

# RECREATIONAL ISSUES RELATED TO TAKING BAG LIMITS – SUMMARY OF SUBMISSIONS

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## Submissions received

- Akaroa Harbour Recreational Fishing Club
- B. A. Jamieson
- Bill Hartley
- Brian Dean
- G. A. O'Rourke
- Hilton Leith
- John Robertson
- Kaikoura Boating Club
- Keith Ingram
- Marlborough Combined Divers Association
- Marlborough Recreational Fishers Association
- Murray Little
- Ngati Whatua Fisheries Limited
- Option4 & the NZ Big Game Fishing Council
- Pelorus Boat Club
- Peter Saul
- Piako Underwater Club
- Raglan Sport Fishing Club
- South Recreational Fishers Advisory Committee
- South Taranaki Underwater Club
- Steve Hornby
- Tasman and Sounds Fishers Association (TASFISH)
- Te Runanga O Ngati Whatua
- The North Island-South East Regional Recreational Forum
- The North Island-South West Regional Recreational Forum
- The Top of the South Regional Recreational Forum
- The Seafood Industry Council (SeaFIC)
- Wanderers Surfcasting and Angling Club

## Background and Rationale for Management Options

- 1 Peter Saul comments that, in his view, “fishing” is quite different from “taking”. Fishing is an activity to catch fish, which may or may not result in fish being caught. It is his view that if the definition in the Fisheries Act 1996 (the Act) was altered to reflect common practice and common sense, all the current confusion about taking bag limits could be avoided. In particular he notes that the Act should specify that “taking” means that possession is, or is intended to be, permanent. A fish could then be brought onto the boat and immediately released and the daily bag limit would apply only to fish that were “taken” with the intention to keep them.
- 2 Peter Saul contends that there are a number of problems with the current interpretation on taking bag limits:
  - a) It is utterly unenforceable without placing an observer on every single recreational vessel;
  - b) It does not recognise current practice in the recreational fishery; and
  - c) How does the current rigid interpretation of “take” apply to fish that are not brought on board (e.g. tagged in the water)? In his view, these fish are not in the possession of, or under control of, the angler.
- 3 Option4 & the NZ Big Game Fishing Council note that the Act defines taking as “fishing” and fishing is defined as “*any activity that may reasonably be expected to result in catching*” a fish; or “*any operation in support of or in preparation for any activities*” to catch a fish. The submitters consider that an error has been made in drafting the Act if amateur fishers are ruled to be “taking” as soon as they put a boat in the water. Further, they request that the Ministry of Fisheries (MFish) provide an improved definition of “taking” specifically for amateur fishers.
- 4 Option4 & the NZ Big Game Fishing Council specifically refer to a comment by MFish in the IPP that “*it is generally accepted that a fish is considered taken when it has been captured and a fisher has exercised possession and control over it*” (page 23). They believe that MFish have developed this conclusion as a means of obtaining prosecutions rather than through a policy development process that explains the necessity for this particular interpretation and the management goal it will achieve.
- 5 Option4 & the NZ Big Game Fishing Council therefore advise that any confusion amongst recreational fishers is largely a result of the new interpretations by MFish, which have been applied without consultation. They submit that MFish has a duty to consult on their re-interpretation and it should be brought into line with commonly accepted opinion with a focus on management objectives, which they believe is the fundamental purpose and intent of the regulations.
- 6 Option4 & the NZ Big Game Fishing Council also strongly recommend that MFish explain in the final advice paper that it has never been the intent of the amateur fishing regulations for daily bag limits to include fish that are released because they were under sized, tagged for research purposes or even if the fisher just chose to let it go. It is their view that it is MFish, not the fishing public, that is confused over this issue.

## Undersize Fish and the Recreational Daily Bag Limit

- 7 In the IPP, MFish proposed to clarify that undersize fish do not count towards the recreational daily bag limit.

