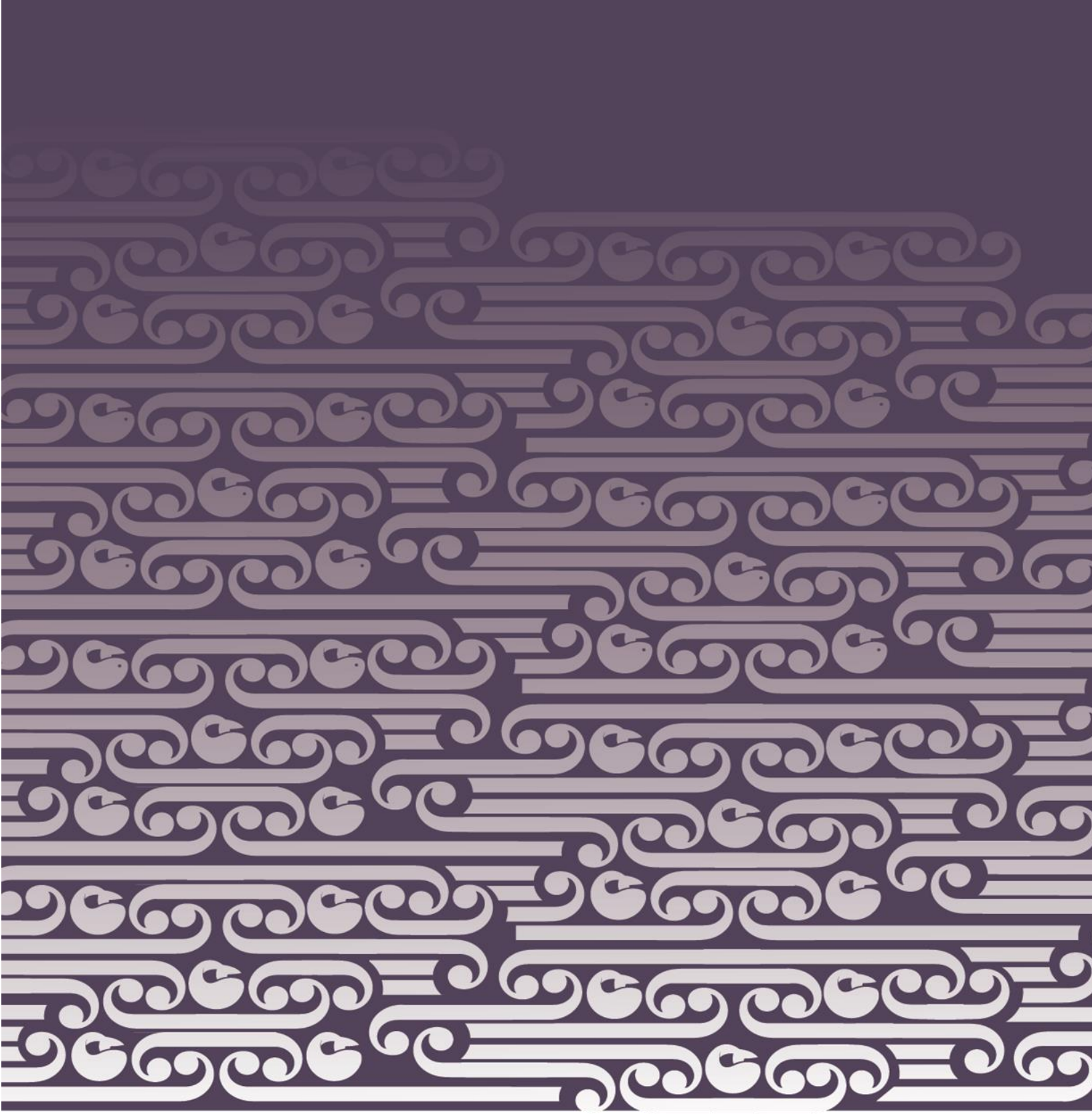

Te Ohu Kaimoana's Response to the Review of Sustainability Measures for 1 October 2020

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 2020/21 fishing year beginning on 1 October 2020. An Initial Position Paper was released on 25 May 2020 and consultation under S12 of the Fisheries Act 1996 closes on 1 July 2020.

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 principle foundation of our fisheries management advice.
    - 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).

4. In developing our response, we sought input from MIOs and AHCs. We also collaborate with the Māori owned fishing entities Sealord, Moana and the Iwi Collective Partnership. Further our draft advice is made available the SRE groups Deepwater Group and Fisheries Inshore New Zealand.

We are Te Ohu Kaimoana

5. Te Ohu Kai Moana Trustee Ltd (Te Ohu Kaimoana) was established to protect and enhance the Deed of Settlement. The Deed of Settlement and the Maori Fisheries Act 2004 are expressions of the Crown's legal obligation to uphold Te Tiriti o Waitangi, particularly the guarantee that Māori would maintain tino rangatiratanga over their fisheries resources.

6. Our purpose, set out in section 32 of the Maori Fisheries Act, is to "advance the interests of Iwi, individually and collectively, primarily in the development of fisheries, fishing and fisheries-related activities, in order to:
    a) ultimately benefit the members of Iwi and Maori generally
    b) further the agreements made in the Deed of Settlement
    c) assist the Crown to discharge its obligations under the Deed of Settlement and the Treaty of Waitangi
    d) 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.

7. We work on behalf of 58 MIOs[2] who represent Iwi throughout Aotearoa. AHCs hold Fisheries Settlement Assets on behalf of their MIOs. Those assets include Individual Transferable Quota (ITQ) and shares in Aotearoa Fisheries Limited (trading as Moana New Zealand) which, in turn, owns 50% of the Sealord Group.

8. 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.

Te Ohu Kaimoana's role

9. Our role in this review process arises from our responsibility to protect the rights and interests of Iwi in the Deed of Settlement and assist the Crown to discharge its obligations under the Deed and Te Tiriti o Waitangi.

10. 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. It 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 under Te Tiriti o Waitangi are protected for the use and enjoyment of future generations. This view endures today and is embodied within our framework Te Hā o Tangaroa kia ora ai tāua (the breath of Tangaroa sustains us).

11. The obligations under Te Tiriti o Waitangi apply to the Crown generally, whether there is an explicit reference to the Treaty in the governing statute, in this case the Fisheries Act 1996. Of particular note are the comments in *Barton-Prescott*, that "since the Treaty of Waitangi was designed to have general application, that general application must colour all matters to which it has relevance, whether public or private and…whether or not there is a reference to the treaty in the statute."[3]

The significance of Tangaroa to Te Ao Māori

12. The reciprocal relationship that Māori have with Tangaroa is 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[4]. Protection of the

[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] *Barton-Prescott v Director-General of Social Welfare* [1997] 3 NZLR 179, 184.

[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).

reciprocal relationship with Tangaroa is an inherent part of the Deed of Settlement – it's an important and relevant part of contemporary fisheries management for Aotearoa.

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

13. Te Hā o Tangaroa kia ora ai tāua is an expression of the unique and lasting connection Māori have with the environment. It contains the principles we use to analyse and develop modern fisheries policy, and other policies that may affect the rights of Iwi under the Deed of Settlement. In essence, Te Hā o Tangaroa kia ora ai tāua highlights the importance of humanity's interdependent relationship with Tangaroa to ensure our mutual health and wellbeing.

14. Māori rights in fisheries can be expressed as a share of the productive potential of all aquatic life in Aotearoa's waters. They are not just a right to harvest, but also to use the resource in a way that provides for social, cultural and economic wellbeing.

15. Te Hā o Tangaroa kia ora ai tāua does not mean that Māori have a right to use fisheries resources to the detriment of other children of Tangaroa: rights are an extension of responsibility. It speaks to striking an appropriate balance between people and those we share the environment with.

16. In accordance with this view, "conservation" is part of "sustainable use", that is, it is carried out in order to sustainably use resources for the benefit of current and future generations. The Fisheries Act's purpose is "to provide for the utilisation of fisheries resources while ensuring sustainability." The purpose and principles of the Act echo Te Hā o Tangaroa kia ora ai tāua.

Leading the recovery of seafood sector in a post-Covid environment

17. The Covid-19 pandemic has showcased the leadership of Iwi/Māori and their commitment to ensuring the health and well-being of their communities. Iwi across the country mobilised to stop the spread of Covid-19 in their rohe and protect their most vulnerable. This was achieved through the provision of financial support, kai and health and social services to their whānau and hapū – and although we are now in Alert Level One, a lot of this support is continuing.

18. Māori food sovereignty has been a topic of debate in discussions about Covid-19 impacts. Ensuring continued access to kaimoana is a core concern for Iwi/Māori. The establishment of pātaka kai nation-wide was floated during Alert Level Four, as Iwi/Māori were faced with the reality of not being able to carry out customary non-commercial harvests. Pātaka kai are one step towards addressing food security challenges, as the pātaka

system enables commercial fishing vessels and processing companies to catch and store fish in a customary capacity for direct supply to Iwi. This system greatly increases the ability for Iwi to distribute kaimoana to whānau/hapū when needed. We continue to seek out other opportunities for Iwi/Māori to provide kai to their hapū and whānau through customary arrangements (commercial and non-commercial) and the need to do so informs our response.

19. Maintaining seafood supplies throughout Aotearoa and worldwide is essential to food security and will be an important contributor to our economic recovery. The restrictions resulting from Covid-19 have placed increased attention on the food sector, and the seafood sector in particular. Aotearoa is well placed to provide global leadership in developing policies to recover and maintain seafood systems by applying the experience drawn from the 30 plus years of operating the Quota Management System (QMS). This period has been characterised by ongoing innovation in the way seafood is collected from the marine environment and is evidenced by the reduction in both the number of vessels and the size of industry's environmental footprint. This innovation is set to continue with vastly improved information gathering systems playing a key part.

Fisheries management settings must be consistent with the Deed of Settlement

20. The Fisheries Act 1996 obliges those performing functions under it to act consistently with the Māori Fisheries Settlement, which is the settlement of Māori claims to fisheries[5]. This means whenever a Minister makes a decision to implement a sustainability measure and/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 over the following broad themes:
    - constructive working relationships
    - allocation of the TAC
    - resolution of 28N rights
    - application of sustainability measures
    - application of deemed values.

We seek constructive working relationships

21. We seek a constructive working relationship with Fisheries New Zealand and through our Board with the Minister of Fisheries. This is an important requirement for a meaningful Treaty-based partnership. The

[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)". Once an allocation formula was agreed the TOW(FC)SA was essentially replaced by the Māori Fisheries Act 2004. Together, these acts give effect to the legal aspects arising from the Māori Fisheries Settlement.

sustainability round is just one contribution to fisheries management, but it is important because it leads to management settings that have a considerable influence on our incentive-based fisheries management system.

22. A review of the sustainability round process was initiated by Fisheries New Zealand last year,[6] and Te Ohu Kaimoana were invited to participate. Our feedback to the reviewer was that we expected more meaningful engagement on behalf of the Treaty Partner through co-development of proposals and greater transparency in process. We are confident that a genuine investment in partnership will produce positive benefits for the sustainable utilisation of Aoteraoa's fisheries.

23. An example of the influence that Te Ohu Kaimoana can have on the development of positive fisheries management initiatives that can be given effect through sustainability round decisions concerns the east coast tarakihi fishery. In this instance MIOs, Te Ohu Kaimoana and industry worked to develop the East Coast Tarakihi Rebuild Plan and bring it through to the sustainability round for consideration. For Te Ohu Kaimoana, ensuring the long-term sustainability of the East Coast Tarakihi stock and fishing community required more than simply the Minister's TAC reduction decision in the sustainability round; it required ongoing, responsive and active management actions by the quota holders and fishers themselves. Ultimately the Minister placed considerable weight on the plan in making his decisions for the current fishing year. We acknowledge that this matter is now under consideration via a judicial review, but we see the potential for this approach to be strengthened on the assumption that the court will view it favourably.

24. We contrast the uptake of East Coast Tarakihi Rebuild Plan with the lack of support for the jointly developed response to the decline in hoki availability to the fishing fleet. As part of last year's TAC/TACC review of management settings in the hoki fishery, MIOs/Te Ohu Kaimoana and the wider fishing industry collectively worked through the Deepwater Group to continue to shelve (35,000 tonne) of ACE while unresolved issues with the stock assessment were addressed. Further this shelving would target the western part of the fishery where the sustainability concern was most acute and would be supplemented by both juvenile and spawning area closures. This level of fine-scale management is only available to the participants in the fishery and is in keeping with our incentive-based system. Despite this high level of commitment, the options provided by Fisheries New Zealand were to cut the TACC by 20,000 or 30,000 tonnes through a top down approach. The final decision made by the Minister mirrored the arrangements put in place through the Deepwater Group (a 35,000-tonne reduction) but was achieved through a TAC/TACC reduction rather than investing in the industry who had already set up shelving of ACE. The irony of this was that the industry had acted 12 months earlier than the Minister, demonstrating that real time management is available to those who have investments in the fishery who do not need to wait until a sustainability round gets underway.

