Te Ohu Kaimoana's response to Fisheries New Zealand's review of Sustainability measures for 1 October 2019

Te Ohu Kaimoana

Contents

This is our response to this year's sustainability review

1. This paper contains our response to Fisheries New Zealand's proposals on the review of sustainability measures for the 2019/20 fishing year. Fisheries New Zealand released its Initial Position Paper on 18 June 2019. Final responses are due on 26 July 2019.

2. Our response is structured as follows:
    - First, we set out who we are and the reasons for our interest in the Initial Position Paper.
    - Second, we describe *Te Hā o Tangaroa kia ora ai tāua* as the foundation of our fisheries management principles.
    - Third, we identify how fisheries management should be consistent with the Māori Fisheries Deed of Settlement[1].
    - Fourth, based on the above, we set out our preferred approach to managing the fish stocks under review.

3. We do not intend our response to conflict with or override any response provided independently by Iwi, through their Mandated Iwi Organisations (MIOs) and/or Asset Holding Companies (AHCs).

1.0 We are Te Ohu Kaimoana

4. Te Ohu Kai Moana Trustee Ltd (Te Ohu Kaimoana) was established to implement and protect the Deed of Settlement. Our purpose, set out in section 32 of the Māori Fisheries Act 2004, is to "advance the interests of Iwi, individually and collectively, primarily in the development of fisheries, fishing and fisheries-related activities, in order to:

    - ultimately benefit the members of Iwi and Māori generally
    - further the agreements made in the Deed of Settlement
    - assist the Crown to discharge its obligations under the Māori Fisheries Deed of Settlement and Te Tiriti o Waitangi
    - contribute to the achievement of an enduring settlement of the claims and grievances referred to in the Deed of Settlement.

[1] Māori Fisheries Deed of Settlement 1992. The Deed is given effect to by the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

5. We work on behalf of 58 MIOs[2], who represent Iwi throughout Aotearoa. AHCs hold Māori Fisheries Settlement Assets[3] on behalf of their MIOs. The assets include Individual Transferable Quota (ITQ) and shares in Aotearoa Fisheries Limited which, in turn, owns 50% of the Sealord Group.

6. MIOs have approved our Māori Fisheries Strategy and three-year strategic plan, which has as its goal "that MIOs collectively lead the development of Aotearoa's marine and environmental policy affecting fisheries management through Te Ohu Kaimoana as their mandated agent". We play a key role in assisting MIOs to achieve that goal.

7. MIOs expect us to protect and enhance the Māori Fisheries Settlement by providing them with policy advice on fisheries-related issues. Iwi have identified the biannual review of sustainability measures as critically important to their long-term relationship with Tangaroa.

2.0 Te Hā o Tangaroa kia ora ai tāua is the foundation of our fisheries management principles

The significance of Tangaroa to Te Ao Māori

8. Before colonisation by the Crown, Māori enjoyed full exclusive, undisturbed possession and tino rangatiratanga of their fisheries. The relationship Māori have with Tangaroa is intrinsic, and the ability to benefit from that relationship was and continues to be underpinned by whakapapa. Tangaroa is the son of Papatūānuku, the earth mother, and Ranginui, the sky father. When Papatūānuku and Ranginui were separated, Tangaroa went to live in the world that was created and has existed as a tipuna to Māori ever since[4].

9. Te Tiriti o Waitangi guaranteed Māori tino rangatiratanga over their taonga, including fisheries. Tino rangatiratanga is about Māori acting with authority and independence over their own affairs and is practiced through living according to tikanga and mātauranga Māori, and striving wherever possible to ensure that the homes, land, and resources (including fisheries) guaranteed to Māori

[2] MIO as referred to in The Maori Fisheries Act 2004: in relation to an Iwi, means an organisation recognised by Te Ohu Kai Moana Trustee Limited under section 13(1) as the representative organisation of that Iwi under this Act, and a reference to a mandated Iwi organisation includes a reference to a recognised Iwi organisation to the extent provided for by section 27

[3] Māori Fisheries Settlement Assets consistent with the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and the Māori Fisheries Act 2004

[4] Waitangi Tribunal. "Ko Aotearoa tēnei: A report into claims concerning New Zealand law and policy affecting Māori culture and identity." Te taumata tuatahi (2011).

under Te Tiriti o Waitangi are protected for the use and enjoyment of future generations. This view endures today and *Te Hā o Tangaroa kia ora ai tāua* is an expression of this.

We base our advice on 'Te Hā o Tangaroa kia ora ai tāua'

10. *Te Hā o Tangaroa kia ora ai tāua* (the breath of Tangaroa sustains us) is an expression of a Māori World View. It contains the principles we use to analyse modern fisheries policy, and other policies that may affect the rights of Iwi under the Māori Fisheries Settlement. *Te Hā o Tangaroa kia ora ai tāua* is depicted in Appendix A.

11. In essence, *Te Hā o Tangaroa kia ora ai tāua* highlights the importance of an interdependent relationship with Tangaroa, including his breath, rhythm and bounty, and the way those aspects work together to sustain both Tangaroa and humanity in an enduring way.

12. Protection of the reciprocal relationship with Tangaroa is an inherent part of the Māori Fisheries Settlement agreed by Māori and the Crown in 1992. The Māori Fisheries Settlement is an important and relevant part of modern fisheries management for Aotearoa.

3.0 Fisheries management should be consistent with the Deed of Settlement

13. The Fisheries Act 1996 obliges those performing functions under it to act consistently with the Māori Fisheries Settlement, which is a full and final settlement of Māori claims to fisheries[5]. This means whenever a Minister makes a decision to implement a sustainability measure or to provide for utilisation, they must ensure their decision is consistent with, and does not undermine, the Māori Fisheries Settlement. Our assessment of the stocks being reviewed raises concerns about the following policy matters:
    - 3.1 a constructive relationship with Fisheries New Zealand
    - 3.2 allocating the TAC appropriately
    - 3.3 application of 28N Rights
    - 3.4 options for reducing catch
    - 3.5 determining target stock levels and rebuild rates
    - 3.6 application of Deemed Values.

[5] Specifically, section 5 (b) of the Fisheries Act 1996 obliges "all persons exercising or performing functions, duties, or powers conferred or imposed by or under it" to "act in a manner consistent with the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (TOW(FC)SA)".

3.1 We seek a constructive working relationship with Fisheries New Zealand

14. In the lead up to the review of sustainability measures and other management controls for the 2019/20 fishing year, Fisheries New Zealand staff discussed the proposed stocks with us. Subsequently, Fisheries New Zealand made an independent call on the stocks to be reviewed. As a result, some stocks have been included unnecessarily, while several others should have been included. This situation is highly unsatisfactory.

15. We consider the short six-week consultation period insufficient. We believe that Fisheries New Zealand should have held pre-consultation workshops with Iwi and stakeholders to inform participants and guide future decision-making.

3.2 Changes to the TAC should not undermine the Māori Fisheries Settlement

16. When settling their fisheries claims, Māori expected the value and integrity of their Settlement to be retained. After all, the Settlement is full and final. Any action the Crown takes should not undermine the value of Māori Fisheries Settlement assets or customary non-commercial needs. Consequently, the Minister must ensure the integrity of Māori fishing rights is maintained when adjusting the TAC. This means two things:
    1. Priority should be given to the customary allowance for stocks that Iwi and hapū require to meet their customary non-commercial needs.
    2. The proportion of the TACC that makes up the TAC should not be reduced (but can be increased) by reallocations to the recreational sector. Any reallocation to the recreational sector has the effect of reducing the overall value of Māori Fisheries Settlement quota.

17. We cannot support increases in the recreational allowance at the expense of the TACC. This re-allocation affects the rights of settlement quota holders and reduces the incentives on the commercial sector to take responsibility and invest in good management.

18. To protect Māori Fisheries Settlement rights, the following approach should be taken to adjust the Total Allowable Catch (TAC).
    - The customary allowance is based on customary needs and managed through kaitiaki. In some instances, customary needs may not be fully identified and there may be insufficient capacity to harvest what is needed. Therefore, increases to the customary

allowance can be expected over time as both needs are better identified and capacity to harvest is realised.

- In situations where the abundance of a stock drops, kaitiaki will respond appropriately.
- the recreational allowance should not be increased above the level it was first set by the Minister when the TAC was set for any particular stock.
- If, in order to ensure sustainability, the TAC, Total Allowable Commercial Catch (TACC) and the recreational allowance is reduced, the allowance can only be increased back to its initial level when the stock rebuilds.
- Otherwise, all increases to a TAC should be allocated to the TACC after providing for non-commercial customary fishing and other fisheries-related sources of mortality.

19. In our view, this approach should be adopted as the default. It should apply whether the stock is at, above or below any target stock level at the time the TAC is set. Variations on this approach should only be considered by the Minister if all extractive interests reach agreement on an alternative approach. Our rationale for this approach is set out below.

Māori accepted a specific share of all commercial fish-stocks as part of a full and final Settlement

20. The Crown undertook to provide Māori with 10% of the quota for all stocks in the Quota Management System (QMS) when the Interim Fisheries Settlement was agreed in 1988. When the Deed of Settlement was finalised in 1992, they agreed that all stocks introduced to the QMS from that time would generate a 20% share for Māori. As part of this agreement, Māori endorsed the QMS as an appropriate regime for managing commercial fisheries. At the time of the Māori Fisheries Settlement the only proportional interests were held by quota owners, who owned a share of the TACC. Allowances for customary and recreational interests were for a fixed amount.

21. This rights-based system formed the basis for the commercial part of the Māori Fisheries Settlement. The system underpins sound management of fishing, in which rights holders take responsibility for managing their share of the TAC. The benefits of good stock management are expected to accrue to those who have a proportionate interest in the fishery, taking into account the priority right held by customary interests in the event that customary needs increase.

22. The Crown and Māori also agreed that the Minister would develop policies to help recognise use and management practices of Māori in the exercise of non-commercial fishing rights. As part of this agreement, the Minister recommends regulations to recognise and provide for customary food gathering by Māori. The regulations should also include the special relationship between

tangata whenua and those places which are of customary food gathering importance to the extent such food gathering is neither commercial in any way nor for pecuniary gain or trade. These "customary" regulations enable kaitiaki to take responsibility for managing customary fishing, including issuing authorisations and reporting catch.

Recreational fishing is a privilege

23. Recreational fishing is a privilege which should not be exercised at the expense of Māori commercial and non-commercial fishing rights. In recent times the recreational sector has operated within an unconstrained allowance. This situation provides little incentive for the recreational sector to constrain catch within the recreational limit. Similarly, it provides little incentive for the commercial sector to work collaboratively to increase stock abundance given the likelihood that any benefits of a rebuild will be allocated to the recreational sector. We acknowledge there are input controls such as bag limits; however, there is no effective constraint on total recreational catch.

24. To be consistent with the Māori Fisheries Settlement, the recreational allowance should reflect the catch taken in 1992, when the Deed of Settlement was signed. However recreational allowances did not become part of the TAC until the Fisheries Act 1996 came into effect. Since then general practice has involved setting allowances when TACCs are varied and TACs are set, or when stocks are introduced into the QMS. We are aware the courts have ruled that the Minister has discretion to set the allowance when initially allocating a TAC up to the level of estimated catch, based on beset available information. However, we do not accept any subsequent increases in the allowance. From a fisheries management perspective, such decisions encourage a "race for fish". Responsible fisheries management aims to avoid this kind of behaviour.

