



Te Wai Māori

TE WAI MĀORI TRUST’S RESPONSE TO CONSULTATION ON PROPOSED
AMENDMENTS TO THE FISHERIES ACT





Te Wai Māori Trust Response to Consultation on Proposed Amendments to the Fisheries Act

Introduction

1. This document provides Te Wai Māori Trust's response to the Ministry for Primary Industries' consultation on proposed amendments to the Fisheries Act 1996.
2. Te Wai Māori Trust (Te Wai Māori/the Trust) was established under the Māori Fisheries Act 2004 to advance Māori interests in freshwater fisheries. Protecting Māori interests in freshwater fisheries ultimately means protecting habitat to ensure quality water and abundant species. We are a product of the Deed of Settlement (Māori Fisheries Settlement) 1992 and an entity of Te Kāhui Te Ohu Kaimoana (Te Ohu Kai Moana Group).
3. Te Wai Māori works on behalf of 58 mandated iwi organisations (MIOs), who represent all iwi throughout Aotearoa. Te Wai Māori Trust's submission does not usurp or detract from any responses made independently by iwi or hapū, or any other pathway iwi and hapū may pursue to affirm their rights that may be affected by these proposals. In that regard, Te Wai Māori Trust's response is targeted to the Trust's key areas of concern.
4. Our response addresses:
 - (a) the background to Te Wai Māori Trust;
 - (b) our position that stocks on schedule 3 of the Fisheries Act should be excluded from the proposals for multi-year catch decisions and management procedures;
 - (c) a statement of key matters of concern; and
 - (d) a recommendation that stocks on schedule 3 of the Fisheries Act should be excluded from any amendments to the Fisheries Act regarding multi-year catch decisions and management procedures.

Te Wai Māori Trust

5. Te Wai Māori is an independent Māori Trust established under the Māori Fisheries Act 2004 (the Māori Fisheries Act). The purpose of Te Wai Māori is to advance Māori interests in freshwater fisheries. Protecting Māori interests in freshwater fisheries ultimately means protecting habitat to ensure quality water and abundant species and empowering our people to uphold their responsibilities regarding freshwater fisheries. The long-term outcomes the Trust works toward include:
 - enhancing the health and wellbeing of indigenous fisheries and their environment;
 - increasing iwi and hapū capacity and capability in freshwater fisheries and their ability to take responsibility for the health and wellbeing of freshwater fisheries;
 - promoting and sharing indigenous fisheries expertise, knowledge and understanding; and;

- increasing the quality and range of information to iwi and hapū on freshwater fisheries and their interests thereof.
6. Our core values are te mana o te wai, whakapapa, and kaitiakitanga. These values stem from the natural order of the Te Wai Māori worldview and they guide our mahi. First and foremost, we value freshwater and all that is encompassed in its ecosystems. The inherent right for water in its own state must be respected. Each water body has its own mauri. Whakapapa recognises our interdependence which binds us as tangata of the environment, and kaitiakitanga, our obligation and responsibility to care for Papatūānuku and ngā atua.
 7. Te Wai Māori engages with a range of sectors and government agencies seeking to ensure that Māori rights and interests are upheld and iwi and hapū are recognised in government processes and resource management decision-making.

Our Position

8. Te Wai Māori considers that stocks on schedule 3 of the Fisheries Act should be excluded from the proposals for multi-year catch decisions and management procedures.

Background

9. Te Wai Māori's interest in these proposals primarily relates to long-finned freshwater eel and short-finned freshwater eel (collectively tuna). Tuna are of high customary significance to Māori and are taonga species. There has been a considerable decline in tuna populations over time.
10. Tuna have a number of characteristics that make them vulnerable to overexploitation. A NIWA scientific analysis of the status of longfin eels for the Parliamentary Commissioner for the Environment identified the following characteristics:¹
 - A catadromous life history (oceanic spawning at great distance from their freshwater habitat).
 - Semelparity – spawn only once at the maximum size for each sex.
 - Environmentally determined sex – hence widespread events like climate change could have significant impacts.
 - Slow growing. Females are older and larger than males (and so vulnerable to capture for much longer).
 - Easily caught, especially large females.
 - Their habit of extensive upstream migrations in rivers means they are impacted by hydro dams and weirs.
 - Upstream colonisation can take many years in large catchments.