[6]Fisheries New Zealand review of sustainability measures: Overview of legislative requirements and other considerations in relation to sustainability measures – Fisheries New Zealand 2020

Section one: Changes to the TAC should not undermine the Māori Fisheries Settlement

25. When settling their fisheries claims, Māori expected the value and integrity of their Settlement to be retained. 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 and allocating the TAC. This means three 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. Any reallocation to the recreational sector has the effect of reducing the overall value of Māori Fisheries Settlement quota.
    3. Settlement quota, as a proportion of the TACC, should not be reduced under any circumstances.

26. Specifically, in the absence of full cross-sector agreement, we cannot support increases in the recreational allowance at the expense of the TACC. The recreational sector has minimal (if any) incentives to fish within an allowance once set and if the management response to overfishing the allowance is to increase it then such decisions serve to undermine both our incentive-based management framework and kaitiakitanga. Further, the Fisheries Deed of Settlement was a recognition of the Crown's mismanagement of our marine resources and from that point in time Iwi understood incentives to "race for fish" would cease. As such the Crown invested in management arrangements that incentivise stewardship of marine resources. It is in this light that such re-allocation decisions affect the rights of settlement quota holders and reduces the incentives on the commercial sector to take responsibility and invest in good management.

27. To protect Māori Fisheries Settlement rights, the following approach should be taken to adjust the TAC.
    - The customary allowance is based on customary needs and is 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.
    - In the absence of an agreement between mandated bodies, 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, TACC and the recreational allowance is reduced, the allowance should 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.

28. 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

29. The Crown undertook to provide Māori with 10% of the quota for all stocks in the 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. 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.

30. 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.

31. 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. 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

32. In recent times the recreational sector has come to expect that fishing beyond the allocation will be rewarded with an increased 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.

33. To be consistent with the Māori Fisheries Settlement, the recreational share of each fishery 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 best available information. However, in the absence of an agreement, 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.

34. If the recreational sector wish 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 involve further consideration of options to more tightly manage recreational catch to ensure it stays within the recreational allowance once set. A system that allows for the recreational sector to increase catches would need to be carefully designed and take explicit account of obligations arising from the Deed of Settlement.

Customary allowance

35. When allocating the TAC, The Minister of Fisheries must make an allowance for customary fishing. We acknowledge that this may be difficult to do when the information on the level of customary catch may not be easily available to the Minister. We support the investment in reporting systems, such as Ikanet. This means that the setting of the customary allowance is usually retrospective in that the true level of customary catch demand may not be known at a point in time.

36. This situation may become more prevalent with the development of pātaka whereby more species are likely to be made available to meet customary needs. Our position is that we look to utilise actual data on customary catch as it becomes available rather than speculate on what an allowance could be. For this reason, Te Ohu Kaimoana is not recommending customary allowances for the deepwater stocks under review at this point in time. We take this position with the knowledge that it is kaitiaki who determine the level of customary catch required and so the Minister's decision can be seen as more of an accounting exercise and does not need to be an estimate of demand.

Section two: The effect of "28N Rights" on the Māori Fisheries Settlement must be addressed

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

38. 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. They became known as "28N Rights".

39. 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.

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

It would be a breach of the Settlement to reduce the proportion of settlement quota shares

41. Where 28N rights are invoked, the share of quota that Iwi hold will be reduced. This undermines the agreement that Māori receive 10% of all stocks in the QMS at the time of the Interim Fisheries Settlement (1989). Since 1996, Iwi settlement quota shareholdings have reduced by approximately $14 million as a result of 28N rights being discharged.

42. Te Ohu Kaimoana has been actively involved in developing solutions to the 28N Rights issue. Our advice has been provided to the Minister of fisheries and we look forward to an agreement being reached that removes an obstacle to progressing fisheries management. In the meantime, these issues associated with 28N Rights need to be addressed each and every time a stock with latent 28N rights is reviewed as part of the sustainability round.

43. In light of the Settlement, the Minister must act in accordance to his duties, rights and powers under the Fisheries Act 1996. [7] This should include consideration for any potential dilution of the Iwi share of the TACC, when making decisions to change TACC. There is a risk FNZ will undermine the Deed of Settlement if they fail to follow this approach where 28N rights exist in fisheries being reviewed this year. In this response we identify where 28N rights may breach the Settlement. In each case we request that remedial steps are taken to prevent a proportionate reduction in settlement quota.

[7] Refer to Section 5 (b) of the Fisheries Act 1996. As noted, the TOW(FC)SA 1992 has largely been superceded by the Māori Fisheries Act 2004.

44. In the 2018 and 2019 decision letters for the review of sustainability measures, the Minister expressed intent to resolve the 28N right issue. Te Ohu Kaimoana has remained dedicated to and actively engaged in this matter. Despite proactive agreements between Te Ohu Kaimoana and some holders of 28N rights, the resolution of this issue has yet to be realised.

45. In situations where Settlement quota as a proportion of the TACC is diluted, Te Ohu Kaimoana, as a matter of principle, is required to legally challenge the decision. There are currently proceedings before the Court in relation to both PAU5B and SKI7.

Section three: The Fisheries Act enables a flexible approach to managing catch

46. It is often assumed that 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[8]. The Minister should only consider setting or varying a TACC where it is the most appropriate option.

ACE shelving is an appropriate option

47. Shelving of ACE is a viable way of reducing 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 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.

There is no "one size fits all" approach to setting target stock levels and rebuild rates

48. 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 s13 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.

[8] 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

[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

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

49. The majority of stocks in this year's sustainability round have had their default target and relative limits prescribed by the default settings in the Harvest Strategy Standard (HSS). Rather than a holistic approach that includes socio-economic and cultural factors, in recent years the science-based HSS has been over used in fisheries management advice provided to the Minister. Te Ohu Kaimoana considers that a greater emphasis needs to be placed on providing advice to the Minister that aligns with the requirements of the Fisheries Act 1996.

50. 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 prescribes a time-bound rebuild. The purpose of the Fisheries Act 1996 sets out 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. When the Minister is implementing measures to return the stock toward a sustainable biomass, they must take into account socio-economic considerations. Employing default target levels and timeframes that do not properly account for the socio-economic characteristics specific to the stock has real potential to undermine the purpose of the Fisheries Act.

51. The HSS is a policy guideline and the Minister has multiple other factors to account for in making their decisions under the Act. This position is consistent with affidavits provided to the High Court review of the East Coast tarakihi sustainability decisions. The evidence provided seems to expressly concede that the HSS does not give attention to the range of social, cultural and economic factors that the Minister is required to consider when making decisions. The outcome of this case will provide clearer lines between the role of the HSS and the Minister's obligations under the Act.

Collective action will better achieve the purpose of the Fisheries Act

52. We need to 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. As noted, this practice also offends Māori Fisheries Settlement (we refer to our comments on the role of s 5b of the Fisheries Act).

53. Te Ohu Kaimoana has published 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.[12]

[12] See Libecap, G, Arbuckle, M, and Lindley, C.. An analysis of the impact on Māori Property Rights in Fisheries of Marine Protected Areas and Fishing Outside the Quota Management System. The link to teh report can be found here , as can a seminar discussing the findings of the study can be viewed here.

54. Fisheries Plans approved under s11A of the Fisheries Act are one of the key tools available to support collective action. At various times during the last decade Fisheries New Zealand have sought the Minister's approval of fisheries plans that they have developed with a varying degree of buy in from the rights-holders in the fisheries they cover. Most recently, a draft Inshore Fisheries Plan has been consulted on, the IPP seems to assume that this draft plan will provide some management direction for the vast array of fisheries that fall under its potential umbrella.

55. However, Te Ohu Kaimoana does not support the draft plan for a variety of reasons. In discussions with our Board, the Minister has confirmed he is mindful of our reservations and has yet to approve the draft plan. Given the draft plan has not been approved, we consider that it is quite inappropriate for the IPP to be placing weight on its content or taking any direction from it.

Section four: Deemed Values aim to encourage reporting and discourage harvesting without ACE

56. The IPP continues to reference deemed values as a means to discourage commercial catch or constrain catch within the TACC. We disagree with this view as it is contrary to the Deemed Values Working Group Final Report[13] and the consequential Deemed Value Guidelines[14]. Both have been endorsed by the Minister of Fisheries and we are therefore surprised that the approach taken to the review of deemed values as part of the current sustainability round process is not in accordance with either the final report nor the guidelines.

Review of a stocks TAC and TACC should include a review of deemed values

57. We note the IPP is inconsistent with the rationale for proposing changes to the deemed values. The IPP states "deemed values function within the context of the other management settings associated with the stock."[15] We acknowledge that some stocks which require TAC adjustments may not require deemed value adjustment, however, we would like to see that appropriate thought has been put into these process to come to such conclusions.

58. The deemed value system is designed to provide incentives to balance catch against ACE. It is not a mechanism for enforcing hard TACCs set without recourse to biological information about status of the stocks. It is our view that increased deemed value payments signal the need for a management response, rather than a doubling down of regulatory action.

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[13] See Deemed Values Working Group Final Report here

[14] See Deemed Value guidelines here

[15] Review of Sustainability Measures for Snapper (SNA 7) and Red Gurnard (GUR 7) for 2020/21. P16. https://www.fisheries.govt.nz/dmsdocument/40565-sna-7-and-gur-7-final-october-2020-consultation-document

59. The Deemed Values Working Group was convened in April 2019 with the objective to review the information basis and applied process for setting deemed value rates. In its report, the Working Group recommended that the statement of purpose for the deemed values regime was in need of review and recommended that it revised as follows:

> *"The primary purpose of the deemed values regime is to provide incentives for individual fishers to acquire or maintain sufficient ACE to cover catch taken in the course of the year, while:*
> *i) Allowing flexibility in the timing of balancing;*
> *ii) Promoting efficiency; and*
> *iii) Encouraging accurate catch reporting".*

60. Once implemented, this will restore the deemed values regime to its intended role within the QMS - to provide for utilisation flexibility and establish incentives to use this flexibility responsibly at the level of the individual harvester.

61. The Working Group also recognised that individual incentives could never generate precise aggregate levels of catch. Deemed values are not a substitute for TACC setting and attempts to use the deemed value regime to 'defend' an inappropriate TACC generated perverse incentives such as discouragement of accurate catch reporting.

62. A modest outcome of the Working Group was the establishment of the Deemed Value Forum. The Forum is designed to assist MPI annually to take a more integrated approach to TACC and deemed value setting, as well as to identify particular stocks where such integrated examination of fisheries management settings requires priority attention.

It is important to avoid any disincentive to record catch

63. 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

64. Discouraging catch in excess of ACE holdings is achieved by ensuring deemed values are set above the ACE price.[16] The requirement to ensure that the deemed value system does not encourage the discarding of fish at sea is achieved by ensuring the deemed value rate does not exceed the market value of the stock (see figure 3).

[16] However, it is recognised that the ACE price can be distorted by deemed value prices that are set to high.

This implies that deemed values should always be set within the range of the market price of fish and the undistorted price of ACE for that stock. In general, where there is unlikely to be a sustainability risk the deemed value should be set closer to the ACE price, whereas if sustainability is at risk it should be closer to the port price.

65. 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.

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

66. 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 - all of 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 consequential (perhaps temporary) increase in biomass – ensure the incentive to balance catch with ACE is maintained while not creating a disincentive to report.

67. We acknowledge that the information available to set deemed values appropriately is imperfect. The key inputs of market price of fish and the ACE price are all confounded by the way that quota ownership is 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.

Our preferred approach to managing the fish stocks under review

Deepwater Stocks

Overview

68. The IPP reviews the TAC/TACCs for the following deepwater fisheries:
    - Black cardinalfish – akiwa (CDL5)
    - Frostfish – para, taharangi, hikau (FRO3 & 4; FRO7, 8 & 9)
    - Orange roughy (ORH3B)
    - Rubyfish (RBY4)
    - Scampi – kourarangi (SCI1)
    - Silver warehou (SWA3 & 4)

Black cardinalfish – akiwa (CDL5)

Our view

- We do not support the options proposed.
- We support an alternative option, a TAC of 61 tonnes, a TACC of 60 tonnes and the allowance for all other mortality caused by fishing to remain at 1 tonne.