25. If the recreational sector wishes to see a system that provides greater potential for the allowance to be increased above its initial allocation, a full review of the framework for managing the recreational sector is required. This would require further consideration of options to more tightly manage recreational catch within the recreational allowance. A system that allows for the recreational sector to increase catches would need to be carefully designed and take explicit account of obligations under the Māori Fisheries Settlement.

3.3 The effect of "28N Rights" on the Māori Fisheries Settlement must be addressed

26. When the QMS was first introduced, ITQ for each stock was based on a set tonnage. It soon became apparent that provisional catch histories (and subsequent TACCs) in some fisheries was too high and the Crown acted to reduce the catch.

27. The regime at that time required the Crown to buy back quota and retire it. The Government chose to change the law to provide eligible parties with the choice of putting a specific amount of their provisional catch history or quota "on hold", to be released if the TACC was subsequently increased. If the fishery recovered, the 'on hold' entitlements had first access to the increase under the Fisheries Act. Once 'refunded' in this way, the quota is normalised and holds the same rights as remaining quota. This preferential quota and the associated rights and processes were initially provided for under Section 28N of the Fisheries Act 1983. Hence, they became known as "28N Rights".

28. Many quota owners chose to have their affected quota declared subject to 28N conditions. However, following the establishment of 28N rights, the Crown changed the basis of quota from a fixed volume to a proportional share of the TACC. Consequently, when a TACC is increased for fisheries where quota owners hold 28N rights, the increase transfers to those quota owners until the combined 28N rights for that fishery are exhausted. Because there is a fixed number of shares in the fishery, this can only be achieved by increasing the number of shares held by the 28N rights holder and decreasing the shares held by other quota owners, including Māori Fisheries Settlement quota owners.

29. In 1996, 28N rights were carried through into Section 23 of the Fisheries Act 1996 from the Fisheries Act 1983. We argue that the application of 28N rights is inconsistent the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. Given the application of the Fisheries Act 1996 ensures that:

> *all persons exercising or performing functions, duties, or powers conferred or imposed by or under it shall act, in a manner consistent with—*
> *(a) New Zealand's international obligations relating to fishing; and*
> *(b) the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.*

It is unacceptable to reduce Māori Fisheries Settlement portion of quota shares

30. Where 28N rights are invoked, the share of quota that Iwi hold will be reduced. This undermines the agreement that Māori would receive 10% of all stocks in the QMS at the time of the Interim Fisheries Settlement (1989).

31. In light of the Settlement, the Minister must act in accordance to his duties, rights and powers under the Fisheries Act 1996, in a manner consistent with the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992[6]. This should include considering any potential dilution of the Iwi share of the TACC, when making decisions to change TACC. Fisheries New Zealand may undermine the Settlement legislation if they fail to follow this approach. The 28N rights exist in fisheries being reviewed this year. In this response we point out where 28N rights may breach the Settlement legislation. In each case we request that remedial steps are taken to prevent a proportionate reduction in settlement quota.

3.4 The Fisheries Act enables a flexible approach to managing catch

32. The Initial Position Paper assumes changes in TACs and TACCs are the best way to respond to stock assessments that show a stock has declined. This approach is very limited as the Fisheries Act 1996 enables a variety of approaches to ensure sustainability[7]. The Minister should only consider setting or varying a TACC where it is the most appropriate option.

33. In our view, the Fisheries Act enables the Minister to consider the way a fishery is managed before deciding whether a formal sustainability measure should be proposed. The Fisheries Act provides for more responsive fisheries management than can be achieved through a blunt TAC/TACC reduction, by recognising the potential for Iwi or industry-led actions to better address sustainability concerns. This is reflected in the opportunity to "take into account" such actions under section 11(1) of the Fisheries Act before deciding whether to propose a sustainability measure. Even in situations where the Minister proposes to set a sustainability measure, Iwi or industry can promote an alternative approach in response to consultation under section 12 of the Fisheries Act.

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[6] Refer to Section 5 (b) of the Fisheries Act 1996.

[7] Note that section 11(3) of the Fisheries Act 1996 sets out a range of options that are available to the Minister to ensure sustainability

34. Before proposing to set or vary a sustainability measure for one or more stocks, the Minister must take into account a range of matters, including the effects of fishing on the aquatic environment[8]. The former Ministry of Fisheries developed and consulted on a series of policy definitions on the "Front End" of the Fisheries Act 1996. It confirmed that section 11(1)(a) of the Fisheries Act provides for "existing or proposed measures that currently, or potentially, manage any adverse effects of fishing to be taken into account before the need for a sustainability measure to be determined".

ACE shelving is an appropriate option

35. Shelving of ACE is a viable way of reducing the commercial catch. The Minister is obliged to take such shelving arrangements into account in accordance with section 11(1)(a) of the Fisheries Act. If the Minister is satisfied that the arrangements will adequately mitigate a risk to sustainability. There is no legislative obligation to choose from the list of statutory sustainability measures set out is in section 11(3) of the Fisheries Act. In such cases, the Minister would not be directed to either section 13 or section 14 in order to vary a TAC for one or more stocks.

3.5 There isn't a "one size fits all" approach to setting target stock levels and rebuild rates

36. If the Minister decides to set or vary a catch limit[9], he must consider those matters relevant to a stock managed under the QMS[10]. Under section13 of the Fisheries Act, a stock should have a TAC that maintains the stock at or above a level that can produce the maximum sustainable yield (often summarised as B_{MSY}), having regard to the interdependence of stocks. The Fisheries Act enables discretion over the way and rate the stock rebuilds or is fished down to the level of B_{MSY}. Importantly, as noted above, the Fisheries Act[11] provides a range of tools - in addition to TACs -to assist with any necessary rebuild process.

37. In considering the obligations set out in section 13, Fisheries New Zealand defers to a 'Harvest Strategy Standard for New Zealand Fisheries' (HSS), produced by the Ministry of Fisheries in 2008. The HSS is described as "a policy statement of best practice regulation to the setting of fishery and stock targets and limits for fish stocks in Aotearoa's QMS." It was intended to form a core input to the Ministry's advice to the Minister of Fisheries on the management of fisheries,

[8] See section 11(1) of the Fisheries Act 1996

[9] See section 11(4) of the Fisheries Act 1996

[10] Sections 13 and 14 of the Fisheries Act 1996 set out the considerations that apply to a stock managed under the QMS

[11] See section 11 (3) of the Fisheries Act 1996

particularly the setting of TACs under sections 13 and 14. The HSS document is now 10 years old. It is difficult to sustain an argument that a non-statutory document of that age could be viewed as promoting best practice regulation.

38. The HSS sets out default management targets for stocks as well as both "soft" and "hard' Limits. Where the best available information suggests a stock has fallen below the soft limit of 20% B_0, the HSS triggers a rebuild plan.

Default targets and timeframes do not mirror the full purpose of the Fisheries Act

39. The purpose of the Fisheries Act 1996 includes an obligation to provide for utilisation, with a focus on enabling people to provide for their own social, cultural and economic wellbeing within limits that ensure sustainability. Employing default target levels and timeframes for fisheries management has real potential to undermine the purpose of the Fisheries Act.

40. Target reference points that correspond to levels of biomass and fishing pressure that are considered to provide for 'optimal' harvests, implicitly internalise economic considerations and/or the ecological requirements for each stock. Hence the target reference points promoted by Fisheries New Zealand avoid explicit consideration of utilisation targets despite provision for them in the Fisheries Act – and the necessary actions to achieve them. In this way, the targets suggested by the HSS have the effect of prescribing rather than enabling management of fisheries beyond the levels required to ensure sustainability.

41. There is considerable discrepancy between the requirements of the Fisheries Act and the implementation of the HSS guidelines. To be consistent with the Fisheries Act, stock rebuild plans should:

- be based on the best available information
- consider all tools available to the Minister
- account for relevant social, economic, cultural factors
- have regard to the interdependence of stocks
- ensure the stock is tracking to level that can produce the maximum sustainable yield.

42. The HSS has the potential to have significant adverse social and economic impacts if applied without careful consideration of the specific circumstances of the fishery and the range of existing mechanisms to promote recovery. As we have already pointed out, it is hard to accept that only one tool for stock recovery in the form of a reduction to the TAC is best management practice. This

"set and forget" approach disregards the range of tools available to rebuild the stock at an optimal rate.

43. The unique biological and environmental conditions facing each stock, as well as socio-economic implications, are all important matters to consider when contemplating management targets. The provisions of the Fisheries Act (rather than the HSS) should be the first point of reference when contemplating management decisions and rebuild strategies to reach those targets.

Collective action will better achieve the purpose of the Fisheries Act

44. Fisheries New Zealand should do more to encourage collective action. Where quota owners are incentivised to act collectively, the evidence suggests they will adopt strategies to promote the management of stocks at levels above the requirements of section 13. Collective action is particularly necessary in shared fisheries, where there are many examples of the recreational sector being rewarded (through an increased allowance) for fishing beyond the allowance set by the Minister when the TAC was first set. As noted, this practice also offends Māori Fisheries Settlement (we refer to our comments on the role of s 5b of the Fisheries Act).

45. Te Ohu Kaimoana has commissioned an international review of the effectiveness of fisheries management systems in achieving conservation objectives. This study has concluded that top-down approaches (of which the HSS guidelines are an example) are inconsistent with modern incentive-based systems. In contrast, the most effective fishery/ecological management systems are bottom up. New Zealand is ideally placed to benefit from these findings and become established as a world leader in marine conservation[12].

3.6 Deemed Values aim to encourage reporting and discourage harvesting without ACE

46. Commercial fishers who do not balance catch with ACE must make deemed value payments. These payments play an important role in making the QMS work effectively. They are intended to:
    - encourage accurate catch reporting
    - discourage fishers from harvesting stocks without ACE.

[12] See Libecap, G, Arbuckle, M, and Lindley, C. (In prep). An analysis of the impact on Māori Property Rights in Fisheries of Marine Protected Areas and Fishing Outside the Quota Management System. A seminar discussing the findings of the study can be viewed here.

47. The Minister sets "interim" and "annual" deemed values for each stock[13]. In doing so, the Minister must take into account the incentive needed for every commercial fisher to have enough ACE to cover their catch for each fishing year. Amongst other things, the Minister should have regard to the market value of the stock and the relevant ACE value.

48. We do not consider the Deemed Value guidelines[14] used by Fisheries New Zealand are aligned with the purpose of the Fisheries Act. Fisheries New Zealand's approach to deemed values is to ensure commercial catch does not exceed the TACC. This approach has the potential to increase incentives for fishers to discard catch. In our view, deemed values were never intended to only ensure commercial catch does not exceed the TACC. Rather, a key purpose is to encourage transparency across the fisheries management system so that catch is reported, and the information forms an important input to the monitoring of harvesting. Ultimately, the relationship between the TACC and catch reporting is a dynamic one.

It is important to avoid any disincentive to record catch

49. There is a balance to be struck between incentives to harvest with ACE (within the TACC) and accurate reporting of catch.

50. The deemed value for a particular stock can be set at or scaled up to a level that removes any profit after harvesting costs are deducted. These conditions create an incentive for fishers to cover their catch with ACE. If they are unable to do so, then there is no disincentive to report the catch and land it. This approach is consistent with the Fisheries Act and the Māori Fisheries Settlement and has the real potential to increase the quality of information available to support decision-making if it is administered that way.

