

# Impact Summary: Review of Recreational Regulations in PAU 3 (Canterbury) and PAU 7 (Marlborough)

## Section 1: General information

Purpose
The Ministry for Primary Industries is solely responsible for the analysis and advice set out in this Regulatory Impact Summary. This analysis and advice have been produced for the purpose of informing final decisions to proceed with a policy change to be taken to Cabinet.

Key Limitations or Constraints on Analysis
Responsible Manager (signature and date):
<div>Privacy</div> Inshore Fisheries Manager Fisheries New Zealand <b>Ministry for Primary Industries</b>

## Section 2: Problem definition and objectives

### 2.1 What is the policy problem or opportunity?

Fisheries New Zealand considers current levels of recreational harvest to be unsustainable in the PAU 3 (Canterbury) and PAU 7 (Marlborough) fisheries. Both fisheries were negatively impacted by earthquakes in November 2016 (the Kaikōura earthquakes), but recreational regulations have not yet been changed to account for sustainability concerns present in these fisheries since the earthquakes. Commercial catch limits have already been reduced to account for the earthquake's impacts.

PAU 3 and PAU 7 are managed as distinct fisheries with individual Total Allowable Catches (TACs). The TAC for each fishery is split into a Total Allowable Commercial Catch (TACC) and allowances for customary harvest, recreational harvest, and all other mortality caused by fishing. The geographical locations for PAU 3 and PAU 7 are shown in Figure 1.

The Kaikōura earthquakes caused substantial uplift along sections of coastline in PAU 3 and PAU 7, and led to considerable observed mortality of pāua. The uplifted section of coastline in PAU 3 was particularly important pāua fisheries habitat, and as a result, there were significantly greater impacts in PAU 3 than in PAU 7. Despite suffering lesser impacts from the earthquakes, sustainability concerns were already present in PAU 7 before the earthquakes and since have been exacerbated.

As a result, the then Minister closed the earthquake-affected coastline to all fishing for shellfish and seaweed to allow the ecosystem and fish populations to recover from the earthquakes' impacts (Figure 1: four nautical mile closure between Marfell's Beach and the Conway River). However, the TACs for each fishery were not changed at that time, in effect concentrating fishing effort intended for the larger areas of PAU 3 and PAU 7 into the smaller areas left open. This created a significant risk that fishing effort would increase to unsustainable levels in the open areas of PAU 3 and PAU 7.

To manage this risk, the TACs for PAU 3 and PAU 7 were reviewed in 2017, and the TACCs were reduced in both fisheries, consistent with the biomass considered lost in each commercial fishery as a result of the closure. Recreational regulations, which are designed to limit recreational harvest to sustainable levels, remain unchanged.

For PAU 7, the 2017 TAC review was the second TAC review in two years. PAU 7 was also reviewed in 2016 before the earthquakes because the 2015 stock assessment assessed PAU 7 to be near its soft limit (the limit a formal time-constrained rebuilding plan should be implemented for a fishery). The TACC was reduced significantly in 2016 (prior to the earthquakes) to rebuild the fishery. Anecdotal information at that time suggested that recreational harvest was causing localised depletion and also needed to be reduced, but as this requires a separate regulatory process, recreational regulations were not reviewed at the same time as the TACC. A review of recreational regulations was planned, but was delayed when the Kaikōura earthquakes unexpectedly caused disruption in PAU 7 later in 2016.

The last stock assessment (2013) for PAU 3 assessed the stock as very likely to be at or above its management target. However, as outlined above, the earthquakes had a significantly larger impact in PAU 3, with up to 50% of previously commercially-fished pāua habitat in the northern statistical areas of PAU 3 being uplifted (and subsequently closed).