Proposed options

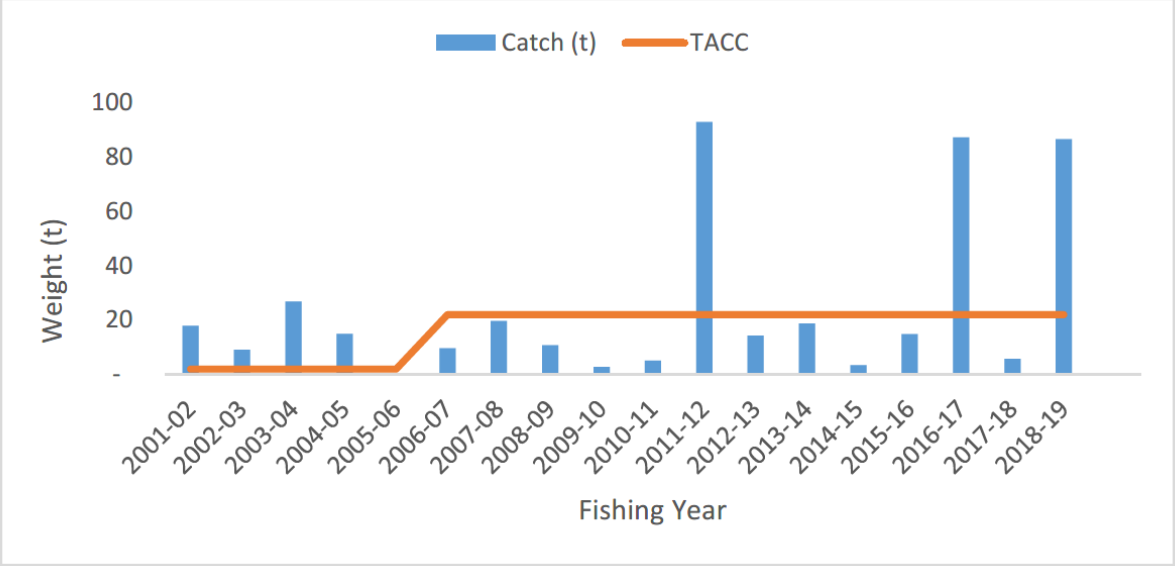
Stock	Option	Total Allowable Catch	Total Allowable Commercial Catch	Allowances		
				Customary Māori	Recreational	All other mortality to the stock caused by fishing
CDL 5	Option 1 *(modified status quo)*	23	22	0	0	1
CDL 5	Option 2	34 ↑ (55%)	33 ↑ (50%)	0	0	1

Our approach

There is a case for a higher increase to the TAC and TACC than proposed

69. The available catch information suggests there is the potential for greater utilisation of black cardinalfish. However, the options proposed do not allow for the current levels of catch. CDL5 is caught as non-target catch in fisheries such as ling and white warehou. The utilisation opportunity from the increased TACC of LIN5 (2018/19) is hampered by the constraints of unavoidable CDL5 catch. The catch for the 2018/19 fishing year was just below 90 tonnes resulting primarily from a single tow targeting ling, which is almost three times the proposed increased TACC (see figure 1). These spikes in annual catch could be a reflection of several factors: an increase in abundance, an increase in recruitment to the fishery or the increased effort in the LIN5 fishery. Increasing the TAC to 61 tonnes and the TACC to 60 tonnes would allow for more of the likely catch to be balanced against ACE, without placing sustainability at risk.

Figure 1: *CDL5 catch in tonnes by fishing year*



An increase to cardinalfish does not pose a sustainability risk

70. Catches of CDL5 are sporadic but can occasionally occur in very large quantities, sometimes exceeding the catch limits in a single fishing event. CDL5 is a low knowledge stock, meaning there is limited monitoring data and no information on stock status. However, it is a non-target species and hence an increase to the TACC is unlikely to result in any change in fishing pressure while allowing more of the catch to be balanced with ACE.

Stocks undergoing review of management settings should also have deemed values reviewed

71. The IPP does not propose any changes to the deemed values for CDL5, nor does it provide rationale for the current settings. A consultation document should provide all necessary information for the reader to provide meaningful feedback. We cannot provide a specific setting recommendation without the necessary information on ACE price and port price. As there is no sustainability concern in this fishery, an appropriate setting for deemed values would be closer to the ACE price than the market price.

Frostfish – para, taharangi, hikau (FRO3 & FRO4; FRO7, FRO8 & FRO9)

Our view

- We support status quo for FRO3 and FRO7 retaining the current TAC and TACC
- We support Option 1 for FRO4, FRO8 and FRO9 providing for an increase to the TAC, TACC and the allowance for all other mortality caused by fishing.

Proposed Options

Option	Stock	Total Allowable Catch	Total Allowable Commercial Catch	Allowances		
				Customary Māori	Recreational	All other mortality to the stock caused by fishing
Chatham Rise frostfish stocks						
Status quo	FRO 3	176	176	0	0	N/A
	FRO 4	28	28	0	0	N/A
Option 1	FRO 3	82 ↓ (53%)	80 ↓ (55%)	0	0	2
	FRO 4	126 ↑ (450%)	124 ↑ (443%)	0	0	2
West Coast South Island / North Island frostfish stocks						
Status quo	FRO 7	2,625	2,623	1	1	N/A
	FRO 8	649	649	0	0	N/A
	FRO 9	140	138	1	1	N/A
Option 1	FRO 7	2,154 ↓ (18%)	2,110 ↓ (20%)	1	1	42
	FRO 8	918 ↑ (141%)	900 ↑ (139%)	0	0	18
	FRO 9	410 ↑ (293%)	400 ↑ (290%)	1	1	8

Our approach

Reallocation across QMAs impacts on quota holders' rights

72. We do not support decreases to the TAC and TACC in FRO3 and FRO7. There is no sustainability concern in these fisheries, therefore any reductions to their current management settings are unnecessary. Reallocating catch across QMAs does not address the problem identified in the FRO fisheries, which is the current TACC settings are unnecessarily constraining catch in some QMAs but not others. Unprincipled reallocation of catch limits across QMAs unreasonably infringes on property rights.

There is no sustainability concern associated with FRO3 or FRO7

73. In FRO3 there has been a reduction in CPUE, however this is associated with movement of vessels out of this area rather than a reduction in abundance. We consider retaining the current TAC and TACC settings will allow for future fishing to return to this QMA without unnecessarily constraining the TAC and TACC. There has been increased CPUE in FRO7 as vessels have moved back into this area targeting other species. Retaining the current settings in both FRO3 and FRO7 allows for future utilisation, which are already being seen in FRO7 with increases in catch.

Increasing the TACC for FRO4, FRO8 and FRO9 will provide a utilisation opportunity

74. As there is no apparent sustainability concern, we support TAC and TACC increases. Increases proposed under Option 1 are set slightly higher than the highest recorded catch in each QMA.

Stocks undergoing review of management settings should also have deemed values reviewed

75. The IPP does not propose any changes to the deemed values for FRO, nor does it provide rationale for the current settings. A consultation document should provide all necessary information for the reader to provide meaningful feedback. We cannot provide a specific setting recommendation without the necessary information on ACE price and port price. As there is no sustainability concern in this fishery, an appropriate setting for deemed values would be closer to the ACE price than the market price.

Orange roughy (ORH3B)

Our view

- We note the acknowledged arithmetic error made in the three stage increase options where the catch limit for the East and South Chatham Rise sub-QMA should be 5,970 tonnes
- We support correcting the arithmetic error and setting a TAC of 8355 tonnes, a TACC of 7967 tonnes and an East and South Chatham Rise sub-QMA limit of 5,970 tonnes

Proposed Options

	Current TAC, TACCs, allowances and catch limits	Option 1	Option 2
TAC	7,116	↑ 8,055	↑ 8,767
TACC (for all sub-QMAs)	6,772	↑ 7,667	↑ 8,345
Allowance for other mortality caused by fishing	339	↑ 383	↑ 417
Customary Māori allowance	5	5	5
Northwest Chatham Rise	1,150	1,150	1,150
East and South Chatham Rise	4,775	↑ 5,670	↑ 6,348
Puysegur	347	347	347
Arrow Plateau	0	0	0
Sub-Antarctic	500	500	500

Our approach

The effect of the first two staged increase is not yet known

76. Due to the impacts of COVID-19, the scheduled 2020 trawl survey has been cancelled. The trawl survey would have measured the impact of the two previous TAC and TACC increases on the biomass. On the water observations of orange roughy fishing outside of the spawn are signalling that there is less confidence in accepting the higher increase until there is more information to support it. Due to this uncertainty we support the continuation of the three-year staged increase agreed to by the Minister in 2018/19 with an adjustment to correct what we understand to be an arithmetic error. As orange roughy is a long-lived fish that undergoes regular updates for management we consider it is appropriate to keep this extra biomass with Tangaroa at least until we have updated information.

Non-target catch may also increase

77. Capture of non-target species in this fishery should be monitored to determine if a management setting adjustment is necessary. Under Option 1, there would be an estimated increase of 13 tonnes of black oreo and 66 tonnes of smooth oreo catch, should the TACC be fully caught. These oreo species are caught as part of OEO4, which is fully caught most years. This highlights yet another area of inconsistency within the IPP over the desirability of multi-stock management. In our view the TAC/TACCs for OEO4 should be reviewed in association with ORH3A.

Stocks undergoing review of management settings should also have deemed values reviewed

78. The IPP does not propose any changes to the deemed values for ORH3A, nor does it provide rationale for the current settings. A consultation document should provide all necessary information for the reader to provide meaningful feedback. We cannot provide a specific setting recommendation without the necessary information on ACE price and port price. As there is no sustainability concern in this fishery, an appropriate setting for deemed values would be closer to the ACE price than the market price.

Rubyfish (RBY4)

Our view

- We do not support the options proposed.
- We support an alternative option, a TAC of 51 tonnes, a TACC of 50 tonnes and the allowance for all other mortality caused by fishing to remain at 1 tonne.

Proposed Options

Stock	Option	Total Allowable Catch	Total Allowable Commercial Catch	Allowances		
				Customary Māori	Recreational	All other mortality to the stock caused by fishing
RBY 4	*Status quo*	19	18	0	0	1
RBY 4	Option 1	25 ↑ (32%)	24 ↑ (33%)	0	0	1

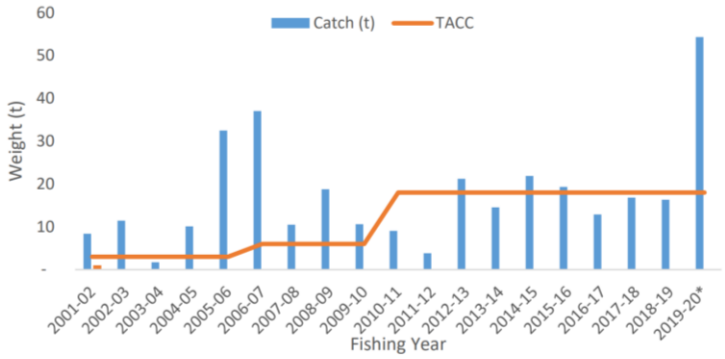
Our approach

Utilisation opportunity for RBY4

79. RBY4 on Chatham Rise is taken as non-target catch by trawl vessels. Catches of RBY4 can occasionally occur in clumps, sometimes exceeding the catch limit in a single fishing event. RBY4 is a low knowledge stock, meaning there is currently no information on stock status. However, there is no known sustainability concern for this stock and given that it is a non-target species an increase to the TACC is unlikely to result in any change in fishing pressure. But it will enable sustainably available catch to be covered by ACE.

80. The catch for the current fishing year (2019/2020) is above 50 tonnes, which is over double the proposed increased TACC (see figure 2). There could be several reasons for this increased catch including an increase in an abundance or an increase in recruitment to the fishery. Continued monitoring of the fishery is appropriate to determine whether future catch patterns should warrant further management adjustments. However, as an interim step the TAC/TACC should be increased to the level of recent catch.

***Figure 2**. RBY4 catch in tonnes by fishing year, note the 2019/20 fishing year is incomplete.*



Stocks undergoing review of management settings should also have deemed values reviewed

81. The IPP does not propose any changes to the deemed values for RBY4, nor does it provide rationale for the current settings. A consultation document should provide all necessary information for the reader to provide meaningful feedback. We cannot provide a specific setting recommendation without the necessary information on ACE price and port price. As there is no sustainability concern in this fishery, an appropriate setting for deemed values would be closer to the ACE price than the market price.

Scampi – kourarangi (SCI1)

Our view

- We support Option 1, an increase to the TAC, TACC and all other mortality caused by fishing.
- We acknowledge a range of positions are held by Iwi and industry on SCI1

Proposed options

Stock	Option	Total Allowable Catch	Total Allowable Commercial Catch	Allowances		
				Customary Māori	Recreational	All other mortality to the stock caused by fishing
SCI 1	Current Setting *(status quo)*	126	120	0	0	6
	Option 1	139 ↑ (10%)	132 ↑ (10%)	0	0	7 ↑
	Option 2	151 ↑ (20%)	144 ↑ (20%)	0	0	7 ↑

Our approach

There is a utilisation opportunity in SCI1

82. Since its introduction to the QMS in 2004 the TAC and TACC for SCI1 has remained unchanged and has been fully caught in most years. The 2019 stock assessment indicates that the biomass of SCI1 is between 72-76% B_0, confirming the stock is in a healthy state. We see value in maintaining a higher biomass and to therefore have proportionately more of the larger scampi in the population – and the market pays a premium on larger scampi. It would make sense for the industry to invest in economic modelling to provide a sense of how far the biomass could be fished down towards B_{MSY} before this premium is lost.

    While there is a utilisation opportunity, we acknowledge the preference of some parties to retain status quo and of others to support Option 2. Our preferred position sits in the middle of this range and hence we support a 10% increase.

The goal should be to achieve further reductions in bycatch

83. Scampi is a deepwater bottom contact trawl fishery which catches a proportionally high level of non-target QMS and non-QMS species. We are mindful of the bycatch in this fishery and would like to see a cautious approach towards a fish-down for these reasons too. We would support investigations into finfish escapement devices as a means of reducing non target catch.

Stocks undergoing review of management settings should also have deemed values reviewed

84. The IPP does not propose any changes to the deemed values for SCI1, nor does it provide rationale for the current settings. A consultation document should provide all necessary information for the reader to provide meaningful feedback. We cannot provide a specific setting recommendation without the necessary information on ACE price and port price. As there is no sustainability concern in this fishery, an appropriate setting for deemed values would be closer to the ACE price than the market price.