There is a balance to be struck between incentives to fish with ACE and accurate reporting of catch

51. Discouraging catch in excess of ACE holdings is achieved by ensuring the deemed value is set above the ACE price. The requirement to ensure that the deemed value system does not

[13] See section 75 of the Fisheries Act 1996

[14] "Deemed Value Guidelines" were released in 2012. Application of the guidelines has resulted in deemed values being set at, or ramped to, levels that are higher than the market value of a stock in some instances. Under this situation the incentive to land and report catch is removed.

encourage the discarding of fish at sea is achieved by ensuring the deemed value rate does not exceed the market value of the stock. This implies that deemed values should always be set with the range set by the market value of fish and the value of ACE for that stock.

52. Accurate reporting is vital if we are to understand whether TACCs have been set appropriately. If TACCs are set incorrectly, varying levels of deemed value payments can show there is a need to review the TACC. TACCs themselves are not always set right and need to be regularly reviewed, based on the best available information. This was the basis for deemed values being introduced.

53. The Minister has established a working group to provide advice on the appropriate use of deemed values. We understand they have agreed deemed values are primarily a utilisation tool and should not be set higher than the market value of fish.

Payment of deemed values can indicate there is a fisheries management issue to be addressed

54. Deemed values can be used as a tool to identify problems that need to be addressed in a fishery. Deemed values should not be set arbitrarily. There are many potential causes for catches being greater than the TACC which generate different responses, for example:
    - The TACC is too low – optimum response is to increase the TACC
    - Deliberate over catch by one or two parties – respond by setting an overfishing threshold
    - The deemed value is too low – respond by increasing the deemed value
    - A recruitment pulse with a temporary increase in biomass – to remove the incentive to fish what is balanced with ACE

55. We acknowledge that the information available to set deemed values appropriately is imperfect. The key inputs of market value of fish and ACE price are all confounded by the way that quota owners are structured. Hence the setting of deemed values becomes a pragmatic exercise. It needs to find the balance between incentivising catching with the available ACE and accurately reporting all catch, irrespective of what can be balanced with ACE.

4.0 Our preferred approach to managing the fish stocks under review

4.1 Deepwater Stocks

Overview

56. Fisheries New Zealand is reviewing its TAC/TACCs for the following deepwater fisheries:
    - Hake (HAK7)
    - Hoki (HOK1)
    - Ling (LIN7)
    - Orange roughy (ORH3B & ORH7A)
    - Gemfish (SKI3 & SKI7)

57. We will be working with the Deepwater Group to assist them in finalising their position on deepwater stocks.

4.1.1 Hake (HAK7)

Our view

58. **We support Option 1 to decrease the TAC, TACC and a reduction in the allowance for other sources of fishing related mortality**

Proposed options

59. The proposed options for HAK7 are set out in Table 1.

Table 1: Proposed management settings in tonnes for HAK7 from 1 October 2019, with the percentage change relative to the status quo in brackets.

Option	TAC (t)	TACC (t)	Other sources of fishing-related mortality (t)
Current Setting	5,120	5,064	51
Option 1	3,200 ↓ (38%)	3,163 ↓ (38%)	32 ↓ (37%)
Option 2	2,300 ↓ (55%)	2,272 ↓ (55%)	23 ↓ (55%)
Option 3	1,400 ↓ (73%)	1,382 ↓ (73%)	14 ↓ (73%)

Our approach

60. **The science indicates that there is a sustainability issue for HAK7**

    The base model for the 2019 stock assessment indicates the biomass of the stock is 17%B_0. This indicates a sustainability issue and the need for action to rebuild the stock.

61. **Reducing the TACC by 38% would reflect the current catch of HAK7**

    The biomass of the West Coast South Island is expected to increase under average recruitment and current catch. This is supported by data from independent inshore trawl surveys in 2017, which both suggest the 2016 year-class may be above average. Although these cohorts were not included in the biomass projections, recruitment of these year class will contribute to the rebuild.

62. **Reducing the TACC for HAK7 will not unduly inhibit/choke the Hoki Fishery under our proposed option set out in our response for HOK1**

    In recent years HAK7 has mainly been caught as hoki fishery bycatch. In 2017/18, less than a third of the proportion of HAK7 was taken as a target species. Reducing HAK7 under Option 1 is unlikely to affect fishers' ability to catch their hoki ACE and may lead to reduced HAK7 target fishing. In the absence of an industry proposal to manage through the shelving of ACE, Option 1 changes the TACC of HAK7 to a level that is appropriate for HAK7 to recover.

4.1.2 Hoki (HOK1)

Our view

63. **We do not support any of the proposed options and recommend the status quo is maintained. The current shelving arrangement of 20,000t for the Western Stock (and no provision for under catch to be carried over) should be retained for the 2019/20 fishing year**.

Proposed options

64. The proposed options for HOK1 are set out in Table 2.

Table 2: Proposed management settings in tonnes for HOK1 from 1 October 2019, with the percentage change relative to the status quo in brackets.

		Non-regulatory catch split arrangement			Allowances (tonnes)		
Option	**TAC**	**TACC**	**Eastern stock limit**	**Western stock limit**	**Customary Māori**	**Recrea-tional**	**Other sources of fishing related mortality**
Current status	151,540	150,000	60,000	90,000	20	20	1,500
Option 1	131,340↓ (13%)	130,000↓	60,000	70,000↓ (22%)	20	20	1,300↓
Option 2	121,340↓ (20%)	120,000↓	60,000	60,000↓ (33%)	20	20	1,200↓

Our approach

65. **The Hoki fishery is a significant fishery to Iwi/Māori**

Iwi/Māori collectively own over 44% of the quota who desire a management approach that enables greater responsibility to be assured by quota owners.

66. **Iwi quota owners have made a commitment to actively manage the hoki fishery to ensure it's enduring and intergenerational**

Iwi are in this fishery for the long run. Iwi hoki quota owners inform industry management approaches to ensure the right thing is done for the hoki fishery, for Tangaroa and for future generations. Iwi hoki quota owners meet regularly to determine a collective approach for the management of the fishery, based on the following information and guidance:

- The latest science developments.
- Fishing intelligence from Sealord regarding their past 12 months of fishing experience.
- Policy advice from Te Ohu Kaimoana.

The approach and collective views of Iwi are reviewed on an annual basis (though Iwi have met twice in the past 12 months exclusively about the hoki fishery). Iwi views and aspirations help to inform the Deepwater Group process and ultimately the Minister via Te Ohu Kaimoana. Iwi prefer this comprehensive approach based on ongoing active management over the historic approach of relying solely on adjustments to the TACC. The approach is consistent with Iwi aspirations of tino rangatiratanga.

67. **We support a collaborative approach that delivers the fine scale management needed for sustainable fisheries management**

A comprehensive management agreement for the hoki fishery was agreed to and implemented for the 2019/20 fishing year by deep water quota holders and the Deepwater Group (DWG) with guidance from Iwi. This agreement was the result of concerns from industry over the reduced availability of hoki in the West Coast South Island fishery. These concerns prompted industry to:

- Shelve 20,000 tonnes HOK1W ACE (along with any HOK1W ACE carried forward from 2017-18 for the 2018-19 year).
- Enhance and refine the areas closed to hoki fishing in order to protect juvenile hoki.
- Close certain fishing grounds to target fishing for hoki to allow spawning to occur undisturbed at peak times.

The industry agreement considers multiple factors that affect the HOK1 fishery. We support fine scale management over a TAC and a TACC reduction.

68. **We support the development of a new stock assessment model**

In the absence of a reliable and robust stock assessment model, the biomass surveys will continue to provide fishery-independent information to inform management. Given, recent year class strengths have been strong and should be recruiting into the Western stock. Fishing mortality levels have been in line, or below, those assessed to be sustainable. Environmental changes, particularly high oceanic water temperatures, may well be a driver.

69. **We support continued precautionary management measures while the science is further investigated**

We note that in the current year additional actions have been taken at the company level to further reduce the HOK1 catch. Examples of this include Sealord deploying Tokatu and FV Rehua outside of the HOK1 fishery. These changes allow for an even greater reduction in the HOK1 harvest. This demonstrates the influence of providing flexibility for fishers to take action to ensure long-term sustainability of the hoki fishery.

4.1.3 Ling 7 (LIN7)

Our view

70. **We support a modified Option 1 to increase the TAC, TACC and other sources of fishing related mortality**

Proposed options

71. The proposed options for LIN7 are set out in Table 3.

Table 3: Proposed management settings in tonnes for LIN7 from 1 October 2019, with the percentage change relative to the status quo in brackets.

Option	Allowances				
	TAC (t)	TACC (t)	Customary Māori (t)	Recreational (t)	Other sources of fishing related mortality (t)
Current Setting	3,144	3,080	1	1	62
Option 1	3,458 ↑ (10%)	3,388 ↑ (10%)	1	1	68 ↑ (10%)
Option 2	3,772 ↑ (20%)	3,696 ↑ (20%)	1	1	74 ↑ (20%)

Our approach

72. **Increasing the TAC and TACC by 10% reflects the current catch of LIN7**
Every year since 2013/14 the TACC has been over caught by an average of 9.2%. This has necessitated the payment of deemed values to the Crown.

73. **In principle we are supportive of a 20% increase if industry can put in place a shelving mechanism to manage the increase**
Fisheries New Zealand has limited resources to review stocks each year. Increasing the TAC and TACC by 20% with half of the increase shelved would give industry flexibility to manage the fishery into the future, without consuming Fisheries New Zealand resources.

4.1.4 Orange Roughy (ORH3B)

Our view

74. **We support the continuation of the proposed thee year increase of ORH3B TAC and TACC**
    In 2018 the Minster of Fisheries agreed to a three-year staged increase of ORH3B TAC and TACC based on an updated stock assessment that indicated the biomass had increased.

Proposed options

75. The proposed management settings for ORH3B1 are set out in Table 4.

Table 4: Proposed management settings in tonnes for ORH3B1 from 1 October 2019

	Current year	Year 2 (2019/20)	Year 3 (2020/21)
TAC	6413	↑ 7116	↑ 8055
TACC (for all sub-QMAs)	6091	↑ 6772	↑ 7667
Allowance for other mortality caused by fishing	317	↑ 339	↑ 383
Customary Māori allowance	5	5	5
Northwest Chatham Rise	1150	1150	1150
East & South Chatham Rise	4095	↑ 4775	↑ 5670
Puysegur	347	347	347
Arrow Plateau	0	0	0
Sub-Antarctic	500	500	500

Our approach

76. **The 2017 stock assessment and future projections indicate continued growth in ORH3B and provide confidence that the stock can sustain the proposed increases**
    The two key sub-stocks in ORH3B: Northwest Chatham Rise (NWCR) and East and South Chatham Rise (ESCR) are estimated to be increasing. The NWCR stock was estimated to be at 38%B_0 and the ESCR stock was estimated to be at 33%B_0. Projections over the next five years estimate that ORH 3B will continue to increase under the proposed catch levels. ORH stocks are generally monitored using acoustic surveys and stocks assessments completed every four years.

77. **The increase of the TACC of the sub-stock ESCR shouldn't pose a sustainability risk to OEO4**
    The Increasing the TACC of ORH3B is likely to increase the catch of black oreo by 16 tonnes and smooth oreo by 67 tonnes. The increased ORH3B TACC and subsequent fishing of ORH3B is not

expected to lead to any over catch of the OEO4 TACC. We support the multi-species approach to management. This approach considers the relationship between stocks caught together.

4.1.5 Orange roughy (ORH7A)

Our view

78. **We support a modified option 2 to increase the TAC, TACC and other sources of fishing mortality**
79. **We recommend setting a customary allowance of two tonne**

Proposed options

80. The proposed options for ORH7A are set out in Table 5.

Table 5: Proposed management settings in tonnes for ORH7A from 1 October 2019, with the percentage change relative to the status quo in brackets.