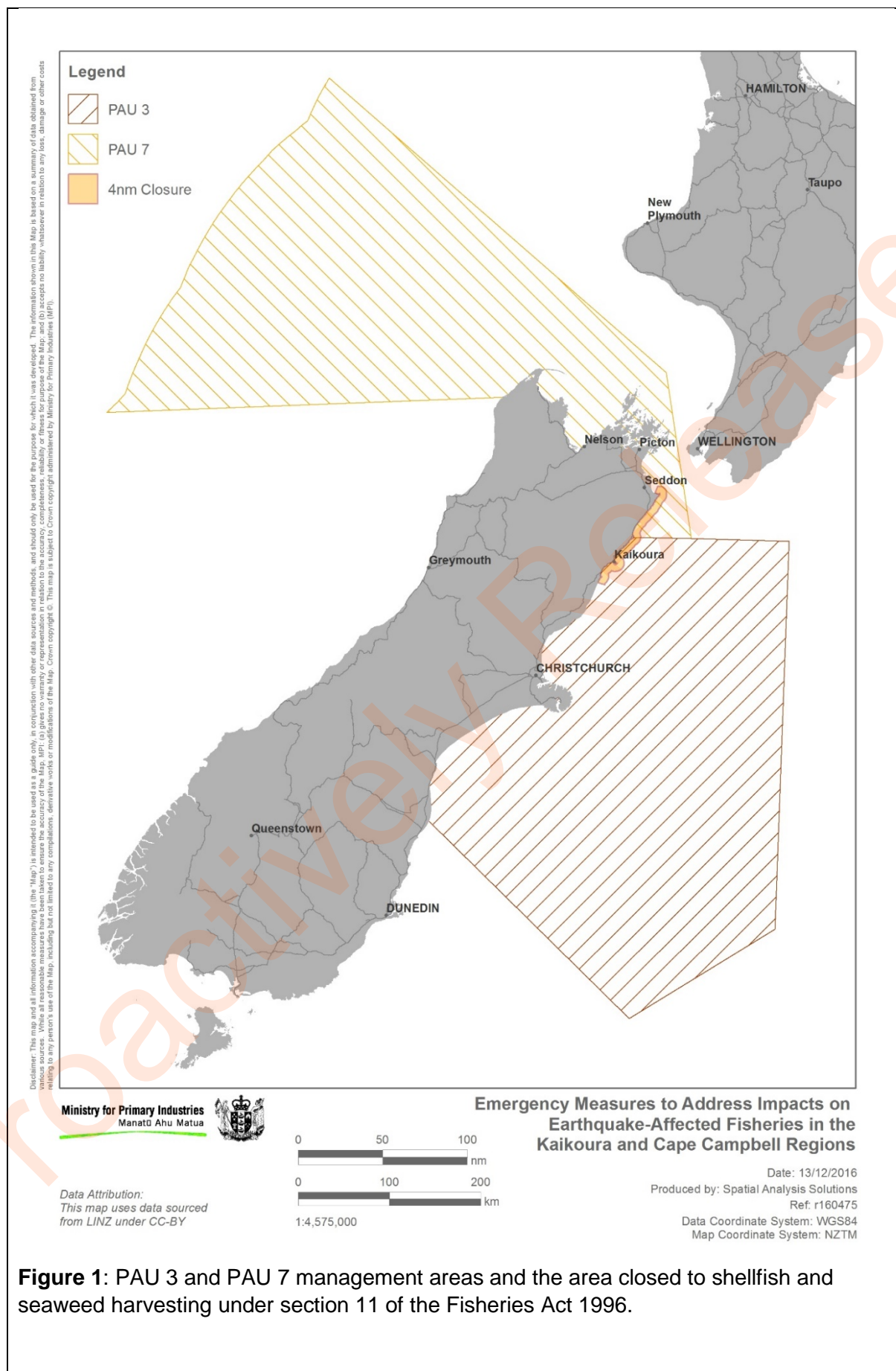
While risks to sustainability from increasing commercial effort in the remaining open areas of PAU 3 and PAU 7 have been mitigated by reducing the TACCs, recreational regulations have not yet been changed to ensure that recreational harvest occurs at sustainable levels.