Silver warehou (SWA3 and SWA4)

Our view

- We do not support the options proposed.
- We support an alternative option for SWA3, a TAC of 3975 tonnes, a TACC of 3936 tonnes and the allowance for all other mortality caused by fishing to 39 tonnes.
- We support an alternative option for SWA4, a TAC of 4957 tonnes, a TACC of 4908 tonnes and the allowance for all other mortality caused by fishing to 49 tonnes.

Proposed Options

Stock	Option	Total Allowable Catch	Total Allowable Commercial Catch	Allowances		
				Customary Māori	Recreational	All other mortality to the stock caused by fishing
SWA 3	Option 1 *(modified status quo)*	3,313	3,280	0	0	33
SWA 3	Option 2	3,646	3,610 ↑ (10%)	0	0	36
SWA 4	Option 1 *(modified status quo)*	4,131	4,090	0	0	41
SWA 4	Option 2	4,545	4,500 ↑ (10%)	0	0	45

Our approach

85. **Utilisation opportunity for SWA3 and 4**

Silver warehou is caught as both a target and non-target stock in deepwater trawl fisheries. The total landings have exceeded the TACC on six occasions since the 2010/11 fishing year for SWA3 and on five occasions for SWA4. The participants in this fishery have been seeking increased utilisation for a number of years but the science has lagged behind. We note that there are still unresolved issues impacting the reliability of the stock assessment model regarding the estimation of abundance, however the information from the fishery strongly supports an increase above the current management settings. We note that there are still unresolved issues impacting the reliability of the stock assessment model regarding the estimation of abundance. However, the information from the fishery strongly supports an increase above the current management settings, the proposed 10% increases do not even account for current catch. We therefore support a TACC increase of 20% above current settings for both SWA3 and SWA4.

86. **Stock assessment model needs refinement**.

Due to the nature of the fishery, silver warehou has been unable to be assessed reliably, which is constraining the fishery from its optimal potential. This is despite multiple efforts and large expenditure on analysis. A 20% increase is justified and will enable funds to be redirected away from deemed value payments and into areas that will benefit fisheries management. We consider that a higher TACC for SWA3 and SWA4 is sustainable and support the need for better calibration between FNZ and industry for a new management approach that is more appropriate to the nature of the silver warehou fishery.

87. **Choke species impacting other QMS species**

The high abundance of silver warehou, combined with its constrained TACC, has had the effect of hindering the utilisation of BAR4. High catch rates of silver warehou during the current fishing year have incurred unnecessary deemed value payments, consequently this impacts the ability for deepwater vessels to catch BAR4. Over the past five years alone fishers in SWA3 and SWA4 have paid over $1.3m and $2m respectively in deemed values.

There is a utilisation opportunity being missed in BAR4 caused through the constraining SWA3 and SWA4 management settings.

Stocks undergoing review of management settings should also have deemed values reviewed

88. .The IPP does not propose any changes to the deemed values for SWA, nor does it provide rationale for the current settings. A consultation document should provide all necessary information for the reader to provide meaningful feedback. We cannot provide a specific setting recommendation without the necessary information on ACE price and port price. As there is no sustainability concern in this fishery, an appropriate setting for deemed values would be closer to the ACE price than the market price.

Inshore Stocks

Overview

89. Fisheries New Zealand is reviewing the TAC/TACCs for the following inshore fisheries:
    - Area 3 mixed trawl fishery:
        i. Leatherjacket - kokiri (LEA3)
        ii. Blue moki (MOK3)
        iii. Red gurnard - kumukumu (GUR3)
        iv. Rig – makō (SPO3)
    - Blue cod – rāwaru (BCO5)
    - Gemfish – maka-tikati (SKI1 & 2)
    - Geoduck – pupu (PZL7)
    - Kingfish – haku, warehanga (KIN2; KIN3; KIN7 & 8)
    - Pōrae (POR1)
    - Sea perch – puhuiakaroa (SPE9)
    - Snapper- tāmure (SNA7) and red gurnard - kumukumu (GUR7)
    - Stargazer – puwhara (STA7)
    - Rig – makō (SPO2)

There is no inshore fisheries plan

90. We note reference to a Draft National Inshore Finfish Fisheries Plan in the IPPs for inshore stocks. In our view, Fisheries Plans were intended to be an empowering tool for rights-holders to use in association with agencies responsible for administering legislation. Assuming that a proposed plan developed without the involvement of key interests and has yet to be approved is indicative of a top down approach to fisheries management that is inconsistent with our incentive-based system.

91. Te Ohu Kaimoana is committed to improving Aotearoa's fisheries management and we seek to do so through collaboration with all Iwi (reflecting both their commercial and non-commercial interests), other commercial rights holders, recreational fishers and organisations, environmental groups and government agencies. If management measures are to be implemented effectively, our experience suggests all key participants in the relevant fishery need incentives to work together. Our response to the Draft Inshore Finfish Fisheries Plan can be found here.

Area 3 mixed trawl fishery

Our view

- We support Option 2 for LEA3, an increase to the TAC, TACC and allowance for other mortality caused by fishing
- We support Option 2 for GUR3, an increase to the TAC, TACC and allowance for other mortality caused by fishing.
- We do not support the options proposed for MOK3 or SPO3.
- We support an alternative option for MOK3, set out in Table 1
- We support an alternative option for SPO3, set out in Table 1, only if it is executed in such a way that it does not diminish Settlement quota as a proportion of the TACC
- We do not support a management decision that will result in a proportional reduction of Iwi ownership. Increasing the TACC in SPO3 will result in 28N rights being discharged and if it is administered in accordance with s23 of the Fisheries Act 1996 then there will be a breach of the Fisheries Settlement. This will come about through a reduction the quota shares as a proportion of the TAC Our full position on 28N rights is set out in Section two.

Table 1: Te Ohu Kaimoana's preferred options for MOK3 and SPO3 in tonnes

Stock	Total Allowable Catch	Total Allowable Commercial Catch	Allowances		
			Customary	Recreational	All other mortality caused by fishing
MOK3	214.6↑	176↑	1	20	17.6↑
SPO3	766↑	660↑	20	20↓	66↑

Proposed options

Stock	Option	Total Allowable Catch (tonnes)	Total Allowable Commercial Catch (tonnes)	Allowances		
				Customary Māori (tonnes)	Recreational (tonnes)	All other mortality caused by fishing (tonnes)
MOK 3	Option 1 *(Status quo)*	197	160	1	20	16
	Option 2	216.6 ↑	176 ↑ (10%)	1	22 ↑	17.6↑
	Option 3	234.2 ↑	192 ↑ (20%)	1	22 ↑	19.2↑
LEA 3	Option 1 *(Status quo)*	140	130	1	2	7
	Option 2	160.3 ↑	143 ↑ (10%)	1	2	14.3↑
GUR 3	Option 1 *(Status quo)*	1,593	1,320	3	6	264
	Option 2	1,606.2 ↑	1,452 ↑ (10%)	3	6	145.2↓
SPO 3	Option 1 *(Status quo)*	710	600	20	60	30
	Option 2	806↑	660 ↑ (10%)	20	60	66 ↑

92. These stocks have been grouped together as they are generally caught together. Each stock is specifically targeted at times but can also be caught when other stocks are targeted. For example:
    - an increase in the TACC for MOK3 and LEA3 may result in an increase in catch of GUR3.
    - an increase in the TACC of SPO3 is likely to result in an increase in catch of LEA3 which in turn may influence the catch of GUR3

Our approach

Stocks that are fished together should be managed together

93. The Aotearoa QMS has grown from managing 26 species or mixed species for commercial use to managing the sustainable use of the aquatic environment for the economic, cultural and social wellbeing. This progress has meant that the traditional approach of single stock assessments and waiting for those stocks to find a place within the sustainability round queue before settings can be updated needs an urgent overhaul. The approach of considering stocks caught together (but not necessarily indicative of inter-dependencies) is long overdue. We agree that a range of factors such as stock productivity, distribution (especially as global warming effects are seen), abundance, and fishery interactions should be considered when management decisions are made. We support an approach that manages stocks in mixed fisheries being managed together. This is consistent with the Fisheries Act 1996 which sets out an ecosystem-based approach to fisheries management.

The existence of 28N rights in SPO3 requires careful administration

94. A TACC increase of one tonne is required for all 28N rights to be discharged. This needs to be done in such a way that Settlement quota as a proportion of the TACC is not reduced.

MOK3, LEA3, GUR3 and SPO3 are all caught together but differ in biology

95. Following the latest biennial independent East Coast South Island inshore trawl survey, these four stocks have been assessed as being at or above sustainable levels to varying degrees.

96. The biological characteristics of these stocks suit different management approaches. For example, species with relatively high productivity (such as GUR3 and LEA3) take less time to rebuild than those with low productivity, and management approaches can be responsive to fluctuations in biomass. GUR3 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% over the next few years.

97. Due to its low growth rate and longevity moki is a low-medium productivity. For species with low productivity, a more appropriate TAC would be one that reflects longer term stability. Taking these factors into account, we support a TACC increase of 10% for MOK3 matched with a TACC increase of 10% for GUR3, LEA3 and SPO3. We would be comfortable with greater increases in the TACC for MOK3 - as proposed under Option 3– but in the context of a management strategy that sets out how fine scale monitoring would mitigate against any risk to sustainability.

Recreational allowance should not exceed estimated catch

98. We do not support a fisheries management system that provides for increased utilisation by the recreational sector beyond what they are assessed to be catching. The current estimate of MOK3 recreational catch is 16.4 tonnes. We do not see the rationale for increasing the recreational allowance given this is the best available information. We therefore do not support an increase to the recreational allowances for MOK3.

99. The current estimate of recreational SPO3 catch is 15.7 tonnes, far below the current allowance of 60 tonnes. We consider it is appropriate to decrease the recreational allowance to 20 tonnes, which is at a level closer to estimated recreational catch according to the 17/18 National Panel Survey. We support removal of the excess 40 tonnes from the TAC and returning it back to Tangaroa on the basis it is not needed to cover catch. Our full position on the allocation of the TAC can be read in Section one.

Stocks undergoing review of management settings should also have deemed values reviewed

100. The IPP does not propose any changes to the deemed values for these stocks, nor does it provide rationale for the current settings. A consultation document should provide all necessary information for the reader to provide meaningful feedback. We cannot provide a specific setting recommendation without the necessary information on ACE price and port price. As there is no sustainability concern in this fishery, an appropriate setting for deemed values would be closer to the ACE price than the market price.

Blue cod - rāwaru (BCO5)

Our view

- We support Option 2, a decrease to TAC, TACC and the allowance for recreational catch
- We support an increase to the customary allowance
- We support a bag limit of two blue cod in BCO5

Proposed Options

Stock	Option	Total Allowable Catch	Total Allowable Commercial Catch	Allowances		
				Customary Māori	Recreational	All other mortality to the stock caused by fishing
BCO 5	Option 1 *(Status quo)*	1,452	1,239	2	191	20
BCO 5	Option 2	999 ↓ (31%)	874↓ (29%)	20↑ (N/A)	85 ↓ (55%)	20
BCO 5	Option 3	825↓ (43%)	700 ↓ (44%)	20↑ (N/A)	85 ↓ (55%)	20

Our approach

Blue cod is a taonga species, highly valued by Iwi/Māori

101. We support the setting of a customary allowance of 20 tonnes in BCO5 on the basis that it is more likely to reflect current catch than the current allowance of two tonnes. Setting a customary allowance that reflects actual demand enables Iwi to exercise their right as kaitiaki over their fisheries and for that to be reflected within the TAC. BCO5 lies within Kāi Tahu's rohe moana and we encourage the Crown to uphold a meaningful partnership with Kāi Tahu in the management of this fishery.

Industry has shown leadership in the management of this fishery

102. Industry has shown leadership in the management of this fishery through ACE shelving for the past four fishing years (including the current fishing year) and increasing the mesh size used on commercial pots in 2017. Quota holders are now requesting the approval of a management procedure to be implemented in the BCO5 fishery. Management procedures are simulation-tested decision rules, which use inputs such as CPUE to trigger an output of a suggested TACC adjustment. This allows for considered adjustments to be made to catch levels in a fishery in the absence of a stock assessment. The use of management procedures in some rock lobster fisheries have provided a successful approach to managing these fisheries. It is important for management procedures to be subject to rigorous scientific approval and have input from Iwi.

Lowering the TAC will rebuild the stock

103. We support Option 2, a decrease to the TAC, TACC and allowance for recreational catch. We support a decrease of both the recreational and commercial catch in the BCO5 fishery to address sustainability concerns. Option 2 is based on catch rates of 80% of the current catch which predict there is a 50% chance the fishery will rebuild to

be at or above a nominal target within five years. The IPP notes that the stock assessment did not consider changes to pot mesh dimensions or in fisher behaviour. Input into the management procedure of data made available through electronic reporting will enable more agile data analysis to identify potential risks and address them. A management procedure will provide more certainty and a more responsive path to recovery. However, complications from the lack of reporting from recreational fishers continues to hinder management.