Option	Total Allowable Catch (tonnes)	Total Allowable Commercial Catch (tonnes)	Allowances		
			Customary Māori (tonnes)	Recreational (tonnes)	All other mortality to the stock caused by fishing (tonnes)
Option 1 (Status quo)	1680	1600	0	0	80
Option 2	2163 ↑ (29%)	2060 ↑ (29%)	0	0	103 ↑ (29%)
Option 3	2310 ↑ (38%)	2200 ↑ (38%)	0	0	110 ↑ (38%)
Option 4	2555 ↑ (52%)	2433 ↑ (52%)	0	0	122 ↑ (52%)

Our approach

81. **An increase in the TACC of ORH7A would be sustainable according to the stock assessment completed using the acoustic biomass survey from July-August 2018**

    The estimated stock status of ORH7A is 37%B_0.

82. **We would like to see the high seas component managed consistently with the Fisheries Act 1996 and align with settlement obligations**

    ORH7A is a straddling stock**.** It is a biological stock which extends across the boundary of New Zealand's EEZ onto the high seas known as Westpac Bank. Catch from the Westpac Bank is

counted against the TACC, this means fishers are required to balance what is caught in the Westpac Bank with ACE.

83. **We support a modest increase until a partnership with government and industry is developed to allow for the effective management this fishery**

We see the implementation of Aotearoa's fisheries management and kaitiakitanga being extended into the high seas. We wish to remain engaged with Fisheries New Zealand to ensure this is achieved.

84. **The developing arrangements for pātaka kai require the setting of an allowance for customary harvest**

We recommend this allowance be set at two tonnes. The pātaka system creates more opportunities for the customary take of commercially harvested species. We support setting a customary allowance for ORH7A to allow Māori to utilise, consistent with the recently approved pātaka arrangements.

4.1.6 Gemfish - Tikati (SKI3)

Our view

85. **We support Option 2 to increase the TAC, TACC and the allowance for other sources of fishing related mortality.**

    We recommend setting a customary allowance of 1 tonne.

Proposed Options

86. The proposed options for SKI3 are set out in Table 6.

Table 6: Proposed management settings in tonnes for SKI3 from 1 October 2019, with the percentage change relative to the status quo in brackets

Stock	Option	Total Allowable Catch (TAC)	Total Allowable Commercial Catch (TACC)	Allowances		
				Customary Māori	Recreational	All other mortality to the stock caused by fishing
SKI 3	Status quo	300	300	0	0	0
	Option 1	455 ↑ (52%)	450 ↑ (50%)	0	0	5 ↑
	Option 2	606 ↑ (106%)	600 ↑ (100%)	0	0	6 ↑

Our approach

87. **The 2019 preliminary stock assessment suggest a considerable increase in southern gemfish abundance in recent years**

    The increased abundance is likely to be due to three-year classes recruiting into the fishery. The 2019 assessment projected a stock increase in the short term (1-3 years), however, was not able to reliably estimate current stock status.

88. **Increasing the TACC will allow for utilisation without incurring deemed values**

    During the fishing year 2017/18 the SKI3 TACC was 155 percent caught and accrued $263k in deemed values. As at 19 July, the TACC for the 2018/19 fishing year was 184 percent caught. Data from the 2018/19 fishing year has also indicated that the trend of increased CPUE of SKI3 in the squid fishery has continued.

89. **Introducing a customary allowance will allow for SKI3 to be included in pātaka**
A recent survey estimated less than 200kg a year was the take for non-commercial purposes for SKI3 and SKI7 combined. The Pātaka system creates more opportunities for the customary take of commercially harvested species. We support setting a customary allowance to allow Iwi/Māori to utilise this opportunity in the SKI3 fishery.

4.1.7 Gemfish (SKI7)

Our view

90. **We do not support any changes to the TACC that result in preferential allocation (28N) rights**
We support status quo until the government has resolved 28N rights and can increase TAC/TACCs without reducing Iwi quota shares.

91. **We recommend a customary allowance that of two tonnes**

Proposed options

92. The proposed options for SKI7 are set out in Table 7.

Table 7: Proposed management settings in tonnes for SKI7 from 1 October 2019, with the percentage change relative to the status quo in brackets.

Stock	Option	Total Allowable Catch (TAC)	Total Allowable Commercial Catch (TACC)	Allowances		
				Customary Māori	Recreational	All other mortality to the stock caused by fishing
SKI 7	Status quo	300	300	0	0	0
	Option 1	606 ↑ (106%)	600 ↑ (100%)	0	0	6 ↑

Our approach

93. **Māori settlement quota will be diminished if the TACC is increased and preferential allocation rights (28N rights) are given effect to in SKI7**
We do not support increasing the TACC for any stock where 28N rights may be given effect in area total of 158.5 tonnes of the quota in SKI7 relate to the preferential 28N rights in SKI7. This may result in diminishing the settlement quota from the agreed 10 percent to 6.64%. We oppose measures that have the potential to reduce the proportion of settlement quota. For our full position on 28N rights, refer to Section 3.3 of this response.

94. **The abundance of SKI7 is a utilisation opportunity and a current constraint**

Increasing TACC allows for utilisation of SKI7 which is set out in the Fisheries Act. We highlight two key points which support the increase of the TACC. Firstly, the best available information indicates there is an increase in stock biomass. Secondly, an increase would reduce the risk of fishers being faced with high deemed values. During the fishing year 2017/18 $591k in deemed values was incurred in SKI7. Based on the trends of last year the TACC is likely to be over caught by the end of the fishing year. This will have a huge financial impact on fishers despite there being no sustainability issue. Although we concede that there are relevant considerations that may provide for the Minister to increase TACC, our position remains that TACC should not be increased if there is a potential resulting reduction in the settlement quota.

95. **This highlights a contradiction in the Fisheries Act**

The Fisheries Act purpose is to enable utilisation within biological constraints. The Minister is bound by the Fisheries Act when making decisions or exercising his powers to do so in accordance with section 5(b), which requires any action to be consistent with the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. SKI7 is a clear example that exhibits the need for a resolution of 28N rights.

96. **Introducing a customary allowance will allow for SKI3 to be included in pātaka**

A recent survey estimated less than 200kg a year was the take for non-commercial purposes for SKI3 and SKI7 combined. The pātaka system creates more opportunities for the customary take of commercially harvested species. We support setting a customary allowance for SKI7 to allow Iwi/Māori to utilise these opportunities.

4.2 Inshore Stocks

Overview

97. Fisheries New Zealand is reviewing its TAC/TACCs for the following inshore fisheries:
    - Area 7 Trawl:
        i. Elephantfish (ELE7)
        ii. Red Gurnard (GUR7)
        iii. John dory (JDO7)
        iv. Rig (SPO7)
    - Pāua (PAU4)
    - Red Snapper (RSN1 & RSN2)
    - Kina (SUR1A & SUR1B)
    - Tarakihi (East Coast TAR1, TAR2, TAR3 & TAR7)

4.2.1 Area 7 Trawl Fishery

Our view

98. **We support the multi-species approach to management**
    This approach considers the relationship between stocks caught together. We agree that a range of factors such as stock productivity, abundance, and target interactions should be considered when management decisions are made.

99. **These proposals are only a first step**
    We understand this trawl fishery has been chosen to trial a mixed species approach, but it doesn't make sense to exclude the snapper fishery in this review (see below). There are other fisheries that are also part of the mix that are not included in the review.

100. **We support modest increases in the TACCs for Red Gurnard (GUR7), Rig (SPO7) and Jon Dory (JDO7)**

The following are our views on management options for the stocks reviewed:

- GUR7: we support an increase in the Total Allowable Commercial Catch (TACC) of 10% (part Option 2)
- SPO7: We support an increase in the TACC of 10% (Option 2)
- JDO7: we support an increase of 10% (Option 2).

101. **We would support an increase of 20% in the TACC for GUR7 and SPO7**

We support Option 3 for SPO7; part Option 3 for GUR,7 but only in the context of a fisheries plan that has the full commitment of quota owners[15].

102. **We support establishment of allowances for Elephant Fish (ELE7)**

We support the proposed option to retain the TACC at 102 tonnes and establish a customary allowance of five tonnes, a recreational allowance of 10 tonnes and set an allowance for other sources of fishing related mortality of 10 tonnes (Option 1).

103. **We oppose an increase in the recreational allowance for GUR7**

Increasing the allowance will adversely affect Iwi interests in this fishery by reducing their share of the Total Allowable Catch (TAC). This undermines Iwi rights under the Deed of Settlement.

104. **The recreational allowance for SNA7 should be restored to its 2016 level as part of this review**

The decision to increase the recreational allowance in 2016 from 90 tonnes to 250 tonnes was based on incorrect information and the decision needs to be remedied. This increase undermines Iwi rights under the Deed of Settlement.

Proposed options

105. The proposed options for GUR7, SPO7, JDO7 and ELE7 are set out in Table 8.

Table 8: Current and proposed TACs, TACCs and allowances in tonnes for red gurnard, rig, john dory and elephant fish

[15] The plan we refer to would be developed by quota owners under s 11A of the Fisheries Act.

Stock	Option	Total Allowable Catch (t)	Total Allowable Commercial Catch (t)	Allowances		
				Customary Māori (t)	Recreational (t)	All other mortality caused by fishing (t)
GUR 7	Option 1 *(Status quo)*	1,065	975	15	25	50
	Option 2	1,176 ↑	1073 ↑ (10%)	15	38 ↑ (50%)	50
	Option 3	1,273↑	1170↑ (20%)	15	38 ↑ (50%)	50
SPO 7	Option 1 *(Status quo)*	346	271	15	33	27
	Option 2	373 ↑	298 ↑ (10%)	15	33	27
	Option 3	400 ↑	325 ↑ (20%)	15	33	27
JDO 7	Option 1 *(Status quo)*	226	209	2	4	11
	Option 2	247↑	230 ↑ (10%)	2	4	11
ELE 7	Current setting		102			
	Option 1	127	102	5	10	10

106. Fisheries New Zealand is reviewing the stocks together as they are generally caught together. They state that while each is targeted in its own right, the other stocks are caught as bycatch. For example:
    - an increase in the TACC for GUR7 may result in an increase in bycatch of JDO7 and SPO7.
    - an increase in the TACC of SPO7 is likely to result in an increase in bycatch of GUR7 and JDO7

107. ELE7 appears to be more independent of the other species in the fishery but there may be potential for an increase in the TACC for SPO7 to result in an increase in catch of ELE7, as the two species are caught together.

108. SNA7 hasn't been included in the review, however it is part of this mixed fishery. It is caught as bycatch in GUR7, SPO7 and JDO7. These fisheries are also caught as bycatch in the SNA7 fishery.

Our approach

109. **Stocks that are fished together should be managed together**

    We support an approach that manages stocks in mixed fisheries being managed together. This is consistent with the environmental principles of the Fisheries Act 1996. However, in this case it does not make sense to exclude the SNA7 fishery from this year's review (see below). SNA7 is

an integral part of this mixed fishery. There are also several other stocks that are part of this mixed fishery.

110. **The approach is just a first step**

We understand this proposal to manage the trawl fishery in Area 7 as a mixed fishery is a trial based on a desk-top exercise. We also understand the commercial sector is proposing to invest in a science-based model to assist with improving the management of the fishery. In the longer term, this work could form the basis of a fisheries plan within which quota holders take responsibility for managing all relevant fisheries together at a finer scale.