Feedback received in submissions and during public drop-in sessions during the 2017 TAC review and review of the earthquake closure suggested that there is localised depletion occurring in areas of high recreational fishing effort in PAU 3 and PAU 7. Iwi and Fishery Officers corroborate this feedback. Additionally, feedback received during the 2016 TAC review of PAU 7 suggested that localised depletion in areas of high recreational fishing effort was already occurring prior to the earthquakes. Iwi, Fishery Officers, and the general public suggest that in some areas of PAU 7, these localised depletion concerns have been exacerbated by increased effort as a result of the earthquake closure. Estimates of recreational harvest from the National Panel Survey of Marine Recreational Fishers suggest that recreational harvest may have decreased between surveys (2012 and 2018).

Based on anecdotal information, allowing recreational harvest to continue at current levels may slow or compromise the rebuild of these two fisheries.

The objectives of this review link directly to the purpose of the Fisheries Act 1996, which is to provide for utilisation of fisheries resources while ensuring sustainability. The objectives used to assess options were:

- a meaningful reduction in recreational harvest is achieved;
- utilisation by (and thus the social and cultural well-being of) recreational fishers is not unreasonably impacted; and
- implementation is timely and straight-forward.



## 2.2 Who is affected and how?

The proposed regulatory amendments will affect recreational pāua fishers in PAU 3 and PAU 7. They are intended to reduce recreational fishing harvest, to address localised depletion of pāua populations. The proposals would directly limit the number of pāua that recreational fishers can harvest, and would only affect fishers wishing to harvest more than the proposed bag limit would allow for, including customary fishers harvesting under the recreational regulations.

In time, recreational, commercial, and customary fishers will be positively affected by the improved capability of the fisheries to rebuild.

There is mixed support for the proposals (see Section 5: Stakeholder Views).

Fisheries New Zealand supports a reduction in recreational harvest to contribute to sustainable utilisation of these fisheries.

Iwi (Te Waka a Maui and Te Tau Ihu Iwi Fisheries Forums) support a reduction in recreational harvest.

Some recreational fishers support a reduction in the daily bag limit, while others do not. The pāua fishing industry supports a reduction in recreational harvest in PAU 7 to support the rebuild of the fishery back to its target biomass. The pāua fishing industry and the Kaikōura Marine Guardians support a reduction in recreational harvest in PAU 3 to support recovery of the fishery following the earthquakes.

## 2.3 Are there any constraints on the scope for decision making?

Decision-making is guided by the options consulted on. Alternative options that are outside the range of those consulted on may require further provision for input and participation of tangata whenua and public consultation.

This review is limited in scope to recreational regulations only. Total Allowable Commercial Catch limits were already reduced in 2017. Customary harvest is managed by tangata tiaki in accordance with tikanga and kaitiakitanga. This review is designed to support the recent TAC reviews, which sought to set sustainable catch limits, but did not alter recreational regulations, as this is done by a separate process (this review).

There is uncertainty in the best available information, as outlined in Section 1.



## Section 3: Options identification

### 3.1 What options have been considered?

#### Options considered

This review focuses on recreational regulations only (TACCs were reviewed in 2017). The criteria used to assess options for recreational regulations are the objectives outlined in section 2. All options considered are outlined here. The options that were ultimately consulted on are described in the end of this section.

#### Status quo

Fisheries New Zealand considered that the *status quo* would not result in a meaningful reduction in recreational harvest across PAU 3 and PAU 7, and therefore did not consult on this option.

#### Voluntary reduction

Fisheries New Zealand considered that a voluntary reduction in harvest was unlikely to result in a meaningful reduction in recreational harvest and, therefore did not pursue this option, as it did not meet the objectives of this review. Fisheries New Zealand, through advice on its website, has encouraged recreational fishers to take voluntary steps to reduce their catch – but, to date, this does not appear to have resulted in a sufficient reduction in harvest.

#### Reduction to the daily bag limit and accumulation limit

Fisheries New Zealand considered that reductions to the daily bag limit<sup>1</sup> and accumulation limit<sup>2</sup> would be the most likely mechanism to reduce recreational harvest in a meaningful and timely way. These options allowed consideration of different levels of reduction, with correspondingly different impacts on utilisation i.e. by allowing for a range of different bag limits to be considered). These recreational regulations are already in place in these areas, and are well known to fishers and Fishery Officers, making them relatively simple to implement, comply with, and enforce when compared to novel measures.