Management of recreational fisheries is important

104. The proposed changes to the recreational allowances are essentially administrative in that they reflect the best estimate of recreational catch. To make a meaningful contribution to rebuild the fishery, recreational extractions need to be managed through reductions to daily limits and the active monitoring of the catch.

105. At the time the National Blue Cod Strategy measures were consulted on the sustainability concern for the BCO5 fishery was not recognised. Therefore, the bag limits for the recreational sector were incorrectly assessed against the traffic light system. Currently the daily limit is set at either 15 or 10 blue cod. The traffic light system provides a daily limit of two for stocks that are "in trouble". Considering the recreational effort in BCO5 is estimated to be increasing, we support amending the bag limit as soon as practicable to reflect the status of the stock. We support a bag limit of two blue cod until the stock has sufficiently recovered. We are supportive of using accumulation limits to ensure recreational catch is kept to an appropriate level.

Stocks undergoing review of management settings should also have deemed values reviewed

106. The IPP does not propose any changes to the deemed values for BCO5, nor does it provide rationale for the current settings approach. A consultation document should provide all necessary information for the reader to provide meaningful feedback. We cannot provide a specific setting recommendation without the necessary information on ACE price and port price. As there is a sustainability concern in this fishery, an appropriate setting for deemed values would be closer to the market price then the price of ACE.

Gemfish – maka-tikati (SKI1 & SKI2)

Our view

- We do not support the options proposed for SKI1 or SKI2.
- We support an alternative option for SKI1, a TAC of 408 tonnes, TACC of 360 tonnes and the allowance for all other mortality caused by fishing of 18 tonnes.
- We support an alternative option for SKI2, a TAC of 355 tonnes, a TACC of 330 tonnes and the allowance for all other mortality caused by fishing of 17 tonnes, only if it is executed in such a way that it does not diminish Settlement quota as a proportion of the TACC.
- We do not support a management decision that will result in a proportional reduction of Settlement quota as a proportion of the TACC.

Increasing the TACC in SKI2 will result in 28N rights being discharged and if it is administered in accordance with s23 of the Fisheries Act 1996 then there will be a breach of the Fisheries Settlement. This will come about through a reduction the quota shares as a proportion of the TACC. Our full position on 28N rights is set out in Section two.

- We support the improved management of recreational catch through the introduction of a bag limit and minimum legal size

Proposed Options

Stock	Option	Total Allowable Catch	Total Allowable Commercial Catch	Allowances		
				Customary Māori	Recreational	All other mortality to the stock caused by fishing
SKI 1	Option 1 *(Status quo)*	218	210	3	5	0
SKI 1	Option 2	284 ↑ (30%)	231 ↑ (10%)	3	27 ↑	23 ↑
SKI 1	Option 3	307 ↑ (41%)	252 ↑ (20%)	3	27 ↑	25 ↑
SKI 2	Option 1 *(Status quo)*	248	240	3	5	0
SKI 2	Option 2	298 ↑ (20%)	264 ↑ (10%)	3	5	26 ↑
SKI 2	Option 3	325 ↑ (31%)	288 ↑ (20%)	3	5	29 ↑

Our approach

There is evidence supporting the increased utilisation of gemfish

107. Gemfish is predominantly caught as a non-target stock in trawl fisheries. The most recent quantitative stock assessment was 12 years ago and estimated the biomass of the combined SKI1 and SKI2 stock to be at 32% B0 or 26% B0, and in 2007 to be at 22% B_0. The CPUE analysis for SKI1 and SKI2 in May 2020 indicates that abundance has increased more than threefold since 2007 and is likely to increase further over the next five years. Given this, landings will be expected to increase over the same period. The 2008 assessment explored potential yield estimates for the combined SKI1 and SKI2 stocks in 2007 and produced Maximum Constant Yield estimates of 995, 865, and 816 tonnes. This analysis provides a strong case for supporting TAC options higher that proposed in the IPP.

Responsive and agile management systems mitigate potential sustainability risks

108. While we consider there is a low risk to sustainability for SKI1 and SKI2, any potential sustainability risk associated with a larger increase to the TACC can be mitigated through regular update of the CPUE analyses. Electronic reporting enables more agile management including the early identification of risk and mitigation options.

We support increasing the TACC for SKI1 to provide for increased utilisation.

109. The total landings in SKI1 were 277 tonnes and 354 tonnes for 2017 and 2018 respectively. For the 2019/20 fishing year to date, SKI1 is already 104% caught with four months of catch left in the year. Despite the potential for greater utilisation of gemfish, the breadth of the options proposed do not allow for the current levels of catch nor for the expected increase in abundance. We support a higher increase than the proposed options that better reflects the improving stock status. We recommend a TAC of 408 tonnes, and a TACC of 360 tonnes.

We support increasing the TACC for SKI2 to provide for increased utilisation

110. The total landings of SKI2 were 286 and 328 tonnes for 2017 and 2018 respectively. For the 2019/20 fishing year to date, SKI1 is 88% caught with four months of catch left in the year. Despite the potential for greater utilisation of gemfish, the breadth of the options proposed do not allow for the current levels of catch nor for the expected increase in abundance. We support a higher increase than the proposed options that would better reflect the increasing stock status. We recommend a TAC of 355 tonnes, and a TACC of 330 tonnes. Our proposed SKI1 and SKI2 TACs combine to 763 tonnes which is below the lowest yield estimate from the 2008 assessment. We consider these catch levels to be sustainable, and any risk can be monitored through regular updates of the CPUE indices.

The existence of 28N rights in SKI2 requires careful administration of an increase to the TACC

111. The effect of enacting all 28N rights in SKI2 would reduce the Iwi Settlement quota as a proportion of the TACC from 9.99% to 8.36%. A TACC increase of 20% is required, in order for all 28N rights to be discharged. There is a genuine utilisation opportunity in SKI2 and deemed values have accrued due to unavoidable catch when targeting other species. This conflict between administering the increase in accordance with s23 of the Act and remaining consistent with the Settlement means that careful administration of any increase in the TACC is required to prevent a breach of the Settlement.

We support increasing the TACC to remedy the deemed value payments accrued in SKI1 and SKI2.

112. While we support the review of deemed values for all stocks undergoing review of their sustainability measures, we do not support an increase in the rates for SKI1. Current TACC settings generate high deemed value payments in SKI1 and SKI2. Deemed values for SKI1 and SKI2 were $288,677 and $233,047 respectively for the 2018/19 fishing year. We do not support the proposed increase to the deemed values for SKI1 in order to provide "sufficient incentive for fishers to avoid catching in excess of SKI1 ACE". The conjunction of the proposed options for TACCs and deemed values will not provide for a meaningful utilisation opportunity. Fishers will still be restricted by this non-target species and financially penalised through higher deemed values. We do not agree with the rationale provided in the IPP for this increase and the approach taken to apply deemed values. Our full position on deemed values can be read in Section two.

We support the introduction of a bag limit and minimum legal size (MLS) for gemfish.

113. There are currently no management of the recreational catch of SKI1 and SKI2. We consider this inappropriate for the sustainable management of Aotearoa's fisheries. There needs to be corresponding limits for recreational catch in order for the recreational allowance to be meaningful. In our view, the review of sustainability measures should encompass all sustainability measures not just TAC changes. We therefore do not support setting a recreational allowance based on catch in a fishery with no limiting measures. We support including gemfish in the combined finfish bag limit of 20 and creating a recreational MLS that represents length at age of 50% sexual maturity. Further, once set, we do not support increases to the recreational allowances without full agreement of extractive interests through their mandated representatives. Our full position on the allocation of the TAC can be read in Section one.

Gemfish fishery characteristics support deviation from the default 10% setting for other sources of fishing related mortality

114. The allowance for other sources of fishing related mortality includes the potential mortality of sub-MLS fish returned to sea. There is no MLS for commercially caught gemfish and therefore all catch must be landed. Considering the returns to sea portion of the allowance is not a factor in this fishery we consider the default setting of 10% is not representative for this fishery. We support a setting of 5% of the TACC.

Geoduck – pupu (PZL7)

Our view

- We support maintaining the current TAC and TACC for PZL7.
- We encourage appropriate pre-consultation workshops between the Industry and Iwi are held prior to any review of PZL7.
- We also recommend that industry works with Iwi and other stakeholders to co-develop a management strategy for PZL7.

Proposed Options

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)*	30	23.1	-	-	6.9
Option 2	65 ↑ (117%)	48 ↑ (108%)	1	1	15 ↑
Option 3	130 ↑ (433%)	99 ↑ (329%)	1	1	29 ↑

Our approach

Geoduck is a taonga species that holds significant value to Iwi in Te Waka a Māui

115. We acknowledge that pupu are identified as a taonga species by Iwi. The PZL7 Settlement quota is allocated to 9 Iwi in Te Waka a Māui. Iwi are significant owners in the commercial fishery with collective interests (including Iwi and Moana) owning 36% of the quota in PZL7.

Collaboration between Industry and Iwi needed for PZL7

116. Greater collaboration between industry, Iwi and FNZ needs to occur PZL7's TAC and TACC are reviewed. We encourage the industry work with Iwi to co-develop a management strategy on the future of the PZL7 fishery.

Uncertainty on the adverse impacts on the environment

117. Iwi have expressed concerns over increasing the TACC due to potential adverse impacts on the environment[17]. Due to the developing nature of this fishery there is uncertainty in how the stock will respond to increased fishing effort, and the extent and nature of the wider environmental impacts of the fishing method which is a handheld water jet that liquefies the substrate.

Fine scale management could provide a utilisation opportunity

118. PZL7 is a fishery with high value potential. Biomass surveys indicate the fishery could sustain an increase in TACC. There is potential for Iwi and industry along with others who have interests in the fishery to develop a management strategy to support and enable fishers to actively manage the fishery in a way that is consistent with Māori values and Iwi aspirations for the management of the marine environment. We cannot support this proposal until such time that a management strategy is co-developed by Iwi and industry.

[17] Fisheries New Zealand, May 2020, Review of Sustainability Measures for Deepwater (King) Clam (PZL 7) for 2020/21, Fisheries New Zealand Discussion Paper No: 2020/13

Kingfish – haku, warehanga (KIN2; KIN3; KIN7 & 8)

Our view

- Setting a TACC in order to constrain fishers to "unavoidable catch" is inconsistent with both the purpose of the Act and the Fisheries Settlement.
- There is no basis under the Act for maintaining proportionality of the TAC.
- We consider that the options proposed in the IPP lack consistent application of fisheries management principles.
- We support a TAC of 189 tonnes, a customary allowance of 21 tonnes, and a TACC of 70 tonnes for KIN2.
- We support Option 2 for KIN3.
- We support a TAC of 116 tonnes, a customary allowance of 4 tonnes, and a TACC of 72 tonnes for KIN7
- We support a TAC of 192 tonnes, a customary allowance of 17 tonnes and a TACC of 103 tonnes for KIN8
- We support setting the allowance for other sources of fishing related mortality at 10% of the combined TACC and recreational allowance rather than 10% of the TAC
- We consider the recreational allowances should be maintained at current levels and do not support setting a recreational allowance above the best estimates of recreational catch
- The deemed value rates for kingfish stocks are set too high and need to be significantly reduced

Proposed Options

Stock	Option	Total Allowable Catch	Total Allowable Commercial Catch	Allowances		
				Customary Māori	Recreational	Other sources of mortality to the stock caused by fishing
KIN 2	Option 1	189 ↑ (11%)	70 ↑ (11%)	21 ↑ (17%)	79 ↑ (22%)	19 ↓ (21%)
KIN 3	Option 1	21 ↑ (24%)	9 ↑ (50%)	4	6	2 ↑ (100%)
	Option 2	23 ↑ (35%)	11 ↑ (83%)	4	6	2 ↑ (100%)
KIN 7	Option 1	82 ↑ (100%)	30 ↑ (100%)	4 ↑ (100%)	40 ↑ (100%)	8 ↑ (100%)
	Option 2	122 ↑ (198%)	44 ↑ (193%)	6 ↑ (200%)	60 ↑ (200%)	12 ↑ (200%)
KIN 8	Option 1	167 ↑ (77%)	80 ↑ (77%)	17 ↑ (89%)	55 ↑ (77%)	16 ↑ (129%)

Our approach

There is evidence of increased abundance in KIN7 and KIN8 that supports an opportunity for greater utilisation

119. The CPUE index shows a considerable increase in the CPUE between 2006/07 and 2016/17, followed by a period of stabilisation. This trend was apparent in all areas where the midwater trawl fleet was active, therefore it was concluded that an increase in biomass driven by high recruitment was the only biologically plausible explanation for this increase. The FNZ Inshore Fisheries Working Group further anticipates that biomass will

increase at current catch levels due to the high juvenile abundance seen in the last two years. This evidence provides a strong case for TAC options higher that proposed for KIN7 and KIN8 in the IPP.

The Act provides for sustainable utilisation of fisheries resources

120. We do not consider the options and associated rationale proposed in the IPP to be consistent with the purpose of the Act. There is a sustainable utilisation opportunity for kingfish and immense financial penalties occurring for current catch. While the biomass is expected to increase under current catch levels the options do not even provide for the current commercial catch. In our view this does not enable sustainable utilisation of fisheries to the extent that fisheries resources are providing for people's social, economic and cultural wellbeing. The rationale given in the IPP is that the management settings would constrain the commercial sector to unavoidable catch. We do not agree that this is the appropriate position to take for a fishery with a genuine utilisation opportunity.

