discussion that is needed to implement management constraints to prevent exploitation of the resource.

¹ New Zealand Sports Fishing Council (NZSFC) in-season consultation submission on MPI paper 2018/01 at [35].

² Fisheries Assessment Plenary November 2017 (20-STN_2017_FINAL).

21. The measures proposed by FNZ in the consultation document will not manage or constrain recreational catch. The NZSFC makes the point in its previous submission that bag limits will be ineffectual in constraining catch.³
22. The position proposed, of uncontrolled recreational catch, is inconsistent with the Supreme Court's guidance that management settings for the recreational sector should be appropriate to constrain the catch to the allowance. It is inappropriate for the Minister to set a recreational allowance without having appropriate and effective management measures in place to allow the Minister to control that fishing effort.⁴
23. In short, we submit that it is inappropriate to consult on changes to the recreational allowance when MPI and the NZSFC both accept that the recreational sector is unconstrained. It is contrary to good practice fisheries management and the Minister's legal obligations to progress without some reasonable expectation that the recreational catch will be constrained to the allowance provided.
24. Such action, or lack thereof, also damages New Zealand's international reputation by increasing the risk that New Zealand breaches its international obligations (discussed further below).

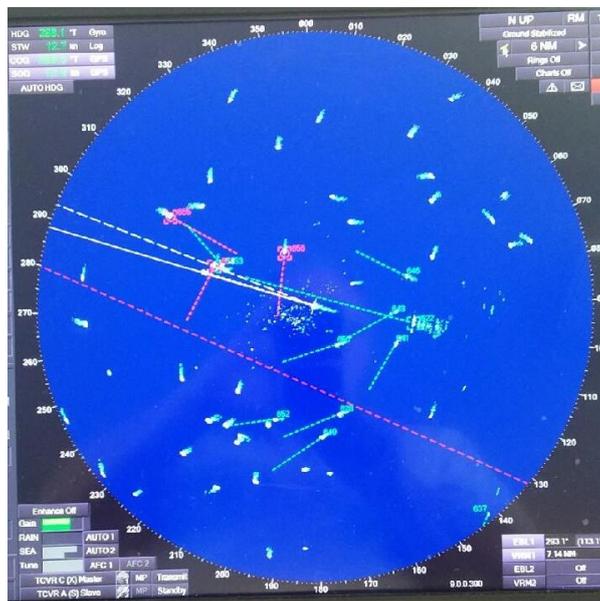


Figure 1: Snapshot of recreational vessels fishing STN.

Management necessary

25. Instead of the proposals provided by FNZ, it is our view that a responsibly-managed recreational fishery, supported by government, will be able to develop in a sustainable manner using effective output controls. We propose that the following measures should be considered for the STN fishery:
 - a. A ballot system for a single fish – only those fishers with a tag from the ballot are allowed to target STN. An allowance for STN bycatch could be accommodated as part of this system.
 - b. Formalised STN licensing – an increasingly formal system whereby fishers register and are allocated a portion of the recreational allowance.
26. These suggestions are based on ensuring catch is appropriately constrained and that robust catch information from the recreational fishery is available to inform our international obligations and contribute to a continued rebuild strategy. There is no question that greater information on STN catches within New Zealand is not beneficial to provide informed management.
27. The assertion that different recreational management measures cannot be used for STN ignores the fact that STN is a game fishery, a migratory species, and not endemic to or resident in NZ. This is a species managed internationally with NZ having international obligations to ensure its sustainability.

³ New Zealand Sports Fishing Council (NZSFC) in-season consultation submission on MPI paper 2018/01 at [37].

⁴ SC 40/2008 [2009] NZSC 54 at [56].

28. In advance of progressing a robust long-term management regime for the recreational sector, and regardless of the allowance set by the Minister, FNZ must implement a one STN per boat daily limit. This should be used only whilst FNZ strengthens the measures the Ministry can do in the short term while it considers a more fundamental policy.

International obligations

29. New Zealand has advocated for all member states to account and manage their recreational catch for inclusion in a Member's national allocation of STN through CCSBT. We are supportive of this. Knowing and managing all sources of mortality is imperative for the continued rebuilding of this stock.
30. If NZ is truly committed to sustainability and its international obligations under CCSBT, all sectors should be responsible for ensuring it.
31. To protect New Zealand's position as a responsible member of CCSBT it is irresponsible for FNZ to use creative accounting at CCSBT to justify a recreational over-catch on the basis of a commercial under-catch. The commercial sector has a TACC to which the commercial fishery is constrained. Any under-catch is not there to be used as a substitute for a lack of recreational fisheries management. It is inappropriate that FNZ should manage the fishery such that one sector of the fishery is committed and managed for sustainability whilst another remains unconstrained.
32. At best this practice is temporary, at worst this practice undermines the position that NZ has taken at CCSBT to successfully advocate for the inclusion and management of recreational catches. The inclusion of recreational catches as part of the country allocation is pointless unless members manage it.
33. We note that recreational fishers may not be cognisant of this matter and therefore feel that FNZ has a responsibility to educate and inform recreational fishers of their important role in promoting and maintaining the rebuild of STN.
34. If, as New Zealand states, we are committed to rebuilding the STN stock then this must be done based on evidence-based management combined with effective regulation of sector allowances.



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(on behalf of the FINZ HMS Committee)