### *Submissions received in support of the proposal*

- 8 **B. A. Jamieson, Hilton Leith, Keith Ingram, John Robertson, Kaikoura Boating Club, Bill Hartley, Peter Saul, Pelorus Boat Club, Te Runanga O Ngati Whatua, Ngati Whatua Fisheries Limited, SeaFIC, Akaroa Harbour Recreational Fishing Club, South Taranaki Underwater Club, Option4 & The NZ Big Game Fishing Council, the North Island-South West Regional Recreational Forum, the North Island-South East Regional Recreational Forum, Raglan Sport Fishing Club and Wanderers Surfcasting and Angling Club** are in support of the proposal.
- 9 Peter Saul notes that he is unaware of any confusion among fishers as to whether undersized fish that are released should count towards the daily bag limit and advises that he has never heard such an idea expressed.
- 10 SeaFIC supports the proposal, but does not in general support the application of minimum legal sizes (MLSs) for finfish for recreational fishing. It is their view that MLSs should be accompanied by other input controls to reduce the number of small fish caught. Such controls could include minimum hook sizes or minimum mesh sizes. It is SeaFIC's view that these measures are likely to be more effective for achieving the goal of a greater number of fish surviving to maturity.

### *Submissions received in opposition to the proposal*

- 11 No submissions in opposition to the proposal were received.

## Releasing Fish Larger than the Minimum Legal Size

- 12 In the IPP, MFish proposed to:
- a) Clarify that a recreational fisher's daily bag limit applies only to the number of lawfully taken fish that are actually retained; or
  - b) Provide for special permits to be considered for recreational fishers to release fish of legal size over and above the daily bag entitlement for a specific stock or species; or
  - c) Maintain the status quo and confirm that any fish taken of legal size must count towards the daily bag limit.
- 13 **South Taranaki Underwater Club** request that rather than allow all fish to be retained, there should be a regulation that states fish are only to be released if they have a good chance of surviving, and also measure between the MLS and the self-imposed size. Club members submit that this type of regulation will be more effective and gain a better understanding among other fishermen than the options proposed in the IPP.

*Option One: Specify that the daily limit relates to retained fish only*

*Submissions received in support of the option*

- 14 **Hilton Leith, Keith Ingram, John Robertson, Brian Dean, Piako Underwater Club, Kaikoura Boating Club, Bill Hartley, the South Recreational Fishers Advisory Committee, Peter Saul, Pelorus Boat Club, Marlborough Combined Divers Association, Marlborough Recreational Fishers Association, Te Runanga O Ngati Whatua, Ngati Whatua Fisheries Limited, Akaroa Harbour Recreational Fishing Club, Option4 & the NZ Big Game Fishing Council, the North Island-South East Regional Recreational Forum, the Top of the South Regional Recreational Forum, Raglan Sport Fishing Club and Wanderers Surfcasting and Angling Club** are in support of this option.

Current practice

- 15 Option4 & the NZ Big Game Fishing Council submit that the vast majority of the public believe that they can release fish in good condition above the MLS to help conserve the resource.
- 16 Steve Hornby comments that he has been recreationally fishing for 40 years and has always considered that the bag limit relates to those fish that are actually retained. He also notes that many other recreational fishers he has spoken to have been unaware of the interpretation of the Regulations. He submits that common sense dictates that lawful size fish caught then released have not been retained and therefore should not be counted as part of a fishers daily bag limit.
- 17 Peter Saul submits that releasing fish larger than the MLS is a personal decision that many experienced fishers currently make. It is generally practised by skilled fishers who are more likely to be aware of when fish are suitable for release. He notes that, in his experience, skilled fishers do not release fish that are above the MLS if they have swallowed a hook, are bleeding or suffering barotraumas. If caught in shallow water and are lip hooked, they are released.
- 18 TASFISH submits that the catch and release of fish is an integral part of fishing today and that the regulations need to reflect this. They consider it absurd to turn someone who releases an otherwise unharmed fish into a criminal, and they request that responsible fishing practices be recognised.
- 19 The Marlborough Combined Divers Association agrees that clarification is required as to when a fish is taken because the Association believes that fish that are quickly returned to the water unharmed should not be regarded as daily catch. The Association submits that there are some members who return particularly large fish back unharmed as these fish are regarded as the best breeding stock for the fishery.
- 20 The Raglan Sport Fishing Club advise that members were extremely surprised to learn that they are in breach of the law for imposing arbitrary size limits above MLSs, and not counting these fish against the daily bag limit. The Club submits that they provide information on best practice when releasing fish for this purpose.

