

STANDARDISING MINIMUM LEGAL SIZES OF FLATFISH FOR AMATEUR FISHERERS IN CHALLENGER FISHERIES MANAGEMENT AREA - INITIAL POSITION PAPER

Executive Summary

- 1 This Initial Position Paper (IPP) proposes to standardise the minimum legal sizes (MLSs) for flatfish¹ applying to recreational fishers in Challenger Fisheries Management Area. Although this has not been discussed with stakeholders from other areas, the Ministry of Fisheries (MFish) welcomes submissions from these stakeholders on the potential to extend this proposal to all areas. Different MLSs for flatfish (25cm) and sand flounder (23cm) for recreational fishers adds unnecessary complexity to the regulations, as it is often difficult to distinguish between the different species, and recreational fishers may unintentionally breach amateur rules.
- 2 Some individuals within the recreational sector would like to see the MLS for flatfish (25cm) and sand flounder (23cm) standardised, with a single MLS of 25cm for all flatfish species.
- 3 MFish concludes the flatfish – sand flounder MLS disparity is a relatively minor issue that can be remedied very easily.

Proposed Change

- 4 MFish proposes the following be added to the Fisheries (Challenger Area Amateur Fishing) Regulations 1986:
 - i. 2E *Minimum size for sand flounder in Challenger Area*
- 5 *Despite regulation 6 of the Fisheries (Amateur Fishing) Regulations 1986, no person may take from or possess in the Challenger Area any sand flounder that is less than 25 cm in length.*

Implications of Changing MLSs

- 6 The implications of standardising flatfish and sand flounder MLSs by increasing the sand flounder MLS to 25 cm are as follows:
 - a. A reduction in unintentional breaches of Fishing (Amateur Fishing) Regulations 1986 (that is, taking 23cm flatfish);
 - b. Fishers are unlikely to increase effort to catch legal-sized sand flounder with a larger MLS, since sand flounder are but one of a number of flatfish species targeted simultaneously, and therefore changes to the

¹ The QMS stock FLA is comprised of eight species of flatfish: yellow-belly flounder, *Rhombosolea leporina*; sand flounder, *Rhombosolea plebeia*; black flounder, *Rhombosolea retiaria*; greenback flounder, *Rhombosolea tapirina*; lemon sole, *Pelotretis flavilatus*; NZ sole, *Peltorhamphus novaezeelandiae*; brill, *Colistium guntheri*; and turbot, *Colistium nudipinnis*.

MLS is likely to have little or no impact on the health of the aquatic environment; and

- c. Increasing the MLS of sand flounder to 25cm will have little or no effect on sustainability. This species is short-lived (generally only three to four years) and fast growing (increasing from around 23cm at age two years to around 31cm at age three years), therefore an increase in MLS of 2cm would only afford around three months extra growth².

Regulatory Impact Analysis Requirements

- 7 A Regulatory Impact Statement on this proposal has been reviewed by MFish. For more information on the Regulatory Impact Analysis Requirements, please refer to the Treasury website, www.treasury.govt.nz/publications/guidance/regulatory.

Recommendation

- 8 Remediating this problem is not urgent, however MFish recommends:
 - (i) Increasing the minimum legal size for sand flounder from 23 cm to 25 cm for amateur fishers in the Challenger Fisheries Management Area.
- 9 Stakeholder views are sought on this recommendation for the Challenger Fisheries Management Area, and on the potential to extend this proposal to all areas.

² Estimated from $(\text{new MLS} - \text{old MLS}) \div (\text{length at age two} - \text{length at age three}) \times 12 = ((25-23) \div (31-23)) \times 12 = ((2 \div 8) \times 12) = 3$ months where von Bertalanffy parameters for FLA 3 females are $K = 0.235$, $t_0 = -0.083$ and $L_\infty = 59.9$. Note: the value for L_∞ as reported in the 2008 Plenary report appears to be too high – this may be an artefact resulting from too few samples. If the value for L_∞ is indeed too high, and the true value is closer to say 40cm (average L_∞ for brill, turbot and lemon sole), then there would still be only around 5 months of extra growth. Since flatfish are thought to spawn once per year (in the winter or spring) an additional three to five months growth is unlikely to confer extra spawning opportunities.

REGULATORY IMPACT STATEMENT

Standardising Minimum Legal Sizes for Flatfish for Amateur Fishers in Challenger Fisheries Management Area

a) Executive summary

The IPP proposes to introduce a single MLS of 25cm for all flatfish species in the Challenger area.

Different minimum legal sizes (MLSs) for flatfish (25cm) and sand flounder (23cm) for recreational fishers adds unnecessary complexity to the regulations, as it is often difficult to distinguish between the different species, and recreational fishers may unintentionally breach amateur rules.

b) Adequacy statement

This RIS has been approved by the RIA Review Group according to criteria agreed by Cabinet.

c) Status Quo and Problem

Amateur fishers may inadvertently breach the current regulations by mis-identifying one of the other flatfish species (with a MLS of 25cm) as sand flounder (with a MLS of 23cm). For example, should an amateur fisher take a 24cm black flounder, because he thinks it is a sand flounder, he is in breach of the regulations.

d) Objectives

In general, the objectives that the proposal is measured against are:

- The sustainable utilisation of the resource;
- The value of the resource is maximised;
- Management of the resource is credible.