111. **To varying degrees, GUR7, SPO7, JDO7 and ELE7 are all likely to be at or above the biomass that produces the maximum sustainable yield (BMSY)**

Following the latest trawl survey, these three stocks have been assessed as being at or above sustainable levels to varying degrees. Of the assessments, GUR7 has the highest confidence. The estimated biomass levels for SPO7 and JDO7 are slightly down as a result of the latest surveys. While the estimated biomass for SPO7 is slightly down, it is still high compared to historical trends. There is less certainty in the case of JDO7 and Fisheries New Zealand states the scientific basis for an increase of JDO7 is weaker than the other two stocks.

112. The biological characteristics of these stocks suit different management approaches. For example, species with relatively high productivity (such as GUR7 and JDO7) take less time to rebuild than those with low productivity, and management approaches can be responsive to fluctuations in biomass. For species with low productivity, a longer term more stable TAC is more appropriate.

113. GUR7 is a high productivity stock and has the highest TAC/TACC of all three stocks. It is likely to be able to sustain an increase in the TACC of 10 or 20% over the next few years. Nevertheless, an increase of 20% will have a greater impact on SPO7 and JDO7 as bycatch fisheries. While SPO7 is a longer lived and lends itself to a more conservative approach, survey results suggest strong recruitment in recent years. JDO7 is a relatively high productivity species and can thus rebuild more quickly if required.

114. Taking these factors into account, we support the more conservative TACC increase of 10% for GUR7 (part Option 2) matched with an increase in the TACC for SPO7 and JDO7 of 10% respectively (Options 2). We would be comfortable with greater increases in the TACC for GUR7 and SPO7 - as proposed under Option 3 for each – but only in the context of a fisheries plan developed by quota owners under s 11A of the Fisheries Act.

115. The establishment of recreational and customary allowances for ELE7 as proposed under Option 1 appears to be based on the best available information. On this basis we support the proposal.

116. **An increase in the recreational allowance for GUR7 will undermine the Deed of Settlement**
Our policy on the allocation of fisheries amongst the three sectors is set out in Part 1 of this draft response. An increase in the recreational allowance for GUR7 conflicts with this policy and will decrease the relative shares Iwi hold in this fishery. The increase in the estimate of recreational catch in GUR 7 from 12.48 tonnes to 37.59 tonnes is driving this proposal and appears to be a consequence of the increase in recreational catch in SNA7. A more appropriate response would be to reduce the daily limits for GUR7 so that the catch is constrained by the existing allowance.

117. **Snapper (SNA7) should be considered as part of this review to restore the recreational allowance to 90 tonnes**
Preliminary results of the 2019 trawl survey suggest biomass is continuing to increase for SNA7 however Fisheries New Zealand states the magnitude of the recent increase is uncertain. They propose to bring forward a stock assessment to support a review next year.

118. Elsewhere in their paper, Fisheries New Zealand notes that "anecdotal information and reports from recreational fisheries suggest the abundance of snapper in Tasman and Golden Bays is positive for the recreational sector. The likelihood of catching snapper has seen greater participation in this recreational fishery with increases on other species such as red gurnard". This is borne out by the latest recreational survey which estimates recreational harvest for the 2017/18 year has increased to 147.41 tonnes. The paper also notes that "reports from commercial fishers are that the abundance of snapper is proving problematic". Commercial fishers are having to change their fishing practices to avoid snapper.

119. **Allocation of the SNA7 fishery needs to be resolved to ensure it is consistent with the Deed of Settlement**

In 2016, the TAC for SNA7 was increased from 306 tonnes to 545 tonnes, with 160 tonnes of that increase being allocated to the recreational sector (around 160% increase). Fifty tonnes was allocated to the commercial sector (25% increase). In the lead up to the decision being made, the recreational estimates were found to be inaccurate. In fact, recreational catch was within the pre-existing allowance of 90 tonnes. The Minister should review this fishery and reallocate the increase in recreational allowance back to the commercial sector. This would still provide scope for further reviews based on an updated stock assessment and mitigate the problems faced by the commercial sector.

120. In the longer term, if the recreational sector wishes to see a system in which the allowance can be increased beyond its initial allocation, it should enter discussions with the other extractive users of the fishery and agree allocations in the context of a fisheries plan. The alternative approach is legislative reform. Both points are discussed in chapter 3 of this response.

4.2.2 Pāua (PAU4)

Our view

121. **We support Option 1 to maintain the status quo which recognises the PAU4 Fisheries Plan as the tool for guiding the sustainable and adaptive management of the PAU4 fishery.**
We support the customary and recreational allowances set, as they appear to be appropriate for present and immediate foreseeable needs.

Proposed Options

122. The proposed options for PAU4 are set out in Table 9.

Table 9: Proposed management settings in tonnes for PAU4 from 1 October 2019, with the percentage change relative to the status quo in brackets.

Option	Total Allowable Catch	Total Allowable Commercial Catch	Allowances		
			Customary	Recreational	All other mortality to the stock caused by fishing
Option 1	334	326	3	3	2
Option 2	301.4	293.4 ↓ (10%)	3	3	2
Option 3	269	261 ↓ (20%)	3	3	2
Option 4	236.2	228.2 ↓ (30%)	3	3	2

Our approach

123. **Pāua are a taonga species that are highly valued by Iwi/Imi/Māori**
Iwi/Imi/Māori desire a management approach that endures. They are also significant owners in the commercial fishery: Iwi, Imi and Moana collectively own 51% of PAU4.

124. **We support collaborative fisheries management**
We support fisheries management that captures the collective aspirations of Iwi, Imi and industry. The industry representative body PauaMAC4 developed the PAU4 Fisheries Plan in 2018 on behalf of all PAU4 quota owners and harvesters, and with the involvement and support of Iwi, Imi, and the Chatham Islands community. They were all concerned about the decline of the PAU4 fishery and local depletion.

125. The core objective of the PAU4 Fisheries Plan is to reverse the decline in abundance. The PAU4 Fisheries Plan manages commercial harvesting activity and complements other fisheries management initiatives around the Chatham Islands, including customary management measures. The fishery is essential to the sustainability and the livelihoods of the Chatham Islands community. The long-term potential of PAU4 under effective fine-scale management is not known until its tried.

126. **We support fisheries management that goes beyond using TAC and TACC reductions as the primary fisheries management tool**

We consider shelving and fine-scale management through the PAU4 Fisheries Plan tools which appropriately achieve the purpose of the Fisheries Act 1996[16]. The PAU4 Fisheries Plan is a framework for management that considers the multiple factors that affect the PAU4 fishery. The PAU4 Fisheries Plan restricts the level of commercial harvest through shelving of ACE to achieve catch reductions and to ensure sustainable utilisation. On 13 February 2019, the Minister approved, in terms of s 11A of the Fisheries Act, the PAU4 Fisheries plan. As agreed by the parties to the PAU4 and PAU7 High Court proceeding (in the context of discontinuing the proceeding), ACE shelving is a mandatory relevant consideration in the event of any future TAC/TACC adjustment (pursuant to section 11(2A) of the Fisheries Act 1996)[17].

127. **We support the development of a stock assessment model that compliments the fine-scale management implemented through the PAU4 Fisheries Plan**

We are concerned with the quality of the science. The current analysis of commercial catch and effort data does not adequately assess the status of the fishery. The analysis assumes that effort is standardised and constant, which does not take into account the fine-scale management implemented through the PAU4 Fisheries Plan. The assessment should recognise the effects of catch spreading and variable minimum harvest sizes on CPUE. This will better inform decision-makers on the status of the fishery.

128. **We do not support a TAC decrease that will result in a proportional reduction of Iwi ownership.**

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[16] The 'Purpose and Principles' as stated in Part2(8) of the Fisheries Act 1996: "Provide for utilisation while ensuring sustainability'"

[17] CIV 2017-485-788. The parties to the PAU4 and PAU7 proceeding recently agreed that the Minister must take into account any ACE shelving arrangements provided for in a fisheries plan.

Decreasing the TAC will result in 28N rights being enacted in the event the TAC subsequently increases. This would adversely affect Iwi interests in this fishery by reducing their share of the Total Allowable Catch (TAC). This undermines Iwi rights in the Deed of Settlement. We note this would be avoided if shelving was replied upon.

4.2.3 Red Snapper - Kaorea (RSN1 & RSN2)

Our view

129. **We support Option 2 which reallocates the TACC between the two-red snapper stocks**

Proposed Options

130. The proposed options for RSN1 & RSN2 are set out in Table 10.

Table 10: Proposed management settings in tonnes for RSN1 and RSN2 from 1 October 2019, with the percentage change relative to the status quo in brackets.

Option	Stock	Total Allowable Catch (tonnes)	Total Allowable Commercial Catch (tonnes)	Allowances		
				Customary Māori (tonnes)	Recreational (tonnes)	All other mortality to the stock caused by fishing (tonnes)
Option 1 *(Status quo)*	**RSN 1**	140	124	2	13	1
	RSN 2	25	21	2	1	1
Option 2	**RSN 1**	80↓ (43%)	64 ↓ (48%)	2	13	1
	RSN 2	85↑ (340%)	81↑ (386%)	2	1	1

Note: The effect of the changes associated with Option 2 reallocates 60 tonnes of the RSN1 TACC to the RSN2 TACC. The combined total allowable catch for both stocks is not altered by either Option.

Our approach

131. **We support Option 2 to reallocate the TACC between RSN1 and RSN2**
This provides a solution to the deemed values accrual from RSN2, while not increasing the total RSN TAC. This approach has evened out the disproportionate allocation of ACE between the two QMAs while maintaining a low risk to long term sustainability.

132. **Option 2 addresses the disproportionate allocation of ACE between the two QMAs**
The TACC for RSN1 and RSN2 were set incorrectly when first introduced to the QMS. The current allocation of allowable catch of red snapper between the two QMAs needs to be addressed. Considering historical catch and the size of the QMA, RSN1 has a relatively large TACC of 124

tonnes. In contrast RSN2 is vast and the TACC is 21 tonnes. The majority of red snapper catch is from the Western border of the two QMAs (figure 1).

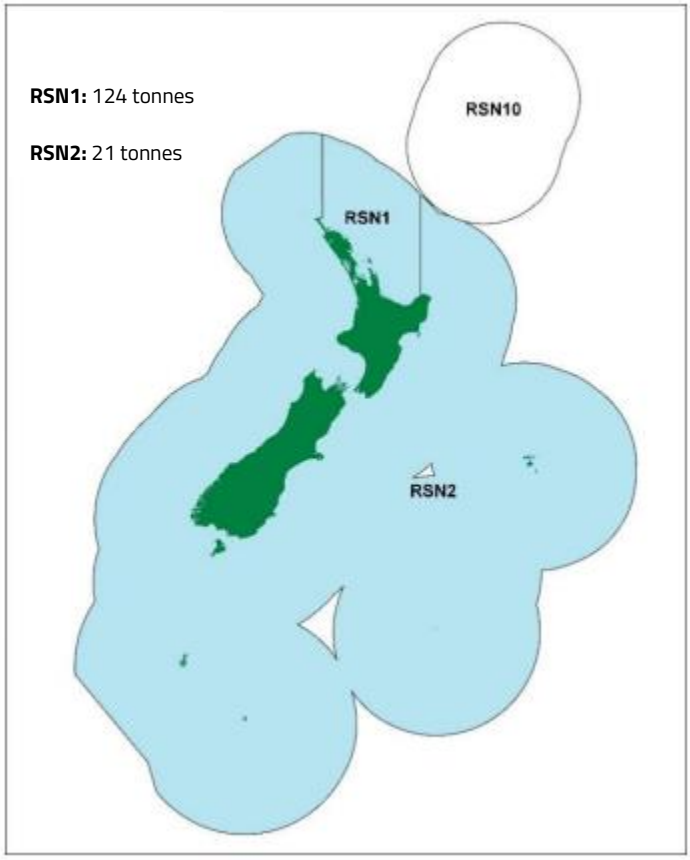

Figure 1: Quota management areas for red snapper stocks.