## High grading

- 21 Brian Dean and the Marlborough Combined Divers Association recognise that there may be the possibility of high grading as a result of this option, but that the risk can be best managed by education, enforcement and stern penalties.
- 22 In contrast, members of the Pelorus Boat Club and Peter Saul believe that high grading is unlikely to increase as a result of this option.
- 23 Peter Saul submits that the whole point of releasing fish above the MLS is to take only what is wanted or needed. He submits that people who actually high grade will break any rule that is imposed in any case, and should be treated with appropriate penalties. The vast majority of people who release fish above the MLS would never contemplate “high grading”.
- 24 Keith Ingram submits that he and the wider recreational community do not support the suggestion that recreational fishers who voluntarily release fish above the MLS are actually high grading. He recognises that many fishers who enjoy fishing as a recreational activity frequently do not keep all the fish they land and in many cases these fishers might return with only enough for a feed and be well under the daily bag limit after releasing many healthy fish above the MLS caught that day.
- 25 Keith Ingram also advises that fishers hold strong views on the high-grading of dead fish and believe that if any fish above the MLS that cannot be released in a healthy uninjured state, then this fish must be retained and recorded against the daily bag limit.
- 26 Option4 & the NZ Big Game Fishing Council are concerned that MFish state that recreational fishers who release fish above the MLS are guilty of high grading. The submitters consider that releasing live fish to help conserve the resource is totally different to the practice that was once common in the commercial longline fleet of dumping dead fish (standard grade) so that they would have more quota available for high value export grades of fish (iki jime fish). Most recreational fishers do not come close to catching their bag limit so there is no incentive to swap one fish for another. The motivation for releasing fish is to contribute to a better fishery in the future, not greed.

## Fish handling practices

- 27 The Marlborough Combined Divers Association, some members of the North Island-South West Regional Recreational Forum and Ngati Whatua Fisheries Limited suggest that a code of conduct should be drawn up for proper fish-handling procedures when returning fish to the water to alleviate fish mortality.

### *Submissions received in opposition to the option*

- 28 SeaFIC opposes this option and does not consider it is correct to call the option a clarification of the law. The law at present does not equate a recreational fisher’s daily limit to the number of lawfully taken fish that are actually retained. In SeaFIC’s view amending the law in this way will not ensure sustainability because such an amendment might result in large numbers of fish being caught and dumped by recreational fishers.

- 29 SeaFIC also note that the information currently held or gathered about recreational catch is already sparse and limits the ability of MFish to manage shared fisheries. They contend that this option could, in fact, make the situation worse because there would be no obligation for recreational fishers to report over-sized fish that they had released. Combined with the lack of information on survivability of most fish stocks, SeaFIC believe this could further undermine sustainability.
- 30 Some members of the North Island-South West Regional Recreational Forum raised concerns that the proposal will increase high grading of fish as some fishers attempt to maximise the size of fish retained.

### *Option Two: Issue special permits*

#### *Submissions received in support of the option*

- 31 B. A. Jamieson and SeaFIC are in support of this option.
- 32 SeaFIC consider that this option will provide a degree of flexibility for recreational fishers in comparison to the status quo. SeaFIC also consider that MFish should retain a degree of control over the release of fish larger than MLS because unless that practice is sufficiently regulated it could lead to the wastage of large numbers of mature fish. They advise that there should be a mandatory reporting requirement attached to the special permit because this would make it easier for MFish to ensure compliance and enable it to gather information on over-sized fish that are released. Finally, SeaFIC consider that special permits should be tied to specific groups or organisations with some status such as fishing clubs or competition organisers.

#### *Submissions received in opposition to the option*

- 33 Peter Saul considers that special permits are a bureaucratic, expensive and clumsy option that is not appropriate for this purpose. He also considers that special permits will have no effect on people who wanted to indulge in “deliberate offending”.