Maintaining proportionality of the TAC over enabling sustainable utilisation is contrary to the Act

121. Since its introduction to the QMS in 2003, the management approach guiding the setting of TACs for kingfish appears to have been to maintain the proportionality between sectors. The IPP states that the proposed options are consistent with this approach, however, being consistent with the historical management approach is not itself a reason for support. If we maintained this attitude, there would be no progress or improvement of management. We do not consider that this approach best reflects the current state of the fishery and it is time to set the TAC based on enabling utilisation.

Industry are doing all they can to avoid kingfish catch

122. Despite the potential for sustainable utilisation, industry operators are applying multiple measures to avoid landing kingfish. This includes the release of live fish through The Sixth Schedule; feedback from observers is positive toward to the efforts made by fishers to release these fish as soon as practicable and only land dead fish. Further industry participants are working to develop a kingfish catch reduction device. Even with these efforts in place, reducing catch is still difficult as it makes up a very small proportion of the target catch (1% of the JMA7 fishery).

The value the recreational sector holds for kingfish should not undermine the values of the commercial sector

123. We acknowledge the status of kingfish as a shared fishery and in our view, it should be just that, shared. Currently the management settings do not allow for such sharing and the options indicate that it is only acceptable for the commercial sector to catch what they can't avoid. The commercial sector should not be unnecessarily constrained from benefitting from this species and providing catch to the New Zealanders who purchase the fish they consume. To take that approach is contrary to the Fisheries Deed of Settlement which guaranteed Iwi a share in the productive capacity of the marine ecosystem. Recreational fishing is not covered by the Deed and sits outside it as a privilege available to all people who visit Aotearoa. We view the approach presented in the IPPs, as proposing social measures that are inconsistent with the Deed rather than applying fisheries management principles.

The proposed options are inconsistent in approach

124. We note that the options provided in the IPP lack a cohesive management approach and each QMA has been approached differently. We view the approach taken to develop the options are not based on characteristics such as CPUE, estimated biomass or other sustainability factors usually considered in reviewing management settings. Rather, it appears that have been set with a focus on providing priority to the recreational sector. For example, options for KIN2 increase the recreational allowance by 22% and the TACC by 11% which covers current catch for both sectors. Whereas options for KIN8 propose an increase of 77% for both sectors; this maintains proportionality of the TAC but does not provide for the current commercial catch. For KIN7, a proposed option sets the recreational allowance 33 tonnes above the current estimate of catch, while the TACC remains 20 tonnes below current catch. We are bemused by this approach and consider this lacks consistent application of fisheries management principles.

The proposed options for KIN8 to do provide for utilisation of current landings

125. There were 93 tonnes of KIN8 landed in 2018 and a further >100 tonnes returned to sea in accordance with the Sixth Schedule. Despite the potential for greater utilisation benefits from the harvesting of kingfish the breadth of the options proposed do not allow for the current levels of commercial catch, let alone an expected increase in abundance. Based on current landed catch, the KIN8 fishery would be expected to incur $115k of deemed value payments under the proposed TACC option. There has been no scientific rationale provided to defend the proposal to not provide ACE for current kingfish landings. We would support a higher increase to the TACC that would provide for improved utilisation of kingfish and better reflect the increased abundance. We recommend a TAC of 192 and TACC of 103 for KIN8. These settings do not provide much excess (10 tonnes) beyond current catch and therefore the stock would be likely to continue to increase. This buffer of 10 tonnes provides for current catch as well as for the expected increase.

The proposed options for KIN7 are restrictive and possibly ultra vires.

126. There were 62 tonnes of KIN7 landed in 2018 and an additional >100 tonnes returned to sea in accordance with the Sixth Schedule. The proposed options to increase the TAC do not provide for this level of catch. Further, the IPP provides an option for the recreational allowance to a level greater than the estimated catch. The recreational fishery in KIN7 is currently estimated to take 27 tonnes. The IPP sets out the case for options being an attempt to retain proportionality in the allocation of the TAC. This approach provides a vast excess to the recreational allowance but does not provide for current commercial catch. The proposed options to are contradictory to the framework provided by the Act and examples of case law[18]. We recommend a TAC of 118 tonnes and TACC of 67 tonnes for KIN7. These settings do not provide much excess (10 tonnes) beyond current catch and therefore the stock would be likely to continue to increase. This buffer of 10 tonnes provides for current catch as well as for the expected increase.

[18] Overview of legal requirements relating to sustainability measures – Fisheries New Zealand 2020 para 30-31

Recreational fisheries should be managed within the existing allowance through supporting regulatory measures.

127. We do not support a fisheries management system that provides for increased utilisation for the recreational sector with no visible upper limit. Our view is that the recreational allowance, once set, should be retained until such time as a cross sector agreement is reached to increase it. Continuous provision for the recreational sector based on increasing catch has the ongoing effect of undermining the Fisheries Settlement and destabilising fisheries management. Catch should be managed within any limit set through supporting regulatory measures. We therefore do not support an increase to the recreational allowances for any of the proposed KIN stocks. Our full position on the allocation of the TAC can be read in Section one.

The approach taken in the IPP jeopardises shared fisheries management

128. The rationale provided for the setting of the TACCs for KIN have been based around retaining current proportions within the TAC and avoiding a target fishery. The fisheries assessment suggests that the non-targeted kingfish catch is sustainable and predicted to increase at current catch levels. We see no rationale for not providing sufficient ACE to balance current catch. Proposing options that unnecessarily constrain the commercial sector jeopardises the management of shared fisheries. There are social consequences that result from denying the commercial sector access to sustainably available non-targeted catch. We consider that shared fisheries should be managed with the engagement of all sectors to reach common aspirations for healthy fisheries. By attempting to constrain commercial operations to unavoidable catch, this would drive a further wedge between the commercial and recreational sectors. We view this as unnecessary and contradictory to building good shared fisheries management systems. We consider that the options we have proposed better provide the sustainable utilisation of kingfish across the different sectors.

The proposal to set the allowance for other sources of fishing related mortality at 10% of the TAC is mathematically flawed

129. We support the inclusion of recreational effort in the calculation of the allowance for other sources of mortality. However, 10% of the combined recreational allowance and TACC is not equal to 10% of the TAC. Due to the commercial returns of kingfish under the Sixth Schedule and the high proportion of recreational catch released alive, we support that the allowance for other sources of fishing related mortality be 10% of the combined TACC and recreational allowance for all KIN stocks. However, catch and release would not be a common occurrence in customary harvest, so we recommend this is not included in the calculation of the allowance for other sources of fishing related mortality. The different approaches to OSFM are set out below using KIN2 as an example. We support the allowance for other sources of mortality should be 10% of the combined recreational allowance and TACC for all KIN stocks.

Stock	Option	Total Allowable Catch	Total Allowable Commercial Catch	Allowances		
				Customary Māori	Recreational	Other sources of mortality to the stock caused by fishing
KIN 2	Option 1	189 ↑ (11%)	70 ↑ (11%)	21 ↑ (17%)	79 ↑ (22%)	19 ↓ (21%)

Approach	Calculation
FNZ	10% of the TAC = 10% of 70 + 21 + 79 + 19 = 19 tonnes
Te Ohu Kaimoana	10% of the TAC + Rec Allowance = 10% of 70+79 = 15 tonnes

Kingfish is unnecessarily constraining fishing operations through ramped deemed values.

130. Almost $1.5million in deemed values have been paid for KIN7 and KIN8 in the 2018/19 fishing year. This was mostly accrued through unavoidable catch in the jack mackerel target trawl fishery. We consider the deemed values for kingfish are in need of review to provide the right incentives for accurate reporting and balancing catch with ACE. There are differing market prices between kingfish caught inshore and landed fresh and kingfish caught in deepwater and landed frozen. Further, the continuous occurrence of deemed values drives ACE price up skewing the setting of deemed values for kingfish stocks. Average ACE prices are now above the annual deemed value rate purely because the ramping of deemed values has created a "false" ACE value. Current annual deemed values are almost twice the estimated port price (Table 2) meaning that any catch beyond the TACC is unnecessarily punitive and negatively economic.

131. The IPP states there is uncertainty around how lower deemed value rates would incentivise commercial fishers to avoid kingfish. We hold the position that fishers should not be constrained to avoid sustainably available catch. However, we refer to the concerted efforts of fishers mentioned above and consider an alleviation of the extremely punitive current deemed values would not generate a target fishery for kingfish.

Table 2. Current deemed value rates and port price for KIN stocks

Stock	Annual deemed value rate ($/kg)	Deemed value rate at maximum excess ($/kg)	2018/19 Port price ($/kg)
KIN 2	$8.90	$17.80	$4.82
KIN 3	$4.45	$8.90	$4.13
KIN 7	$8.90	$17.80	$1.82
KIN 8	$8.90	$17.80	$2.93

Pōrae (POR1)

Our view

- We support an increase to the TAC, TACC and the allowance for other sources of fishing related mortality.
- We do not support an increase to the recreational allowance.
- We support a review of the management approach for POR1 and POR2.

Proposed Options

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)*	POR 1	75	62	3	6	4
Option 2	POR 1	88 ↑ (17%)	70 ↑ (13%)	3	8 ↑ (33%)	7 ↑ (75%)

Our approach

An increase to the TACC provides a utilisation opportunity for POR1

132. Pōrae is primarily commercially caught in the snapper, trevally and tarakihi target fisheries. It is an integral part of inshore trawl, bottom long line and set net fisheries, particularly in the northern North Island. Commercial catch in POR1 has exceeded the TACC three times in the last sixteen years. Recent years have seen a stabilising of catch just below the TACC, with the exception of the 2016/17 fishing year in which catch was above the TACC, and 2017/18 in which it was well below, (with the causes unknown but linked to changes in fishing practice). The modest TACC increase proposed provides a utilisation opportunity and is not considered to be inconsistent with maintaining the stock at a level that will produce maximum sustainable yield.

Potential sustainability risks can be mitigated through responsive and agile management

133. We understand that Iwi in the far north have expressed concern where POR1 catch dropped (2016/17 – current) and have suggested a precautionary reduction in the TAC/TACC is appropriate given that better information was needed before an increase should be considered. However, we note that the potential of a sustainability risk associated with a larger increase to the TACC can be mitigated through improved catch data availability enabling a rapid response. Electronic reporting enables more agile data analysis to identify potential risks and address them.

We do not support an increase to the recreational allowance.

134. Option 2 includes a proposal to increase the recreational allowance by 2 tonnes (33%) based on the high recreational catch reported in the 2011/12 National Panel Survey (15.4 tonnes) although estimated catch declined significantly in the 2017/2018 Survey (6.7 tonnes). We see no valid reason to allocate excess catch to the recreational allowance, particularly as this is not based on the most recent and best available information. Specifically, in the absence of full cross-sector agreement, we cannot support increases in the recreational allowance at the expense of the TACC. We support removal of the excess two tonnes from the TAC and for it to be given back to Tangaroa in the absence of a rationale for allocating it elsewhere. Our full position on the allocation of the TAC can be read in Section one.

Management of POR1 and POR2 should be approached with both stocks in mind

135. The majority of POR1 and POR2 are caught up and around the North Cape across statistical areas 002 and 047 (boundary of POR1 and POR2) and considered to be the same biological unit. As noted in the IPP, it is unknown whether pōrae is a single biological unit, or whether there are multiple units. POR2 has a TACC of 18 tonnes and since 2014/15 there has only been one occasion where the TACC has been overcaught. We consider that there are more cost-effective answers to the management associated with stocks that could be drawn from a single biological unit. This is the type of situation faced by the East Coast North Island tarakihi fishery and is addressed by fine tuning each TAC/TACC in the context of a management strategy. The alternative measure would be to amalgamate the QMAs, however this is a costly level of intervention that has only once happened under the Fisheries Act (white warehou). We do not consider there is a sufficiently strong case for the amalgamation of QMAs for pōrae.

Stocks undergoing review of management settings should also have deemed values reviewed

136. The IPP does not propose any changes to the deemed values for POR, nor does it provide rationale for the current settings. A consultation document should provide all necessary information for the reader to provide meaningful feedback. We cannot provide a specific setting recommendation without the necessary information on ACE price and port price. As there is no sustainability concern in this fishery, an appropriate setting for deemed values would be closer to the ACE price than the market price.

Sea perch – puhiakaroa (SPE9)

Our view

- We support an increase to the TAC, TACC and the allowance for other mortality caused by fishing.
- We do not support an increase to the recreational allowance.

Proposed Options

Option	Total Allowable Catch (t)	Total Allowable Commercial Catch (t)	Allowances		
			Customary Māori (t)	Recreational (t)	All other mortality to the stock caused by fishing (t)
Option 1 *(Status quo)*	8	6	1	1	0
Option 2	14 ↑ (75%)	10 ↑ (67%)	1	2 ↑ (100%)	1 ↑

Our approach

Utilisation opportunity in SPE9

137. For the past five fishing years SPE9 has been overcaught. This has resulted in payment of deemed values and the available information suggests that this catch is sustainable. An increase to the TACC provides for improved utilisation of this fishery.