133. **We support Option 2 as it remediates the deemed value payments accrued in RSN2**
Current TACC settings generate high deemed value payments in RSN2 while RSN1 has remained under caught. The management settings for RSN have not been altered since its introduction to the QMS in 2003/04 and deemed values for RSN2 have increased in frequency and scale during this period; they now average $5,600 per annum.

134. **We do not consider the reallocation of 60 tonne between red snapper stocks to be a sustainability risk**

The nature of the increase is to cover the excess catch already occurring in the QMA. This means that the increased TACC of RSN2 will allow current catch to be balanced against ACE rather than accrue deemed value payments. The Initial Position Paper consultation document suggests a potential sustainability risk associated with increasing the TACC for RSN2. The overall catch of red snapper is relatively low as it is a bycatch species, there is no information to suggest that current catch levels are posing a risk to the stock.

135. **Amalgamation of QMAs would be premature and difficult to achieve**

We consider an absence of information is not a reason to change QMA boundaries. We support the alteration of catch limits as an appropriate measure for 2019/20. Information on stock connectivity would be required to provide a basis for changing of QMA boundaries. However, this would be expensive and difficult to obtain. The level of resource investment required for this information isn't necessary for a non-target species with low catch levels. Managing the TACC through monitoring CPUE is more appropriate for red snapper.

136. **Red snapper has become more prevalent, and the current settings are constraining catch**

Red snapper is caught as bycatch in snapper and tarakihi target fisheries and the lack of RSN2 ACE restricts fishing in optimal fishing grounds for these high value species. There is no stock assessment to quantify the current status of red snapper, however red snapper is a group six species under Fisheries New Zealand's classification. This classification is given to stocks under relatively low fishing pressure; usually bycatch species. In group six instances, a less cautious approach is appropriate and catch per unit effort indices can be used for determining TACC changes. The provisions of group six allow opportunities for utilisation while minimalising unnecessary costs. Due to these conditions we consider there is sufficient information and rationale for Option 2.

137. **Balancing the TACC between RSN1 and RSN2 will help the management of other stocks**

The boundaries for voluntary catch spreading of TAR1 align with the RSN QMA boundaries. In order to alleviate pressure on East Coast tarakihi, fishers are able to move effort to the west (statistical area 47). However, there is limited RSN2 ACE to enable fishers to fish in this area without incurring deemed values liabilities; this is limiting the ability for fishers to spread the effort from east to west in an economically viable way.

4.2.4 Kina (SUR1A & SUR1B)

Our view

138. **We support Option 1 to maintain the status quo in both SUR1A and SUR1B.**

We recommend Fisheries New Zealand include SUR1A and SUR1B in their Review of Sustainability Measures for 1 October 2020 after resolving the following issues:

- **Lack of Scientific information; and**
- **Appropriate pre-consultation workshops.**

We recommend that Industry works with Iwi and other stakeholders to develop a Fisheries Plan.

Proposed Options

139. The proposed options for SUR1A and SUR1B are set out in Table 11.

Table 11: Proposed management settings in tonnes for SUR1A and SUR1B from 1 October 2019, with the percentage change relative to the status quo in brackets.

Stock	Option	Total Allowable Catch (tonnes)	Total Allowable Commercial Catch (tonnes)	Allowances		
				Customary Māori (tonnes)	Recreational (tonnes)	All other mortality to the stock caused by fishing (tonnes)
SUR 1A	Option 1 *(Status quo)*	172	40	65	65	2
SUR 1A	Option 2	206 ↑ (20%)	48 ↑ (20%)	78 ↑ (20%)	78 ↑ (20%)	2 ↑
SUR 1A	Option 3	259↑ (50%)	60 ↑ (50%)	98 ↑ (50%)	98 ↑ (50%)	3 ↑
SUR 1B	Option 1 *(Status quo)*	324	140	90	90	4
SUR 1B	Option 2	389 ↑ (20%)	168 ↑ (20%)	108 ↑ (20%)	108↑ (20%)	5 ↑
SUR 1B	Option 3	486 ↑ (50%)	210 ↑ (50%)	135↑ (50%)	135↑ (50%)	6 ↑

Our approach

140. **Fisheries New Zealand failed Iwi/Māori by including SUR1A and SUR1B in this year's sustainability rounds**

Given the significance of kina as a taonga species, Fisheries New Zealand should have held pre-consultation workshops with Iwi and Stakeholders to inform participants and guide future decision making. We are now forced into the sustainability round process at a great cost to Iwi and Industry.

141. **Kina is a taonga species and holds significant cultural value to Iwi/Māori**
The SUR1A and 1B fisheries span north eastern New Zealand. Settlement quota is allocated to 21 Iwi. A significant proportion of the Māori population lives in the area, particularly in urban centres. Iwi are also significant owners in the commercial fishery with collective interests (including Iwi and Moana) owning 22.5% of the quota in SUR1A and 1B.

142. **We support collaboration in fisheries management**
Iwi and Industry have indicated the desire to work collaboratively in how they fish SUR1A and SUR1B**.** Iwi and Industry along with others who have interests in the fishery (recreational and environmental) can develop a fisheries plan to support and enable fishers to actively manage the fishery and 'kina barrens'.

143. **We are concerned with the lack of scientific stock information**.
Given the significant non-commercial value in these fisheries, we believe there should be a stock assessment to better inform decision makers. This should include baseline of the state of the fishery, which would be a way of ground truthing anecdotes around the proliferation of 'kina barrens'. 'Kina barrens' present a major risk to many interdependent reef species that rely on valuable kelp habitat for foraging and refuge through many stages of their life history.

144. Increasing the TACC will not get rid of 'kina barrens' and could lead to increased effort in customary areas. 'Kina barrens' produce 'skinny' kina which are of little value to customary and commercial fishers. Tangata whenua often gather kina from discrete areas which are accessible and safe to dive. The increase could lead commercial effort away from the barrens and into these discrete areas that are significant to tangata whenua.

145. **We are concerned with Fisheries New Zealand's proposals to increase recreational and customary allowances without supporting information**
This decision directly contradicts our allocation policy (see Part 1). Increasing the recreational allowance undermines the Deed of Settlement by further diminishing Iwi customary commercial stake in the fishery. Increasing the customary allowance is based on needs, and there is currently not enough information to support the proportional increases in option 2 and option 3. In the interim, the customary allowance is not binding and will not constrain utilisation.

146. **We support Fisheries New Zealand improving catch information from the recreational and customary sectors**

The Minister's decision letter from 2004 highlighted the need for better information on recreational and customary catch, as well as more information on the fishery to further refine management. This information has not been collected.

147. The lack of reliable recreational catch information is consistent throughout all fisheries and needs to be addressed. While the national panel surveys provide useful numbers for popular finfish in high population areas, they are ineffective at gathering reliable estimates for many dive species, particularly kina. The frequency of useable data is too far apart to recognise issues.

4.2.5 Tarakihi (East Coast TAR1, TAR2, TAR3 & TAR7)

"People come in just for tarakihi, if we don't have it in the shop they walk out." - Ken Houkamau, Ngati Porou Seafoods.

Our view

148. **We support the Eastern Tarakihi Management Strategy and Rebuild Plan (the Plan), summarised by Fisheries New Zealand as Option 3**

The Minister's obligations to move the stock towards BMSY has been met by the reductions made in 2018. Therefore, option 3 best meets the purpose of the Fisheries Act. It sets out a strategy to rebuild the fishery and enables Iwi and other affected parties to continue to meet their economic, social and cultural needs. It takes a more holistic and targeted approach to fisheries management than simply applying TACC cuts.

We endorse the Plan and the measures it proposes. We support the submissions made by our collaborative parties for eastern tarakihi.

Proposed Options

149. Fisheries New Zealand proposes three options to rebuild tarakihi stocks. In the Plan (Option 3), we propose to rebuild the fishery to a stock specific target of 35% SB_0. Projections based on current catch predict a rebuild timeframe of 27 years. The objective of the Plan is to have a the eastern tarakihi stock rebuilt within 20 years through a comprehensive set of management, monitoring, research and engagement initiatives.

150. Options 1 and 2 involve TACC reductions as follows:

- Delivers a management target of 40% of SB_0.
- Sets rebuild timeframes of 12 or 11 years respectively.
- Reduces catch by 31% and 35% respectively.

These options reflect two different approaches to achieving sustainable management

151. The Plan has been developed by Te Ohu Kaimoana and Iwi, Fisheries Inshore New Zealand and Southern Inshore Fisheries and their members. It is an example of a "bottom up" approach that is being led by Iwi, quota owners and fishers. As noted earlier, Te Ohu Kaimoana has commissioned an international review of the effectiveness of fisheries management systems in achieving

conservation objectives. This study has concluded that top-down approaches are inconsistent with modern incentive-based systems[18]. The QMS is an incentive-based system and therefore New Zealand is ideally placed to support a bottom-up approach.

152. A bottom up approach has been shown to be more enduring and incentive building compared to a top down approach (of which blunt TACC reduction is an example of)[19]. Creating opportunities for quota owners and harvesters to work collaboratively and take responsibility for managing the resource generates opportunities that cannot be achieved through the imposition of default-based management settings.

153. Details of how the Fisheries New Zealand options 1 and 2 apply across QMAs are summarised in Table 12.

[18] See Libecap, G, Arbuckle, M, and Lindley, C. (In prep). An analysis of the impact on Māori Property Rights in Fisheries of Marine Protected Areas and Fishing Outside the Quota Management System. A seminar discussing the findings of the study can be viewed here.

[19] Ibid.

Table 12: Fisheries New Zealand's proposed management settings in tonnes for tarakihi stocks: TAR1, TAR2, TAR3 and TAR7, from 1 October 2019, with the percentage change relative to the status quo in brackets

Stock	Option	Total Allowable Catch (tonnes)	Total Allowable Commercial Catch (tonnes)	TACC % change	Allowances		
					Customary Māori (tonnes)	Recreational (tonnes)	All other mortality caused by fishing (tonnes)
Combined	**Option 1**	3989	3249	31% ↓	193	221	326
	Option 2	3783	3063	35% ↓	193	221	306
	Option 3 *Status quo TACC with additional controls*	5561	4679	0%	193	221	468
TAR 1	**Option 1**	871	625	43% ↓ *	73	110	63
	Option 2	1106	839	24% ↓ *	73	110	84
	Option 3 *Status quo TACC with additional controls*	1390	1097	0%	73	110	110
TAR 2	**Option 1**	1383	1100	27% ↓	100	73	110
	Option 2	998	750	50% ↓	100	73	75
	Option 3 *Status quo TACC with additional controls*	1823	1500	0%	100	73	150
TAR 3	**Option 1**	623	539	48% ↓	15	15	54
	Option 2	602	520	50% ↓	15	15	52
	Option 3 *Status quo TACC with additional controls*	1174	1040	0%	15	15	104
TAR 7	**Option 1**	1112	985	5% ↓ *	5	23	99
	Option 2	1077	954	9% ↓ *	5	23	95
	Option 3 *Status quo TACC with additional controls*	1174	1042	0%	5	23	104

* Catch limit reductions are proposed to come exclusively from the eastern portions of the TAR 1 and TAR 7 stocks, referred to as TAR 1 (East) and TAR 7 (Cook Strait). This equates to approximately 50% reductions in catch for TAR 1 (East) and TAR 7 (Cook Strait).