### *Option Three: Status quo*

#### *Submissions received in support of the option*

- 34 G. A. O’Rourke and Murray Little are in support of this option.
- 35 Murray Little notes that he is concerned about the quantity of legal sized snapper that is taken then released by recreational fishers. In his submission, he provided information from a popular fishing website providing evidence that many fishers are unaware they must count legal size fish against their bag limit even if they are returned to the sea. He advises that an average of 25% of line-caught, released snapper do not survive.
- 36 Murray Little also advises that he has researched the high-grading practices of non-commercial fishers for the past two years utilising NIWA research, questions at boat ramps, a survey of charter operators, a questionnaire recently posted on a popular website forum and feedback from articles published in a fishing magazine. He has concluded that non-commercial fishers in this country think it is good to high grade, and that less than 5% of the people questioned keep all legal sized fish.

- 37 Finally, Murray Little submits that the existing take rule needs to be enforced and it needs to be explained to fishers the need to account for released fish mortality. He advises that an extensive education campaign to encourage better line fishing practices is required.

*Submissions received in opposition to the option*

- 38 Peter Saul believes that status quo is unenforceable. He refers to the statement in the IPP that “maintaining the status quo has the benefit of being an unambiguous management framework.” In his view, the framework may be unambiguous but it is not actually working.

## Tagging and Releasing Fish for Research Purposes

- 39 In the IPP, MFish proposed to:

- a) Provide a defence for tagging and releasing certain stocks or species in the Regulations; or
- b) Provide for special permits to be considered for recreational fishers to release fish of legal size over and above the daily bag entitlement for a specific stock or species; or
- c) Retain the status quo and confirm that the maximum number of fish that can be tagged and released on any day is the daily bag limit that applies to that particular fish.

- 40 Akaroa Harbour Recreational Fishing Club and the North Island-South East Regional Recreational Forum consider that fish that are tagged and released should not be part of the bag limit at all.

### *Option One: Create a tag and release defence*

*Submissions received in support of the option*

- 41 B. A. Jamieson, Hilton Leith, Peter Saul, Option4 & the NZ Big Game Fishing Council, Raglan Sport Fishing Club, Wanderers Surfcasting and Angling Club and Keith Ingram are in support of this option.
- 42 Keith Ingram submits that to suggest that a fish tagged and released for science should be recorded as part of the daily catch entitlement is an erosion of rights and has the ability to destroy voluntary research tagging programs at a time when everyone is seeking more information on recreational catches.
- 43 The Raglan Sport Fishing Club advises that members have engaged in a personal crusade to tag yellowtail kingfish off the west coast, where little or no data exists for this species. Members submit that they were horrified to become the subject of an inquiry for taking more than their daily bag limit of this species, particularly as yellowtail kingfish is part of MFish’s own tagging programme.
- 44 The Club submits that any fish that is within MFish’s tagging programme should be able to be tagged and released in good health to the water for research purposes. They

believe that the fact recreational fishers take part in these programmes shows recreational fishers to be taking responsibility for these fisheries.

- 45 Option4 & the NZ Big Game Fishing Council note that MFish has been facilitating a cooperative programme for over 30 years that has promoted the tag and release of certain species of fish for research purposes. The submitters advise that not once have MFish suggested that that tagged fish count toward the daily bag limit until now, even with species such as sharks in the South Island where the bag limit is one per person. They submit that it has not been the intent of the legislation or regulations to prohibit these activities.

*Submissions received in opposition to the option*

- 46 No submissions in opposition to this option were received.

*Option Two: Issue special permits*

*Submissions received in support of the option*

- 47 SeaFIC supports this option. In their view this encourages better management of the practice of tagging and releasing fish for research purposes.

*Submissions received in opposition to the option*

- 48 No submissions in opposition to this option were received.

*Option Three: Status quo*

*Submissions received in support of the option*

- 49 No submissions in support of this option were received.

*Submissions received in opposition to the option*

- 50 SeaFIC do not support retention of the status quo. In their view it is important that recreational fishers be encouraged to contribute to the knowledge and sustainable management of fish stocks in fisheries in which they are involved. SeaFIC considers that amending the law to provide for special permits to tag and release fish over and above the bag limit is one positive way to encourage recreational fishers to better manage those fisheries.