Specifically, these two objectives from the Challenger Finfish Fish Plan (CIFF) are particularly relevant:

“1. Maintain a sustainable, abundant and readily available supply of CIFF mahinga kai in order to:

- *Enable tangata whenua in Challenger to exercise their customary fishing rights. This includes sustaining the functions of Iwi, hapu, marae, and the manaaki of manuhiri.*
- *Ensure good-quality recreational fishing (high likelihood of catching good-sized fish) when fishing for CIFF stocks*
- *Enhance the long term profitability of commercial CIFF stocks.”*

and

“7. Have a simple, accessible and integrated set of regulations and agreements governing fishing for the CIFF stocks by 1 October 2010.”

e) Alternative options

Because both the issue and the solution are straightforward, a single option is given.

f) Preferred option

Summary of key features of the preferred option:

- A reduction in unintentional breaches of amateur fishing regulations (that is, taking flatfish greater than 23cm but less than 25cm);
- Fishers are unlikely to increase effort to catch legal-sized sand flounder with a larger MLS, since sand flounder are but one of a number of flatfish species targeted simultaneously, and therefore a change to the MLS for sand flounder is likely to have little or no impact on the health of the aquatic environment; and
- Increasing the MLS of sand flounder to 25cm will have little or no effect on sustainability. This species is short-lived (generally only three to four years) and fast growing (increasing from around 23cm at age two years to around 31cm at age three years), therefore an increase in MLS of 2cm would only afford around three months extra growth.

The proposed changes are preferred to the status quo because:

- Compliance with mesh size rules would be easier, mitigating against unintentional breaches of amateur fishing regulations. This would enhance credible fisheries management;
- The proposal would facilitate broader involvement of the recreational fishing sector in fisheries management in general, and fish plans in particular; and
- Standardising flatfish MLSs will have little or no impact on the health of the aquatic environment
- Replacing the two different MLSs applicable to the flatfish complex for amateur fishers with a single MLS will therefore make it simpler to observe the rules and therefore enhance the amateur fishing experience.

Compliance and enforcement costs should be similar to, or reduced, from the present level under the proposed changes because the rules will be simpler and infringements should decline.

g) Implementation and review

The changes would take place from 1 October 2009 by way of changes to MFish's *Recreational Fisher's Handbook* (the current handbook expires in October 2009) and by adding the following to the Fisheries (Challenger Area Amateur Fishing) Regulations 1986:

2E Minimum size for sand flounder in Challenger Area

Despite regulation 6 of the Fisheries (Amateur Fishing) Regulations 1986, no person may take from or possess in the Challenger Area any sand flounder that is less than 25 cm in length.

Changes to the regulations would also be communicated via the Top of the South Recreational Forum, letter to fishing clubs and other MFish forums such as the Challenger Finfish Fishplan Advisory Group.

h) Consultation

Reconciling minimum mesh sizes was one of several issues identified by the Top of the South Recreational Forum when they compiled a list of issues to put forward for the recreational regulation review that stalled in early 2008. Standardising flatfish minimum legal size regulations would therefore enhance recreational sector involvement in the Challenger Inshore Finfish Fishplan Advisory Group (CIFF FPAG).

STANDARDISING MINIMUM LEGAL SIZES OF FLATFISH FOR AMATEUR FISHERERS IN CHALLENGER FISHERIES MANAGEMENT AREA - SUMMARY OF SUBMISSIONS

Summary of submissions

10 MFish received five submissions through consultation on the proposal to increase the MLS of sand flounder to 25 cm. These five submissions are summarised below.

11 Te Ohu Kaimoana and the Seafood Industry Council support this proposal.

12 The Top of the South Island Recreational Forum supports this proposal. However, TASFISH who are on the Forum have now raised new concerns:

“TASFISH support the standardisation of the flatfish MLS to 25 cm for both commercial and non-commercial fishers

If only the non commercial MLS are standardised the commercial sector will have an opportunity to harvest sand flounder at 23 cm before the amateur sector get access to these fish

This will only increase the level of conflict between the sectors in areas like the Marlborough Sounds where there is already a high level of conflict due to the high concentration of commercial effort and the resulting localised depletion.”

13 The New Zealand Recreational Fishing Council (NZRFC) supports the TASFISH submission.

Discussion

14 Standardising the MLS for recreational fishers is a sensible idea and has support from stakeholders. TASFISH and the NZRFC, however, are concerned that the MLS change should also apply to the commercial sector because they believe commercial fishers will have an opportunity to harvest sand flounder at 23 cm before the recreational sector get access to these fish and this will increase conflict between these two sectors within the flatfish fishery.

15 MFish understands the concerns of TASFISH and the NZRFC. However, we do not consider retaining the commercial MLS at 23 cm will increase conflict between recreational and commercial fishers. If anything, raising the commercial MLS of sand flounder to 25 cm will lead to higher levels of potential conflict.

- 16 This is because commercial fishing methods³ are not selective and catch a whole size range of flatfish. At the moment commercial fishers are required to land all sand flounder over 23 cm and record it against their Annual Catch Entitlement (ACE), and all sand flounder below 23 cm must be returned to the sea (returned fish are mostly dead). Increasing the MLS to 25 cm would mean that more fish would be returned to the sea dead increasing incidental mortality. Also, less fish would be landed and recorded against ACE allowing commercial fishers to fish for longer before reaching their ACE limit. This would increase the overall total quantity of flatfish removed from an area and the potential conflict between recreational and commercial fishers.
- 17 MFish will sit down with the recreational fishers and explain why leaving the commercial MLS at 23 cm is sensible at this time. MFish is also working with the commercial and recreational sectors through the fish plan process to try and reduce conflict over access to flatfish in FMA7 in a logical way.
- 18 MFish considers there is support for standardising the recreational MLS and that concerns over increased conflict raised by TASFISH and the NZRFC are not sufficient to prevent progression of this proposed sensible change.

³ The TACC in FMA7 is taken mostly by the trawl method. The set net method is also used.