We do not support increasing the recreational allowance

138. We note that an allowance for recreational catch has previously been set for this fishery. Our view is that this should be retained until such time as a cross sector agreement is reached to increase it. This will require the recreational sector to establish a mandated voice and to engage with the commercial and customary non-commercial entities so they can work together to improve fisheries performance. Our full position on the allocation of the TAC can read in Section one. We would support the additional one tonne increase currently proposed for the recreational allowance to be given back to Tangaroa.

Deemed values payment can indicate a fisheries management issue

139. The IPP does not propose any changes to the deemed values for CDL5, nor does it provide rationale for the current settings. A consultation document should provide all necessary information for the reader to provide meaningful feedback. We cannot provide a specific setting recommendation without the necessary information on ACE price and port price. As there is no sustainability concern in this fishery, an appropriate setting for deemed values would be closer to the ACE price than the market price.

Snapper – tāmure (SNA7) and red gurnard - kumukumu (GUR7)

Our view

- We support a multi-stock approach to management.
- We do not support the options provided in the IPP for SNA7
- Our preferred approach for SNA7 is to address the error made in setting the TAC in 2016 and restore the recreational allowance to 90 tonnes and that additional tonnage be allocated to customary if needed and then the balance to the TACC
- We support the approach set out in table 2 on the basis that industry work with Iwi and other sectors to develop a strategy for the future of this fishery
- We support Option 2 for GUR7
- We acknowledge that the red gurnard fishery is closely associated with the snapper fishery within FMA7 Hence it makes sense to adjust the TAC/TACC in line with an increase in the TAC/TACC for SNA7.

Table 2: Te Ohu Kaimoana's preferred option for the SNA7 in tonnes

	Allowances

Option preference	Total Allowable Catch	Total Allowable Commercial Catch	Customary	Recreational	All other mortality caused by fishing
Preferred	545	410↑	20	90↓	25

Proposed Options

Stock	Option	Total Allowable Catch	Total Allowable Commercial Catch	Allowances		
				Customary Māori	Recreational	All other mortality caused by fishing
SNA 7	Option 1 *(Status quo)*	545	250	20	250	25
	Option 2	545	300↑ (20%)	20	200↓ (20%)	25
	Option 3 (working group preferred)	645 ↑	350 ↑ (40%)	20	250	25
GUR 7	Option 1 *(Status quo)*	1,176	1,073	15	38	50
	Option 2	1,283 ↑	1,180 ↑ (10%)	15	38	50

Our approach

Correcting the historical error as the first step

140. 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). Only fifty tonnes was allocated to the commercial sector (25% increase) despite the TACC constraining sustainable utilisation. Te Ohu Kaimoana has provided the current Minister with a legal opinion that suggested there was an obligation to review the allocation of the TAC for SNA7 now that it had been confirmed that the previous Minister had been provided with inaccurate advice. Following this, the industry proposed that the review be done in association with an updated stock assessment for SNA7 that they were willing to fund. This assessment has now been completed and accepted by the fisheries assessment plenary. However, the plenary stopped short of supporting projections that the fishery would continue to increase due to the presence of a strong year class that is expected to recruit to the fishery later in the current year.

141. The first step forward for this fishery is to revisit the allocation of the TAC in light of revised catch estimates for the recreational sector, while considering a modest increase of the TAC to reflect the recent increase of abundance. Now is the time to do that as the fishery seems to be on the verge of a pulse of new recruits and if they are managed into the fishery there seems a strong likelihood of increased utilisation opportunities in this iconic fishery.

142. Our preferred option for SNA7 is to address the error made in setting the TAC in 2016 and restore the recreational allowance to 90 tonnes. We do not agree that the allowance should go above the estimated catch and our view is that catch should be the one estimated at the time of setting the TAC. Under this approach the settings in the fishery would be reset to reflect our preferred allocation policy. From that baseline the different interests could come together and familiarise with the updated stock assessment information that is due over the next few years. It seems quite likely that the stock size will continue to increase through that time (the extent largely depending on the strength of the 2017-year class). A collaborative group would be well placed to capitalise on the benefits of the rebuild and agree on some novel approaches to sharing any benefits.

Proposed options for SNA7 need to be consistent with the best available information and legal requirements

143. The proposed options do not address the issue of the over allocation to the recreational allowance and instead propose to provide excess to the recreational allowance beyond estimated catch. The recreational sector in SNA7 is currently estimated to catch 147 tonnes. We understand the basis for the lowest option being to allow for 200 t of recreational catch is that the estimated catch can be expected to increase as abundance increases. However, the Fisheries Act does not provide for an allowance that is greater than the actual level of catch and the catch for 2019/20 will be much lower due to the COVID-19 lock down. In this instance after ensuring the customary allowance is sufficient to meet actual demand, we recommend the excess tonnage beyond recreational catch be provided to the TACC. Allocating the TAC in this manner allows for full utilisation of the TAC.

Recreational fisheries should be managed within the allowance set

144. Notwithstanding that need to be consistent with the Fisheries Act, providing over 90 tonnes to a sector that does not have any robust monitoring and regulatory frameworks is inconsistent with incentive-based management. We do not support a fisheries management system that provides for increased utilisation with no visible upper limit and no reliable measures. Continuous provision for the recreational sector based on increasing catch has the ongoing effect of undermining the Deed of Settlement. Therefore, the recreational allowance within the SNA7 fishery should be returned to its former setting at 90 tonnes and management measures should be put in place to hold recreational catch to that level. Our full position on the allocation of the TAC can read in Section one.

145. We consider that in addition to returning the allowance made for recreational fishing back to 90 tonnes, additional steps will need to be taken to ensure the recreational catch is constrained by the allowance made. The most accessible tool currently available to do this is to adjust the daily catch limit downwards from its current setting of 10. Given the average size of snapper caught is considerably larger than other fisheries, the reduction will not impact on the quality of recreational fishing. The daily limit for the Marlborough Sounds section of the fishery is set at three at the explicit request of the recreational sector and so there has already a considerable level of responsibility been shown by leaders within the sector.

146. While we consider that maintaining the integrity of the TAC, with any overcatch managed through the deemed value framework (correctly applied) is the appropriate way to manage fisheries, we see it as even more inappropriate to be contemplating an allowance for the recreational sector that goes beyond estimated catch. If the Minister was to determine that the most recent estimate of recreational catch should be the basis for setting the recreational allowance, we would expect the balance of the existing allowance to be allocated to the customary allowance and TACC. This would be a second, but less preferred, option for Te Ohu Kaimoana.

147. Once the TAC has been reallocated as part of this review, we would support a more considered and principled engagement involving all extractive interests to determine future management arrangements.

The IPP is deficient on several fronts

148. In relation to the current IPP, we hold particular concerns over the lack of engagement with Te Ohu Kaimoana over the development of the proposed settings for SNA7. The IPP claims that agreement was reached on the allocation of the TAC between interests (noted as the "preferred working group option"). Te Ohu Kaimoana were a member of the working group and our records confirm that the working group did not reach a consensus. We also note that options seem biased towards the claims of the recreational sector and generally unsuitable to support an informed discussion on the management settings in this fishery. Further, the history of this fishery is incorrectly summarised in the IPP.

Collaborative fisheries management ensures healthy fisheries

149. We agree that shared fisheries should be managed with the engagement of all sectors to reach common aspirations for healthy fisheries within the context of the Fisheries Act. The review of SNA7 was deliberately delayed by a year to enable this kind of engagement, however the options developed seek to favour the recreational sector. This sends a signal that commercially caught snapper and the fishers who catch it are not as valuable to Aotearoa. We view this as unsound and contradictory to building good shared fisheries management systems. The proposal we have set out is provided is on the basis that industry work with Iwi and other sectors to develop a strategy for the future of this fishery.

Red gurnard is an important component of the mixed fishery

150. We acknowledge that the red gurnard fishery is closely associated with the snapper fishery within FMA7 Hence it makes sense to adjust the TAC/TACC in line with an increase in the TAC/TACC for SNA7. We support option 2 for GUR7.

Deemed values are unnecessarily constraining snapper fishing

151. In the 2018/19 fishing year $38,000 in deemed values have been paid for SNA7. This was mostly accrued when targeting other stocks in the top of the south trawl fishery. However, our discussions with fishers have revealed that their fishing patterns have been dramatically altered in order to stay away from snapper and so the current settings have a distortionary effect. This is because fishers are required to pay more for landing snapper that they could not cover with ACE than they receive for their catch, and so they have been forced to

fish elsewhere even though the catch in excess of the TACC is sustainable We are thankful for the actions of these fishers as it is often claimed that fishers faced with this conundrum resort to discarding their catch at sea.

Stocks undergoing review of management settings should also have deemed values reviewed

152. The IPP does not propose any changes to the deemed values for SNA7 of GUR7, nor does it provide rationale for the current settings. A consultation document should provide all necessary information for the reader to provide meaningful feedback. We cannot provide a specific setting recommendation without the necessary information on ACE price and port price. As there is no sustainability concern in this fishery, an appropriate setting for deemed values would be closer to the ACE price than the market price.

Stargazer -puwhara (STA7)

Our view

- We support Option 2, an increase to the TAC, TACC and allowance for other mortality caused by fishing

Proposed Options

Stock	Option	Total Allowable Catch (t)	Total Allowable Commercial Catch (t)	Allowances		
				Customary Māori (t)	Recreational (t)	All other mortality caused by fishing (t)
STA 7	Option 1 *(Status quo)*	1,181	1,122	1	4	54
	Option 2	1,271 ↑	1,178↑ (5%)	1	4	88↑ (63%)

Our approach

There is a utilisation opportunity for STA7

153. The STA7 TACC has been overcaught for the past 18 fishing years, with the exception of four years. The best available information suggests the biomass for stargazer is likely to be at or above the management target. The 2019 West Coast South Island trawl survey recorded the second highest biomass estimate since 2013. Given this information, there appears to be an increased utilisation opportunity for STA7. Further, an increase to the TAC would alleviate unnecessary deemed value payments.

Other mortality caused by fishing allowance is inconsistent

154. In 2019, the Minister indicated a desire for all inshore trawl fish stocks allowance for other mortality caused by fishing to be set at 10% of their respective TACCs, unless there is evidence to suggest otherwise. The proposed option increases the allowance for other mortality caused by fishing to 7.5% of the TACC. No rationale has been

provided for the 7.5% figure. We note that other area 7 stocks are being set at 5% after evidence for a reduction of this type of mortality has been put forward. We consider that given this and the robust physiological nature of stargazer that the allowance for other sources of fishing related mortality remains at 5%.

Stocks undergoing review of management settings should also have deemed values reviewed

155. The IPP does not propose any changes to the deemed values for STA7, nor does it provide rationale for the current settings. A consultation document should provide all necessary information for the reader to provide meaningful feedback. We cannot provide a specific setting recommendation without the necessary information on ACE price and port price. As there is no sustainability concern in this fishery, an appropriate setting for deemed values would be closer to the ACE price than the market price.

Rig-pioke, makoo (SPO2)

Our view

- We support Option 3, an increase to the TAC, TACC and allowance for other mortality caused by fishing

Proposed Options

Option	Total Allowable Catch	Total Allowable Commercial Catch	Allowances		
			Customary Māori	Recreational	All other mortality to the stock caused by fishing
Option 1 *(Status quo)*	130	108	5	10	7
Option 2	139 ↑	113 ↑ (5%)	5	10	11 ↑
Option 3	146 ↑	119 ↑ (10%)	5	10	12 ↑

Our approach

There is a utilisation opportunity for SPO2

156. The best available information suggests the biomass in SPO2 is likely to be at or above a default management target. This conclusion is derived from the most recent SPO2 bottom-trawl analysis conducted in 2019.

157. Over the last four years, commercial catch in SPO2 has been below the TACC by an average of 13%. This is because it is largely taken in fisheries targeting other species where there has been a reduction in effort (particularly in relation to TAR2). So, the catch of SPO2 has fallen in proportion. To partially offset this commercial

catch and effort data indicate an increase in the proportion of rig being targeted in SPO2 over the last three fishing years (10% in 2016/17 versus 21% in 2018/19 of total rig target catch reported), whereas the proportion of rig caught while targeting tarakihi and flatfish has decreased over the same time period. This signals an increase in the potential for rig as a target species. Given this information, there appears to be an increased utilisation opportunity for SPO2 and increasing the supply of ACE is likely to enable this to happen.

Increase in abundance consistent with water observations

158. Fisher observations suggest SPO2 returned to sea under the Sixth Schedule could contribute to the TACC not being caught. Fishers may choose to return rig to the sea provided they are likely to survive and the return takes place as soon as practicable after the rig is taken and this option may be preferred to individual fishers that do not hold sufficient ACE.

Stocks undergoing review of management settings should also have deemed values reviewed

159. The IPP does not propose any changes to the deemed values for SPO2, nor does it provide rationale for the current settings. A consultation document should provide all necessary information for the reader to provide meaningful feedback. We cannot provide a specific setting recommendation without the necessary information on ACE price and port price. As there is no sustainability concern in this fishery, an appropriate setting for deemed values would be closer to the ACE price than the market price.