Fisheries New Zealand therefore consulted on options to reduce the daily bag limit and accumulation limit (outlined below).

#### Other recreational regulations

Fisheries New Zealand considered proposing amendments to the minimum legal size for pāua as a tool for reducing recreational harvest. This option was not pursued because it was considered to have wider implications that might significantly delay this review. Most significantly, Fisheries New Zealand considered that a review of the commercial minimum legal size would also be necessary if the recreational minimum legal size was reviewed, and this would significantly delay implementation of any potential regulatory amendments to reduce recreational harvest.

Fisheries New Zealand also considered investigating fishing seasons or rotational closures as options for minimising localised depletion in these fisheries. However, such novel proposals would require greater consultation and planning to determine how they might best be applied, and whether there is sufficient compliance capacity for enforcement.

<sup>1</sup> The daily bag limit is the maximum amount of a particular species (in this case pāua) that can be harvested in a day.

<sup>2</sup> The accumulation limit is the maximum amount of a particular species (in this case pāua) that any one person can be in possession of at any one time, even if they have been fishing on multiple days (i.e. a fisher can only accumulate the specified limit of daily bag limits over multiple days of fishing if there is an accumulation limit).

Fisheries New Zealand did not pursue these options due to the possibility of causing significant delay.

### Options released for public consultation

Currently, a daily bag limit and accumulation limit applies nationally for pāua. The current national daily bag limit is 10 pāua. The current national accumulation limit is 20 pāua or 2.5 kg (i.e. 2 daily bag limits). The options consulted on would set separate daily bag limits and accumulation limits for PAU 3 and PAU 7. This is common practice for a number of recreational fisheries, where daily bag limits are set for defined management areas rather than being set at a national level.

The final options consulted on are provided in Table 1.

**Table 1: Options presented for consultation for recreational regulations in PAU 3 and PAU 7.**

		Daily Bag Limit	Accumulation limit
<b>PAU 3</b> (a daily bag limit would be set for PAU 3)	<b>Option 1</b>	5	10 pāua or 1.25 kg (i.e. 2 daily bag limits)
	<b>Option 2</b>	3	6 pāua, or 0.75 kg (i.e. 2 daily bag limits)
<b>PAU 7</b> (a daily bag limit would be set for PAU 7)	<b>Option 1</b>	5	10 pāua, or 1.25 kg (i.e. 2 daily bag limits)
	<b>Option 2</b>	3	6 pāua, or 0.75 kg (i.e. 2 daily bag limits)

An analysis of options against the objectives is provided in Table 2.

The benefit of Option 1 in each case is that utilisation is less limited than Option 2, while still offering a meaningful reduction in recreational harvest to help ensure sustainability.

The downside of Option 1 in each case is that it is uncertain if a bag limit of 5 will reduce harvest enough to mitigate the effects of localised depletion, given uncertainty around the best available information on recreational harvest.

The benefit of Option 2 in each case is that it may be more likely to reduce recreational harvest to sustainable levels than Option 1.

A downside of Option 2 is that, while it will restrict utilisation significantly compared to the *status quo*, it may result in either increased non-compliance and illegal activity, or a change in fisher behaviour to fish more frequently, both of which could result in a lesser reduction in harvest than desired. Simultaneously, this option has the effect of restricting the social and cultural wellbeing of recreational fishers because of the significant constraint on utilisation.

**Table 2: Analysis of options against the objectives of this review.**

Objectives	Option 1	Option 2
<b>Objective 1: a meaningful reduction in recreational harvest is achieved</b>	✓ Bag limit is reduced by 50%. This may incentivise more frequent fishing trips and/or illegal activity, which would be at odds with this objective (less likely under this option than Option 2 given lesser restriction).	✓ Bag limit is reduced by 70%. This may incentivise more frequent fishing trips and/or illegal activity, which would be at odds with this objective (more likely under this option than Option 1 given greater restriction).
<b>Objective 2: the social and cultural well-being of recreational fishers is not unreasonably impacted</b>	✓✓ A daily bag limit of five pāua is likely to still provide an acceptable level of catch for recreational enjoyment and sustenance.	X Reducing the daily bag limit to three is likely to have an unreasonable level of impact on recreational fishers as it may be more of a reduction than is needed to ensure sustainability.
<b>Objective 3: implementation is timely and straight-forward</b>	✓✓	✓✓



### 3.2 Which of these options is the proposed approach?

The proposed approach for each fishery is Option 1. Fisheries New Zealand considers that Option 1 strikes the best balance between providing for utilisation and reducing harvest to help ensure sustainability (Table 1).