¹ Don Jellyman "The status of longfin eels in New Zealand – an overview of stocks and harvest" (NIWA, 2012) at 66.

11. Tuna are also exceptional in that they are freshwater stocks that are included in the Quota Management System (QMS).
12. Tuna are included on schedule 3 of the Fisheries Act. Section 14 allows the Minister to set a Total Allowable Catch (TAC) for a stock in schedule 3 that the Minister considers appropriate to achieve the purpose of the Act, if satisfied that this would better achieve the purpose of the Act than setting a TAC under section 13. Section 14 therefore provides an alternative process for setting TAC for stocks in schedule 3, in addition to the normal process focused on maximum sustainable yield in section 13. However, in practice, TAC for stocks such as tuna is normally set under section 14.
13. There are four reasons that stocks may be included in schedule 3:²
 - (a) It is not possible, because of the biological characteristics of the species, to estimate maximum sustainable yield; or
 - (b) A national allocation for New Zealand has been determined as part of an international agreement; or
 - (c) The stock is managed on a rotational or enhanced basis; or
 - (d) The stock comprises one or more highly migratory species.
14. Tuna are included on schedule 3 because it is not possible to estimate maximum sustainable yield. None of the other reasons for a stock being included on schedule 3 apply to tuna.

Key concerns

15. The consultation document sets out proposals to enable the Minister to set multi-year catch decisions and management procedures. The consultation document does not address whether or how multi-year catch decisions and management procedures would apply to stocks on schedule 3.
16. Multi-year catch decisions and management procedures would not be suitable for stocks on schedule 3, particularly stocks (such as tuna) that are on the schedule because it is impossible to estimate maximum sustainable yield. Schedule 3 is designed to create a special process for stocks where the ordinary catch-setting process is inappropriate or unlikely to work.
17. Multi-year catch decisions will ordinarily be based on what is necessary to bring a stock to or towards maximum sustainable yield over a period. This cannot be done for a stock whose maximum sustainable yield cannot be estimated. Without such information, multi-year catch decisions cannot be reliably made.
18. Where there is limited information about the stock, decisions need to be made on the most up-to-date information. The lack of reliable information means that there is a greater risk of a TAC being set at a level that proves to be inconsistent with the sustainability of the stock. It is therefore more appropriate for TACs for such stocks to be set through the annual sustainability round process, where any information indicating that the TAC is causing sustainability issues can be considered. The

² Fisheries Act 1996, section 14(8)(b).

sustainability round also provides an opportunity for Te Wai Māori and iwi/hapū to provide feedback and raise any concerns about sustainability for stocks such as tuna that are of particular interest to them.

19. Management procedures are intended to be based on equations that will allow TACs to be adjusted based on data about the stock. Such calculations are only possible with reliable information about maximum sustainable yield for the stock. Where data for the stock is inadequate and does not allow maximum sustainable yield to be reliably estimated, management procedures would not work.
20. Management procedures would operate by the Minister setting parameters and equations for stocks and the Chief Executive then adjusting TACs in accordance with them each year. The fact that the Chief Executive, rather than the Minister, would set the TACs reflects the essentially operational and mechanical nature of the decision-making under a management procedure. Each year, MPI would take the updated data for the stock and calculate the TAC based on the equation in the management procedure. The Chief Executive would then set this as the new TAC. But the mechanical nature of this process is only possible with reliable information about a stock.
21. The objectives of the proposed introduction of multi-year catch decisions and management procedures, as set out in the consultation document, are enhancing the certainty, responsiveness and efficiency of decision-making; however, the proposals can only achieve these objectives where there is reliable data to base the decision-making on.

Recommendation

22. Te Wai Māori recommends that stocks on schedule 3 are expressly excluded from any amendments to the Fisheries Act introducing multi-year catch decisions and management procedures.
23. In the event that some stocks on schedule 3 are included in multi-year catch decisions and management procedures, Te Wai Māori seeks that stocks that are on schedule 3 because it is not possible to estimate maximum sustainable yield, notably tuna, be excluded from amendments introducing multi-year catch decisions and management procedures. This could be done by listing the stocks excluded from multi-year catch decisions and management procedures in a schedule.



Nāku noa, nā
Carly O'Connor

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