Our approach

154. **The Option 3 Plan will be more enduring and consistent with the purpose of the Fisheries Act**

155. **The Plan is already delivering improvements**

It has already delivered a vast improvement on business as usual and a valuable management framework for inshore finfish fisheries, although the Plan was only developed and implemented one year ago. Ultimately it will increase the variety and effectiveness of fisheries management tools. This more sophisticated approach is only possible with the commitment of all affected parties.

156. The Plan's main management actions are summarised in Table 13. For complete technical details of these measures, refer to the comprehensive chapter in the Plan.

Table 13: Foundations of the Eastern Tarakihi Management Strategy and Rebuild Plan

Measure	Outcome for rebuild	Monitoring mechanism	Confidence	Performance indicators*
Catch spreading in TAR1 &7	Reduces catch on the East	ER/GPR and catch reports	Contracts commit to split ACE to east and west (as per hoki fishery)	90% quota shares signatory to agreement 80% compliance on water
Move-on Rules	Reduces juvenile catch and provides information for model	ER/GPR and catch reports (relates to TAX reporting)	Contracts stipulating details of triggers and actions for moving on	90% fishers signatory to agreement 90% compliance on water
Voluntary closed areas	Reduces juvenile catch	ER/GPR and catch reports	Contracts agreeing not to fish in the areas	90% fishers signatory to agreement 100% compliance
Reporting juvenile catch	Informs areas and levels to reduce juvenile mortality	ER/GPR and TAX code	Legal requirement Validation rules in reports	100% compliance
Gear selectivity	Reduces capture of smaller fish while retaining wanted catch	Gear database	Peer reviewed report	75% uptake after verification

*All progress on the performance indicators will be evaluated and reported on quarterly. This information will be publicly available.

157. **Enhancing management through improved science and research**

Our Plan complements the immediate pragmatic measures with a workstream of research projects and information to improve management. This approach will help develop further innovation and provide appropriate data for the next stock assessment. For complete technical details and reports of the research projects, refer to the comprehensive chapter in the Plan.

158. **An innovative management approach is possible where Iwi and stakeholders take responsibility for management**

Iwi fully accept that responsibilities are an inherent part of their rights. Long term sustainability is vital if their rights are to be protected and essential for those whose livelihoods are affected. Iwi, quota holders, fishers and industry bodies took immediate action once they knew the status of the eastern tarakihi revealed by the 2017/18 stock assessment. The collaborative approach they are taking is providing an opportunity to develop innovative ways of collecting data and improving fishing methods, including catch spreading and move-on rules.

159. **Adaptive management will sustain tarakihi and the people who catch them**

A long-term strategy with close monitoring allows everyone involved to make responsive management decisions. Actively managing this fishery enables a rebuild in which the fishery can still continue without risking the sustainability of the stock. Adaptive management plans enable improvements to be made as we learn more about the fishery. We intend to take every opportunity to increase the tools we have for fisheries management. The Plan will enable us to do this.

The sustainability problem for tarakihi is being addressed under current catch limits

160. **TACC cuts are not necessary - current catch levels are moving the stock towards Bmsy**

In 2018, the Minister reduced the TACC. It is not necessary to consider a further reduction until the next stock assessment, due in 2020/21. Current levels of catch are moving the stock in the right direction. This satisfies the Minister's obligations under the Fisheries Act.

161. **Any further cuts before the 2020/21 stock assessment would be premature and detrimental**

We want to ensure decisions are made to last. They must best reflect the historical trends, current situation and future aspirations for eastern tarakihi stocks. We want to understand the effectiveness of the steps we have already taken. Only then will we have more complete knowledge about both the east and west coast tarakihi fisheries.

The Plan's settings for the rebuild are well considered

162. **A stock-specific management target of 35% is appropriate for this fishery**

We consider a fish as important as tarakihi requires a well considered target. Rather than assuming a default target was appropriate, we contracted an assessment of eastern tarakihi to calculate a stock-specific Bmsy. The methodology of the assessment was approved by Fisheries New Zealand's Science Working Group. The results show a 35% target best meets the definition of Bmsy set out in the Fisheries Act.

163. **There is more than one way to rebuild a fishery**

The way to rebuild a fishery refers to the methods used to reduce catch or improve recruitment. Fisheries New Zealand's options propose a single method for the rebuild using TACC reduction. Our way is through the various measures in the Plan and an informed review of the TACC after the 2020/21 stock assessment. We consider the Plan sets out the most appropriate way to rebuild eastern tarakihi.

164. **Twenty years is an appropriate timeframe to rebuild this fishery**

Although the stock is currently tracking toward the target in 27 years, we are committed to rebuild the fishery to the target within a 20-year timeframe. The Fisheries Act does not dictate a specific rate to rebuild a fishery. While any further reductions may increase the rate of the rebuild there is no legal obligation on the Minister to do so. However, the Minister must consider the social, cultural and economic factors associated with such decisions to achieve the purpose of the Act.

While Options 1 and 2 will have an unacceptable and unnecessary impact on Iwi and the livelihoods of local communities

165. **Options 1 and 2 take a blunt approach through unnecessary TACC reductions**.

The proposed cuts are not needed for sustainability purposes or to meet the requirements of the Fisheries Act. But if they are implemented, Kiwi consumers and the fishing communities along the East Coast will lose out. This loss would be unnecessary but irreversible. For example, if fishers have to exit the industry because they can't generate enough income from less fish, it is highly unlikely they will be able to afford to return. Innovation in management won't be possible under these circumstances. These options are based on variations of the default settings to rebuild the stock. Our critique of the use of these defaults is set out in Part 1 of this response.

166. **The proposed TACC cuts will not improve management on the water**

The TACC cuts proposed in Options 1 and 2 take a "top down" approach that discounts the expertise and capability that fishers and rights holders can bring to management. We have already commented that those who hold this expertise are starting to make a difference in the fishery and will continue to do so if they are given the opportunity. The information provided by Fisheries New Zealand does not identify the benefits of measures we are carrying out and developing, such as catch spreading, move-on rules, voluntary closed areas, additional reporting and gear selectivity. It will be hard to build public confidence in the Plan unless the elements of the Plan and its benefits are properly analysed.

167. **A TACC reduction can't be applied in the way Options 1 and 2 propose**

Options 1 and 2 propose that a cut is applied to the TACC for the Eastern part of the QMA for TAR1 and TAR7. Achieving the rebuild under Options 1 and 2, in line with the projections for rebuild over different time-frames, require the cuts to come only from the Eastern parts of TAR1 and 7. However, Fisheries New Zealand is not able to enforce catch spreading in the East and West. This is something only industry can do. Consequently, under Options 1 and 2 Fisheries New Zealand would have to set the TACC at the Eastern limit for the rebuild. This will result in far greater reductions than set out in Table 12. The actual reductions compared to the Plans approach have been set out comprehensively in the submission put forward by Fisheries Inshore New Zealand.

168. **Social, cultural and economic impacts are significant**

The proposed reductions in Options 1 and 2 are heavy handed. They would lead to significant negative effects on rights holders. Iwi collectively own 38% of eastern tarakihi quota due to significant investments beyond the quota received through the Deed of Settlement.

169. More than 90% of tarakihi is sold locally to New Zealanders. It is a preferred fish for many people across the country. Because tarakihi is part of a mixed fishery it affects other commercial fisheries caught from depths of 30m to 350m. This affects the ability to catch, sell or buy a range of species in New Zealand. More than 80% of New Zealanders eat fish at least once a month (45% at least once a week) but less than 12% catch fish at least once a year. So, most New Zealanders are eating tarakihi caught by commercial fishers. Options 1 and 2 could take more than 1600 tonnes of tarakihi out of our fish shops and increase the price for the remainder. There is no New Zealand fish substitute available in the same quantities all year round. Tarakihi is caught throughout our

waters and is the backbone of many fishers' catch plans. The size of the proposed cuts will also have flow-on effects to the businesses the fishers provide fish to, as well as on all the supporting infrastructure to both fishers and processors and the wider community.

170. **Outstanding 28N claims in TAR2 continue to threaten Māori Fisheries Settlement**

Last year's decision created the potential for these rights to dilute settlement quota in the future. The extent of the additional cuts proposed would increase the likelihood that these rights may be discharged. For our full position on 28N rights please see section Part 3.3 of this response.

171. **Fisheries New Zealand has not proposed any changes to the deemed values associated with eastern tarakihi**

We consider this a necessary consideration when proposing Options 1 and 2 that would result in the reduction of the TACC by such a severe degree. Refer to our views on deemed values in Part 3.6 of this response.

5.0 Deemed Values

5.1 Overview

172. **Deemed values can either be set too high, too low, or about right**

A deemed value that is set too high may provide an incentive to discard fish. If deemed values are too low, fishers may be incentivised to land fish without balancing against ACE. Deemed values should be set with the best available information between the market value of fish and the price of ACE.

173. **Deemed values are not intended to defend the TACC**

Deemed values are not designed to be a mechanism for ensuring the commercial catch does not exceed the TACC. We support an approach that has an overriding purpose of encouraging the accurate reporting of catch, while discouraging the catch of stocks that individual fishers cannot cover with ACE[20].

Fisheries New Zealand is reviewing its deemed values for the following stocks:

- Bluenose (BNS7)
- Black cardinalfish (CDL5)
- Jack mackerel (JMA7)
- Kingfish (KIN3)
- Rubyfish (RBY5 and 6)
- Silver warehou (SWA3 and 4)

[20] For Te Ohu Kaimoana's approach on deemed values please refer to 3.6.

5.2 Bluenose (BNS7)

Our view

174. **We do not support the proposed increases to the deemed value rates for BNS7**

Proposed options

175. The proposed settings to deemed values for BNS7 are set out in Table 14.

Table 14: Proposed adjustments to the deemed value rates for BNS7 from 1 October 2019.

Stock	Option	Interim deemed value rate	Special annual differential rates ($/kg) for excess catch (% of ACE)							
			Annual and 100-105%	105-110%	110-120%	120-130%	130-140%	140-150%	150-160%	>160%
BNS 7	Current	2.70	3.00	4.00	5.00	6.00	7.00	8.00	9.00	10.00
	Proposed	3.60	4.00	5.00	6.00	7.00	8.00	9.00	10.00	11.00

Our approach

176. **The proposed change will set the annual deemed values rate too high**

Deemed values need to be set lower than what is being proposed to avoid disincentivising fishers from accurately reporting catch or creating incentives for discarding. Due to sustainability concerns in this fishery it is reasonable to set the deemed values at the higher end of the scale within the bounds of market value of fish and the ACE price.

177. **We do not support the ramping up of deemed values proposed in the special annual differential rates**

The proposed differential rates greatly exceed the most recent port price and are therefore are likely to be above the market price of fish. Ramping can lead to inaccurate reporting and discarding.

5.3 Cardinalfish (CDL5)

Our view

178. **We support the proposed changes to CDL5 deemed values**

Proposed options

179. The proposed settings to deemed values for CDL5 are set out in Table 15.

Table 15: Proposed adjustments to the deemed value rates for CDL5 from 1 October 2019.

