

STANDARDISING THE MINIMUM LEGAL SIZE OF FLATFISH FOR RECREATIONAL FISHERS IN THE CHALLENGER FISHERIES MANAGEMENT AREA – FINAL ADVICE

The issue

In the Challenger Fisheries Management Area (FMA7) recreational fishers take eight different species of flatfish. Seven species¹ have a minimum legal size (MLS) of 25 cm and one species, sand flounder², has an inconsistent MLS of 23 cm.

The problem is that many recreational fishers are unable to identify sand flounder from other flounder species and this can cause unintentional non-compliance with the flatfish rules eg, fishers retain non-sand flounder species less than the 25cm MLS.

The Top of the South Island Recreational Forum³ (the Forum) requested MFish increase the MLS of sand flounder to 25 cm to make it consistent with the other flatfish species. MFish agreed that this was a sensible idea and consistent with our aim of simplifying recreational rules.

MFish's initial position paper (IPP) setting out our recommendation to increase the MLS for sand flounder to 25 cm was discussed with the Forum prior to consultation.

The IPP did not propose changes to the commercial MLSs for flatfish which are the same as the current recreational MLSs (ie 23 cm for sand flounder and 25 cm for other flatfish species). Commercial fishers had not requested a change in their MLSs. In addition, MFish will be working with the commercial sector to improve the overall management of the flat fishery and any changes to the commercial MLS are best considered as package with other potential changes to improve current management.

Summary of submissions

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.

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

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

¹ The seven flatfish species are *Colistium nudipinnis*, *Peltorhamphus novaezealandiae*, *Colistium guntheri*, *Rhombosolea retiaria*, *Rhombosolea tapirina*, and *Pelotretis flavilatus*

² *Rhombosolea plebeia*

³ The Recreational Forum includes recreational fishing clubs from Marlborough, Tasman and Golden Bays and the West Coast.

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.”

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

Discussion

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.

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.

This is because commercial fishing methods⁴ 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.

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.

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.

Statutory considerations

Section 8 sets out the purpose of the Act to provide for the utilisation of fisheries

⁴ The TACC in FMA7 is taken mostly by the trawl method. The set net method is also used.

resources while ensuring sustainability. MFish is of the view this proposal will simplify the recreational rules for this fishery while ensuring sustainability.

Section 9 requires decisions take into account the effects of any management action on associate and dependent species, biological diversity, and habitats of particular significance for fisheries management. MFish is of the view this proposal will not result in additional impacts on associate and dependent species, biological diversity or important habitats.

Section 10 requires that decisions are based on the best available information, taking into account any uncertainty in that information, and applying caution when information is uncertain unreliable, or inadequate. MFish is of the view this proposal meets the requirements of section 10 and is based on the best information available.

Section 297(1) of the Act allows the Governor-General by Order in Council to make regulations for the purpose of regulating the taking or possession of fish, aquatic life, or seaweed smaller, or larger, than a specified size. MFish considers the proposed change to the MLS of sand flounder fits within the relevant provisions of section 297.

Recommendation

MFish recommends that you agree to:

- (i) Increase the minimum legal size for sand flounder from 23 cm to 25 cm for recreational fishers in the Challenger Fisheries Management Area.