Although it is unclear how much Option 1 will reduce harvest, Fisheries New Zealand expects that halving the current daily bag limit should provide a sufficient reduction in harvest to support the rebuild of the stock. Any concerns that Option 1 does not go far enough to reduce recreational harvest are mitigated by the National Panel Survey harvest estimates, which suggests that harvest may have already reduced between 2012 and 2018.

In addition, anecdotal information and feedback received in submissions suggests that Option 1 is supported by the majority of recreational fishers. Stronger support means that fishers are more likely to comply with the regulations, and thus Option 1 is less likely to incentivise illegal behaviour, which further supports the objective of meaningfully reducing harvest to support sustainability.

Stronger support for Option 1 also suggests that fishers feel less constrained by this option, which suggests that Option 1 is least likely to unreasonably impact on utilisation, and thus fishers' social and cultural wellbeing.

Fisheries New Zealand did not identify any areas of incompatibility with Government's 'Expectations for the design of regulatory systems'.

## Section 4: Impact Analysis (Proposed approach)

### 4.1 Summary table of costs and benefits

Affected parties (identify)	Comment: nature of cost or benefit (eg ongoing, one-off), evidence and assumption (eg compliance rates), risks	Impact <i>\$m present value, for monetised impacts; high, medium or low for non-monetised impacts</i>
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Additional costs of proposed approach, compared to taking no action		
Regulated parties	Harvest will be reduced for recreational pāua gatherers, previously entitled to a bag limit of 10 and an accumulation of 2 daily bag limits. This will have the biggest impact on recreational pāua gatherers that typically take more than 5 pāua at a time (some fishers already harvest 5 or less pāua when they go fishing).	Medium – this is expected to affect a reasonable number of recreational pāua fishers, though the option was supported by the majority of submitters.
Regulators	Additional Compliance effort to educate public on new rules.	Low - changes to brochures and signs would be made as part of plans for rebranding to “Fisheries New Zealand” from “MPI”, so will not incur additional cost.
Wider government		NA – Fisheries New Zealand is not aware of any impacts on wider government.
Other parties	Customary fishers fishing under the recreational regulations will be affected by the proposals. However, customary harvest under authorisation from tangata tiaki will not be affected.	Low – Fisheries New Zealand expects the impact to be low as customary harvest authorised by tangata tiaki is not affected.
<b>Total Monetised Cost</b>		NA
<b>Non-monetised costs</b>		Low

Expected benefits of proposed approach, compared to taking no action		
Regulated parties	Sustainability and rebuilding of the fishery will be better supported and more likely to provide for catch further into the future.	Medium – this is expected to support the rebuild of these fisheries and therefore provide benefits for recreational fishers sooner than if no action is taken.

Regulators	More likely to achieve purpose of the Fisheries Act.	Medium – evidence suggests that action must be taken to achieve the purpose of the Fisheries Act 1996; however, there is reasonable uncertainty associated with the available information.
Wider government		NA – Fisheries New Zealand is not aware of benefits for wider government.
Other parties	Customary and commercial fishers will also benefit from the fishery rebuilding faster.	Medium – this is expected to support the rebuild of these fisheries, which will also benefit customary and commercial fishers.
<b>Total Monetised Benefit</b>		NA
<b>Non-monetised benefits</b>		Low

## 4.2 What other impacts is this approach likely to have?

Currently there is only a single national daily bag limit for pāua. Introducing either option in this paper will have the effect of creating area-specific daily bag limits in PAU 3 and PAU 7 that differ from the national limit. This may create confusion for some recreational fishers, particularly those fishing near the boundaries of PAU 3 and PAU 7. However, there is precedence for this. The majority of recreational daily bag limits for other species are area-specific rather than national, and recreational fishers that harvest other species are likely to be already accustomed to daily bag limits and accumulation limits that differ between management areas.