Stock	Option	Interim deemed value rate	Annual deemed value rate	Annual differential rate ($/kg) for excess catch (% of ACE)
				>100%
CDL 5	Current	0.26	0.52	0.52
	Proposed	0.27	0.30	0.30

Our approach

180. **Deemed values should be set correctly to incentivise accurate reporting**

We support deemed values being used as a utilisation tool and therefore, should not be set higher than the market value of fish. The deemed values should be set close to the ACE price, in situations where TACC is being over catch and there are no sustainability concerns.

181. **We recommend that CDL5 be reviewed in next year's (2020) sustainability round**

CDL5 has a relatively low TACC of 22 tonnes. Catches of CDL5 are sporadic and likely to be unavoidable. As of March 2019, the available CDL5 ACE for the 2018/19 fishing year was 351% caught with greater than 90% of all landed fish caught during one fishing event.

5.4 Jack Mackerel (JMA7)

Our view

182. **We do not support the proposed increases to the deemed value rates for JMA7**

Proposed options

183. The proposed settings to deemed values for JMA7 are set out in Table 16.

Table 16: Proposed adjustments to the deemed value rates for JMA7 from 1 October 2019.

Stock	Option	Interim deemed value rate	Standard annual differential rates for excess catch (% of ACE)					
			Annual and 100-120%	120-140%	140-160%	160-180%	180-200%	>200%
JMA 7	Current	0.14	0.15	0.18	0.21	0.24	0.27	0.30
	Proposed	0.18	Special annual differential rates for excess catch (% of ACE)					
			Annual and 100-105%		105-120%		>120%	
			0.20		0.25		0.30	

Our approach

184. **Adjusting the deemed values rates to deal with the actions of one party in the fishery is the wrong approach**

In 2017/18 fishing year the landed catch exceeded the TACC by 4%. Over catch during the 2017/18 fishing year was driven by one significant JMA7 ACE holder, catching in excess of their ACE holdings by 15%. Section 77 of the Fisheries Act 1996 allows the Minister to constrain parties who are significantly over catching their entitlement. In these circumstances, the Fisheries Act should be used to hold the responsible party accountable rather than increasing deemed values.

5.5 Kingfish (KIN3)

Our view

185. **The current and proposed settings of deemed values are too high for KIN3**

Proposed options

186. The proposed settings to deemed values for KIN3 are set out in Table 17.

Table 17: Proposed adjustments to the deemed value rates for KIN3 from 1 October 2019.

Stock	Option	Interim deemed value rate	Annual differential rates for excess catch (% of ACE)					
			Annual and 100-120%	120-140%	140-160%	160-180%	180-200%	>200%
KIN 3	Current	8.00	8.90	10.68	12.46	14.24	16.02	17.80
	Proposed	4.00	**4.45**	**5.34**	**6.23**	**7.12**	**8.01**	**8.90**

Our approach

187. **The proposed change does not go far enough in reducing the deemed values**

The proposed change will set the annual deemed values for KIN3 above the 2017/18 port price of $3.62. The purpose of deemed values is not to ensure commercial catch does not exceed the TACC. Rather, it should encourage accurate reporting.

188. **We do not support the ramping up of deemed values proposed in the special annual differential rates**

The proposed differential rates greatly exceed the most recent port price and are therefore are likely to be above the market price of fish. Ramping can lead to inaccurate reporting and discarding.

189. **Over catch of the TACC in KIN3 indicates the TACC is set too low**

Catches of KIN3 previously exceeded the TACC by substantial margins. The TACC for kingfish was initially set to ensure this fishery did not become a target fishery by only allocating quota to cover unintended bycatch. This approach was inconsistent with the Deed of Settlement. The modest increase to the TACC has not addressed this situation. In our view, the TACC should be reviewed as part of next year's (2020) sustainability round.

5.6 Ruby fish (RBY5 & 6)

Our view

190. **We support the proposed decrease to the deemed value rates for RBY5 & 6**

Proposed options

191. The proposed settings to deemed values for RBY5 & 6 are set out in Table 18.

Table 18: Proposed adjustments to the deemed value rates for RBY5 &6 from 1 October 2019.

Stock	Option	Interim deemed value rate	Standard annual differential rates for excess catch (% of ACE)					
			Annual and 100-120%	120-140%	140-160%	160-180%	180-200%	>200%
RBY 5 RBY 6	Current	0.25	0.28	0.34	0.39	0.45	0.50	0.56
	Proposed	0.25	>100%					
			0.28					

Our approach

192. **The ramping of deemed values in the RBY5 and 6 fisheries is inappropriate**

RBY5 and 6 have TACCs of zero tonnes and this seems inconsistent with the Deed of Settlement. No ACE is available for either stock with which to balance catch, so fishers automatically incur deemed values when the catch RBY5 and 6. Any catch results in deemed value invoices at the highest possible rate of $0.56. This is above the market value.

5.7 Silver Warehou (SWA3 & 4)

Our view

193. **We support a decrease to the deemed values for SWA3 & 4**

Proposed options

194. The proposed settings to deemed values for SWA3 & 4 are set out in Table 19.

Table 19: Proposed adjustments to the deemed value rates for SWA3 & 4 from 1 October 2019.

Stock	Option	Interim deemed value rate	Special annual differential rates ($/kg) for excess catch (% of ACE)		
			Annual and 100-110%	110-130%	>130%
SWA 3	Current	1.57	1.74	$2.00	$3.00
	Proposed	0.63	0.70	$1.00	$2.00

Stock	Option	Interim deemed value rate	Special annual differential rates ($/kg) for excess catch (% of ACE)		
			Annual and 100-110%	110-130%	>130%
SWA 4	Current	0.50	1.22	1.74	$3.00
	Proposed	0.63	0.70	$1.00	$2.00

Our approach

195. **Deemed values for SWA3 and 4 should be set close to the ACE price**

As there are no sustainability concerns for this fishery, we believe deemed values should be set close to the ACE price.

196. **A review of deemed values for a fish stock does not substitute a review of the TAC/TACC settings**

Increasing the TACC for SWA3 and 4 will provide for sustainable utilisation without incurring unnecessarily high deemed values. Industry has signalled to Fisheries New Zealand that SWA3 and 4 should be included in this year's sustainability rounds (2019). Over the last 15 years, deemed value payments for both SWA3 and 4 have exceeded $13.7 million and have averaged around $919,000 per year. There is sufficient information to warrant the TACC increases without incurring ongoing and unwarranted deemed value payments.

197. **Adjusting the deemed values and monitoring the response will provide better information on the state of the fishery**

The reported landings of SWA3 and 4 generally decreased following the increase in deemed values. From 1 October 2007 the annual deemed values of both stocks had noticeably increased, and a more stringent differential schedule applied. Since 2007 catch of SWA3 has generally remained within the TACC. Catches of SWA4 have remained within the TACC except for the 2017/18 fishing year, where landings exceeded the TACC by 7%. By adjusting the deemed values and monitoring the response more accurate information will be obtained on the state of the fishery.

6.0 Reporting of catch from Amateur Charter Vessel

Our view

198. **We support the requirement for operators of amateur charter vessels to expand the reporting of their catch**

All catch of scallops, snapper and tarakihi from amateur charter vessels should be reported. These arrangements should be extended to blue cod in northern areas.

199. **We support extending the requirement to report the weight of retained catch**

The weight of all fin fish species and rock lobster should be reported in kilograms where catch reporting applies.

200. **We are not in support of requiring weight in kilograms of retained Scallops**

We consider this to be impractical and unlikely to be supported by operators. The obligation to report their catch by number is sufficient.

201. **We support the compulsory reporting of all catch and it's weight by amateur charter vessels and the recreational sector**

Ideally all recreational fishers should report their catch.

Proposed Options

202. Fisheries New Zealand proposes to include blue cod (FMAs 1, 9 and 10), scallops, snapper and tarakihi into the reporting scheme from 1 October 2019. The proposals are set out in Table 20.

Table 20: Proposed reporting changes to include blue cod (FMAs 1, 9 and 10), scallops, snapper and tarakihi into the reporting scheme from 1 October 2019.

Species	FMAs from which catch must be reported	
	Status quo	Proposal
Blue Cod	2, 3, 4, 5, 6, 7, 8	All
Scallops	None	All
Snapper	None	All
Tarakihi	None	All

203. Fisheries New Zealand proposes to require all amateur-fishing charter operators to report the actual or estimated weight (in kilograms). This applies to the retained catch for all species to which a catch reporting requirement applies. The proposals are set out in Table 21.

Table 21: Proposed expansion to weight reporting requirements to include all species and areas which require reporting including snapper, tarakihi and scallops from 1 October 2019.

Proposed additional species in bold	Estimate landings in kilograms	
	Status quo	Proposal
Bass and Hapuku	No	Yes
Bluenose	No	Yes
Blue Cod	No	Yes
Kingfish	No	Yes
Rock Lobster	No	Yes
Scallops	No	Yes
Snapper	No	Yes
Tarakihi	No	Yes
Pacific and Southern Bluefin Tuna	Yes	Yes

Our approach

204. **We support amateur charter vessels reporting more of their catch and the weight of their catch**

This information will better inform fisheries management. Focusing on the amateur charter vessel fleet is a good way of collecting useful catch information.

205. **Fisheries New Zealand needs to improve its current data collection methods**

Management of the QMS is supported by reliable catch and start position information from commercial fishers. Reporting has been through paper-based Catch Effort Landing Report data and is moving to Electronic Reporting and Geospatial Position Reporting. The scale and frequency of this reporting has grown significantly.

206. Reporting customary take is required under the Kaimoana and South Island customary regulations. However significant catch used for cultural purposes is most often caught under the recreational regulations (with no reporting). Our only estimates on recreational catch are through a combination of the five yearly National Panel Survey, fishery specific surveys and limited amateur charter vessel information. Expanding the species required to be reported and their estimated weights will improve the quality of data received from amateur charter vessel operators.

207. **Reporting catches and weight from amateur charter vessels should be made easy**

In the past Fisheries New Zealand has suggested that 80% of recreational catch is taken by 20% of the fishers, with the amateur charter vessel fleet accounting for a large portion of the 80%. Given the significance of the recreational share of the catch of some fish stocks, improved reporting should be a priority. Shifting the amateur charter vessel fleet from a paper-based system to a

digital platform would substantially improve the quantity, quality and availability of recreational catch information. This could easily be achieved through a modified version of the commercial electronic reporting and global position reporting.

208. We consider the Government should either require each amateur charter vessel operator to purchase the same equipment that is required for commercial vessels of the same size. As a step towards this the Ministry could provide the equipment to one amateur charter vessel operator in each region to trial. This would likely require an observer on board as part of the trial, to assess both the accuracy of reporting and additional effort required to provide the reporting.

209. **We recommend amateur charter vessels not be required to report the actual or estimated weight of scallops**

This information would be an unnecessary burden on skippers. Assumptions can be used to give a total weight estimate based on the total number of scallops reported.

210. **We recommend that there should be an increase in compliance for amateur charter vessels**

It is not clear to us that amateur charter vessel operators are consistently reporting on a regular basis. The current level of information suggests a drop in reporting rates, implying compliance. In comparison, the commercial sector is required to meet high compliance standards. Fisheries managers require high quality data to make management decisions and the current data is unusable. Fisheries New Zealand and Ministry for Primary Industries Compliance should establish an amateur charter vessel observer programme and combine this with increased compliance monitoring.

211. **We recommend amateur charter vessels report all interactions with protected species**

Understanding the interactions between the amateur charter vessels and protected species would fill a knowledge gap that currently exists. Resources have been developed through Southern Seabirds Trust and Conservation Services Programme to help identify and report interactions. We consider amateur charter vessel operators should be accountable for reporting all interactions with protected species.

Te Ohu
Kaimoana