Fisheries New Zealand intends to address the risk of causing confusion with area-specific regulations through a local communication campaign, led by the regional Compliance team of Fishery Officers, which will include promotion of the new rules and updates to signs and brochures.

## Section 5: Stakeholder views

### 5.1 What do stakeholders think about the problem and the proposed solution?

Fisheries New Zealand provided for input and participation of tangata whenua, undertook pre-consultation, assessed previous submissions from the 2016 review of PAU 7, and held public consultation on the proposals for contained in the review.

Generally, submissions showed preference for Fisheries New Zealand's preferred approach of Option 1, given the higher likelihood of success of this option over Option 2.

Feedback provided in submissions did not lead to any changes to the proposed options. There were additional options raised by submitters that were either out of scope of the review or that Fisheries New Zealand did not consider would adequately meet the objectives of the review (see Section 3: Options Identification).

#### Input and Participation

Fisheries New Zealand provides for input and participation of tangata whenua through established regional Iwi Fisheries Forums, assisting iwi in those Forums to develop Fisheries Plans. Fisheries New Zealand meets with all Forums at least three times a year.

In respect to the PAU 3 and PAU 7 fisheries, Fisheries New Zealand meets with all nine South Island iwi either directly or through their forums, Te Tau Ihu Iwi Forum and Te Waka a Māui me Ōna Toka Iwi Forum.<sup>3</sup> The Forums had the opportunity to consider proposals for PAU 3 and PAU 7 at an early stage and contribute to the refinement of proposals. They were also consulted on the options that were released for public consultation.

<sup>3</sup> Te Waka a Māui me Ōna Toka Iwi Forum involves all South Island iwi, while the Te Tau Ihu Iwi Forum involves all top of the South Island iwi (i.e. does not involve Ngāi Tahu).

Te Waka a Māui me Ōna Toka Iwi Forum expressed concern about the impact of the current level of recreational harvest. They supported a review of the recreational regulations and a reduction in the daily bag limit, without specific explicit support for a particular bag limit at that time.

The Te Tau Ihu Iwi Forum advocated for the lowest bag limit to be introduced. They noted concerns around the amount of pressure that has increased in the Marlborough Sounds following the closure of the Marfell's Beach – Conway River area after the earthquakes. In addition, they expressed concerns about the lack of agility to make decisions noting how long it has taken for this review.

#### Pre-consultation

Fisheries New Zealand undertook pre-consultation with tangata whenua and the public by proposing a review of recreational daily bag limits for the whole of PAU 3 and PAU 7 during a 2017 review of the Total Allowable Catch (TAC) in the e fisheries. At that time, reflecting concern about the pāua stocks particularly following the earthquakes, there was strong support for reviewing the recreational daily bag limit with a view to reducing recreational harvest.

Fisheries New Zealand also considered relevant comments made in submissions prior to the earthquakes when the TAC for PAU 7 was reviewed in 2016. At this time there was concern regarding the level of recreational harvest in PAU 7, with anecdotal reports of localised depletion, and general support for reducing the recreational daily bag limit and therefore harvest.

#### Public consultation

Fisheries New Zealand publicly consulted on options outlined in this paper for six weeks, from 22 August to 3 October 2018. The consultation document was released on Fisheries New Zealand's website, and persons or organisations with an interest in and/or affected by the proposals were notified of the consultation process by email directing them to the consultation webpage.

Fisheries New Zealand received 70 submissions. Stakeholders held diverging views on the problem and the proposed options. However, a majority supported a reduction in the recreational daily bag limit (Table 3), and many of these referenced the impacts of the earthquakes as their rationale for supporting a reduction in the daily bag limit.



**Table 3: Summary of submissions showing support for options from the consultation paper and/or other suggestions received in submissions.<sup>4</sup>**

Stock	Number of submissions in support			
	Option 1	Option 2	Other suggestions	
PAU 3	17	9	8	6 submitters requested <i>status quo</i> , 1 supported either Option 1 or 2, and 1 supported a daily bag limit of 6.
PAU 7	17	9	3	2 submitters requested the <i>status quo</i> , and 1 submitter supported either Option 1 or 2
Did not specify fishery	10	9	12	No clear trend towards one option or another.

#### Accumulation Limit

Very few submitters made specific comments on the accumulation limit proposals. Support for the proposed accumulation limits has been assumed if a submitter indicated support for that option. Both options propose an accumulation limit of two days' catch.

Some submitters requested that a larger accumulation limit be allowed than what was proposed in the options. Fisheries New Zealand considers that keeping the accumulation limit to two days' catch is important for sustainability, as it helps to reduce harvest by preventing fishers from taking a daily bag limit if they've already accumulated two days' catch. The proposal is also consistent with pāua accumulation limits nationwide, and therefore will make rules consistent and easier to follow.

#### Other Suggestions

Submitters made a range of other comments that were outside the scope of this review, or that related to other management measures (see Section 3: Options Identification).

<sup>4</sup> Total numbers in this table exceed the number of submissions because some submitters commented on both fisheries.

## Section 6: Implementation and operation

### 6.1 How will the new arrangements be given effect?

Amendments will be made to the Fisheries (Amateur Fisheries) Regulations 2013. The new regulations are intended to come into effect by the end of October 2019. In order to notify fishers and communicate these new rules, Fisheries New Zealand will:

- publish and circulate new brochures including updated daily bag limit and accumulation limit information;
- post the decisions on the Fisheries New Zealand website and social media pages;
- notify submitters directly through a decision letter from the Minister of Fisheries; and
- educate recreational fishers about the new rules directly through communication channels used by Fishery Officers in these regions.

Fishery Officers will be responsible for ongoing enforcement of the new arrangements, which is expected to fall under their current day-to-day work without requiring additional capacity.

## Section 7: Monitoring, evaluation and review

### 7.1 How will the impact of the new arrangements be monitored?

The new arrangements will be monitored through anecdotal information and scientific monitoring where possible.

The National Panel Survey of Marine Recreational Fishers will continue to be updated, providing an indication of recreational harvest. The stock assessment for PAU 7 will be updated in 2019. The stock assessment for PAU 3 requires further discussion through the science working group process to determine how to update the stock assessment taking into account the impacts of the earthquakes on the stock, which were considerably large than in PAU 7.

An ongoing project in the closed area between Marfell's Beach and Conway River is focused on investigating abundance and biomass of pāua, as well as recruitment into the fishery.

Fisheries New Zealand will continue to meet regularly with Iwi Fisheries Forums and receive their input with respect to the impacts of any new regulations. Fisheries New Zealand will utilise its stakeholder engagement mechanisms and network of Fishery Officers to receive further updates and anecdotal reports on the rebuild of the pāua populations in these areas.

When science supports a review of the current closure in the earthquake-affected area between Marfell's Beach and the Conway River, Fisheries New Zealand will take the opportunity to collect additional information as to the effectiveness of recreational regulations with respect to sustainability concerns and utilisation opportunities in the areas adjacent to the closure.

### 7.2 When and how will the new arrangements be reviewed?

Depending on the results of the science, and feedback from iwi, compliance, and stakeholders, Fisheries New Zealand will consider whether or not further review is required. If any information suggests that the outcomes of this review are inadequate, Fisheries New Zealand will initiate a further review of these fisheries. In particular, if future stock assessments suggest that the stocks have recovered, Fisheries New Zealand will review the TACs (including the TACCs and associated allowances) for these fisheries, and subsequently will review whether the recreational regulations are still adequate in light of the TAC review.

If the closure between Marfell's Beach and the Conway River is lifted and the fisheries reopened, Fisheries New Zealand will consider whether the recreational regulations are adequate for PAU 3 and PAU 7.

Proactively Released