Deemed Values

Overview

Deemed values need to be set at an appropriate level

160. Deemed values that are set too high may not provide an incentive to land some stocks. If the deemed value is set too low, fishers may be incentivised to land fish without balancing with ACE. Deemed values should be set with the best available information between the market value of fish and the price of ACE. Port price has been used as a proxy for market value (see figure 3) but we recognise that it can be impacted by how Licensed Fish Receivers are integrated into the value chain.

Deemed values are not intended to always defend the TACC

161. 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[19]. We recognise that where there are identified sustainability concerns the deemed value may play a role in defending the TACC. So, the correct setting of deemed values requires a rich understanding of the economics of fishing.

Commercial Catch Balancing Forum work is supported

162. The Commercial Catch Balancing Forum was established during the 2019 review of the deemed values regime. The purpose of the Forum is to discuss stocks where catch balancing issues are of concern and provide information and input into decision making on what the appropriate management response may be. We are supportive of the Commercial Catch Balancing Forum but it is most unclear to us as to how the stocks proposed by the Commercial Catch Balancing Forum for deemed values reviews have been included and prioritised by FNZ in this year's review.

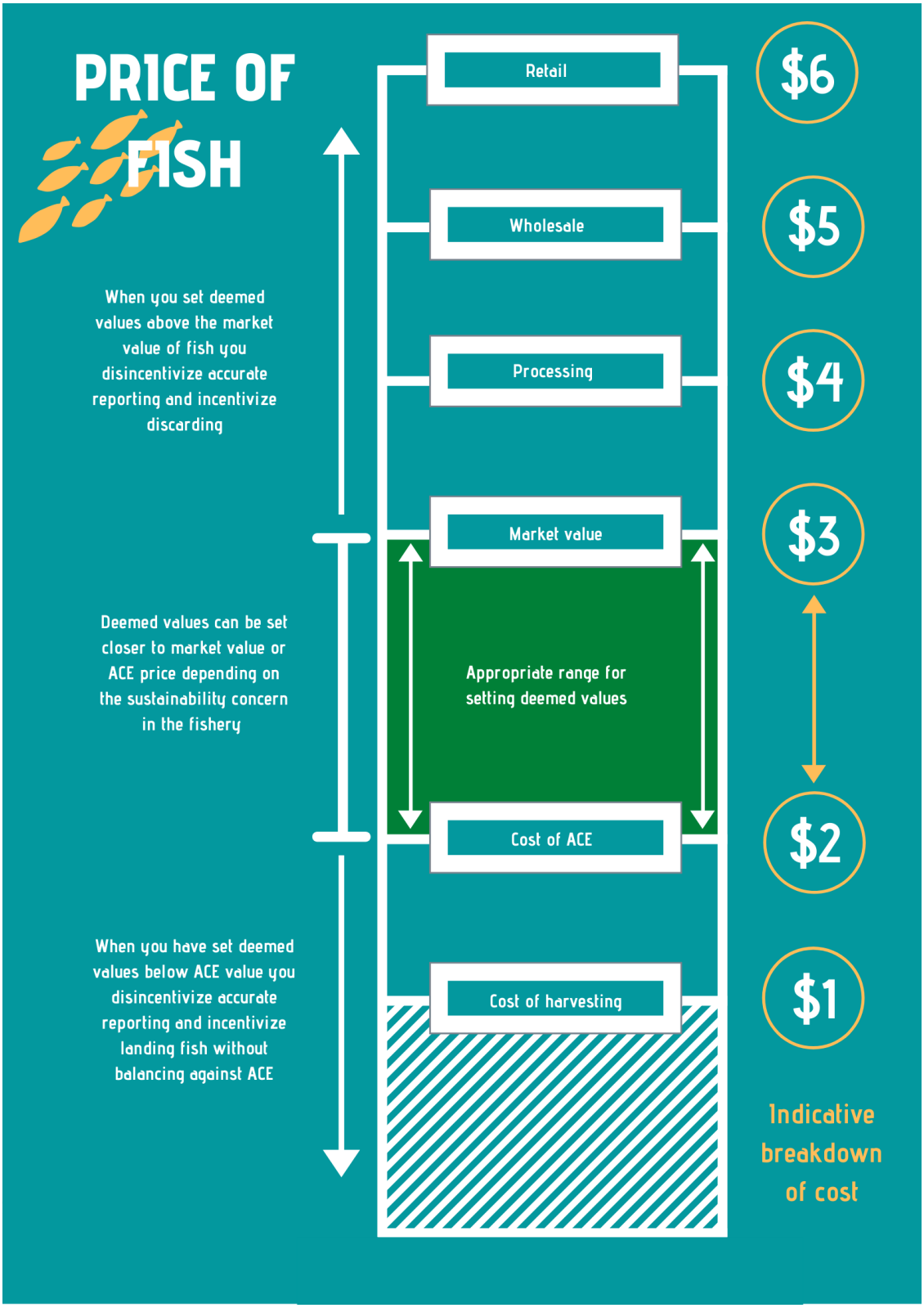
163. The application of deemed values require a sound understanding of the metrics of a fishery and the participants within it. We have previously reiterated that it is much more than simply defending the TACC, and it is inappropriate to use the system for allocative purposes – such as is evidenced for kingfish (see below). Figure 3 sets out a stylised view of where deemed values work in the context of the commercial value chain, linking the "price of fish" to the deemed value framework.

164. Fisheries New Zealand is specifically reviewing the deemed values for the following stocks:
    - Arrow squid – wheketere (SQU1J; SQU1T; SQU6T)
    - Bluenose – matiri (BNS3)
    - Gemfish – maka-tikati (SKI1; SKI2; SKI7)
    - Pilchard – mohimohi (PIL7; PIL8)

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

- Redbait (RBT3)
- Trevally – araara (TRE2)

Figure 3: *A value chain depicting the breakdown of the price of fish. The different steps in the value chain help to inform a range which deemed values should be set between.*



Arrow squid – wheketere (SQU1J; SQU1T; SQU6T)

Our view

- We do not support an increase to the SQU1J, 1T and 6T fisheries deemed values
- We suggest that the deemed values should be set closer to the price of ACE than to the port price
- We do not support the proposed ramping of deemed values in the differential rates for all of SQU1J, 1T and 6T

Proposed options

Stock	Option	Interim	Annual 100-120%	Differential rates ($/kg) for excess catch (% of ACE)				
				120-140%	140-160%	160-180%	180-200%	>200%
SQU 1J, 1T & 6T	Current	0.79	0.88	1.06	1.23	1.41	1.58	1.76
	Proposed	1.08	Annual 100-105%		105-130%		>130%	
			1.20		1.60		2.40	

Our approach

Deemed values for SQU fisheries should be set close to the ACE price

165. The consultation document is proposing to increase the SQU fisheries deemed values on the basis of the port price increasing from $0.80kg in 2008/09 to $1.20/kg in 2019/20. However the port price provided in the IPP does not into consideration the impact of COVID-19 on the food service market that squid is sold into. The reality is that the port price has decreased and squid is now being stored in anticipation of market conditions improving at a later date. Further, the current fishery has seen a strong appearance of smaller squid which may indicate a strong recruitment that could flow into the mature squid fishery next year. The smaller squid attract a much lower price. As there are no sustainability concerns for this fishery, we believe deemed values should be set close to the ACE price. ACE price for the SQU1T and 6T stated in the consultation document is 0.07/kg and 0.09/kg respectively.

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

166. The proposed differential rates greatly exceed the most recent port price and are therefore are likely to be above the market price of fish. Further, the ramping of deemed values is not supported by Te Ohu Kaimoana due to the distortionary effects on the economics of fishing.

We question the validity of including SQU1J, 1T and 6T for increases

167. Both SQU1T and 6T have high TACCs (44,741 t and 32,369 t respectively), which haven't been fully caught in several years. Squid are a short-lived species with high abundance variability year to year. Due to the variability in squid availability, all squid stocks are listed on the Third Schedule of the Act which allows for in-season increases to the TAC and TACC should this be necessary. The last time this provision was utilised was in SQU1T during the 2005/06 fishing year. This raises the question of why an increase in deemed values was prioritised

for review in this year's sustainability round. There has been changes to the economic characteristics in this fishery, evident in the temporarily increased port price. However, given that it has been reviewed, the response should be a decrease in deemed values to reflect market conditions in the absence of a sustainability concern.

Bluenose – matiri (BNS3)

Our view

- We support reducing the deemed values of BNS3
- We support the proposed interim and annual deemed values for for BNS3 landed to licenced fish receivers located on the Chatham Islands
- We do not support the proposed ramping of deemed values in the differential rates for all of BNS3

Proposed options

Deemed values for BNS3:

Stock	Option	Interim deemed value rate	Annual 100-110%	Differential rates ($/kg) for excess catch (% of ACE)					
				110-120%	120-130%	130-140%	140-150%	150-160%	>160%
BNS 3	Current	3.60	4.00	5.00	6.00	7.00	8.00	9.00	10.00
	Proposed	2.70	3.00	3.75	4.50	5.25	6.00	6.75	7.50

Deemed values for BNS3 landed to licenced fish receivers located on the Chatham Islands:

Stock	Option	Interim	Annual 100-120%	Differential rates ($/kg) for excess catch (% of ACE)					
				120-130%	130-140%	140-150%	150-160%	160-220%	>220%
BNS 3	Current	1.26	1.40	4.00	6.00	7.00	8.00	9.00	10.00
	Proposed	1.26	Annual 100-120%	120-130%	130-140%	140-150%	150-160%	>160%	
			1.40	1.68	1.96	2.24	2.52	2.80	

Our approach

Deemed values should be set correctly to incentivise accurate reporting

We support deemed values being primarily used as a utilisation tool and therefore they should not usually be set higher than the market value of fish. 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. The consultation document has stated the price of ACE to be an average of $0.84/kg and port price to be $3.13/kg. We agree that the circumstances of this fishery are such that the deemed value should be slightly below (and not above) the stated pot price to ensure that fishers are incentivised to land all catch.

Deemed values for BNS3 landed in the Chatham Islands should be lower

168. Fish landed and processed on the Chatham Islands should have a lower deemed value setting because port price is lower due to the cost of transporting to fish market. Currently the annual deemed values of BNS in the Chatham Islands is set at 35% of the annual deemed values for everywhere else in BNS3. We support retaining a lower deemed value in the Chatham Islands for BNS3. The issue becomes ensuring that the fish landed on the Chatham Islands are indeed processed there.

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

169. 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 of deemed values can disincentivise accurate reporting.

Gemfish – maka-tikati

SKI1

Our view

- We do not support increases to the deemed values for SKI1
- We do not support the proposed ramping of deemed values in the differential rates for SKI1

Proposed options

Stock	Option	Interim	Annual 100-120%	Differential rates ($/kg) for excess catch (% of ACE)				
				120-140%	140-160%	160-180%	180-200%	>200%
SKI 1	Current	1.35	1.50	1.80	2.10	2.40	2.70	3.00
	Proposed	1.80	2.00	2.40	2.80	3.20	3.60	4.00

Our approach

Deemed values should be set correctly to incentivise accurate reporting

170. We support deemed values being primarily used as a utilisation tool and therefore they should not usually be set higher than the market value of fish. The deemed values should be set close to the ACE price ($1.08/kg), in situations where TACC is being over caught and there are no sustainability concerns. SKI1 is predominantly a non-target fishery, an increase in the TACC this year will result in most of the catch being balanced against ACE.

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

171. The proposed differential rates exceed the most recent port price ($1.98/kg in 2019/20) and are therefore are likely to be above the market price of fish. We do not support ramping of deemed values.

Deemed values are a diagnostic tool that could help to inform the setting of a TAC and TACC

172. The level of deemed value payments provides a signal of the state of a fishery. But there are many potential causes for catches being greater than the TACC, which each generate different management responses. The proposed TAC and TACC changes for SKI1 in this year's sustainability round options do not allow for the current levels of catch nor for the expected increase in abundance (see paragraph 113 for our detailed position on SKI1). Increasing the deemed value would only further hampers a utilisation opportunity. We recommend close analysis of catch reporting throughout the fishing year to detect the cause of exceeding the TACC. Analysis of this data will provide an insight into the most appropriate management response.

SKI2

Our view

- We support a greater reduction to the deemed value in SKI2 until the issue of 28N rights is resolved
- We do not support the use of differential deemed values in SKI2.

Proposed options

Stock	Option	Interim	Annual 100-120%	Differential rates ($/kg) for excess catch (% of ACE)			
				120-140%	140-160%	160-180%	>180%
SKI 2	Current	1.35	1.50	3.60	4.20	4.80	5.40
	Proposed	1.35	Annual 100-120%	120-140%	140-160%	160-180%	180-200%	>200%
			1.50	1.80	2.10	2.40	2.70	3.00

Our approach

Deemed values should be set correctly to incentivise accurate reporting

173. We support deemed values being primarily used as a utilisation tool and therefore they should not usually be set higher than the market value of fish. The deemed values should be set close to the ACE price (in this case $1.03/kg), in situations where the TACC is being overcaught and there are no sustainability concerns. SKI2 is predominantly a non-target fishery, and an increase in the ACE is not predicted to increase the effort directed towards it as a target stock. Given the constraints of 28N rights being present in this fishery we would encourage a low deemed value rate until the TACC can be increased in such a way that it would not diminish the proportional holdings of Iwi Settlement quota. See Section two for our position on fisheries impacted by 28N rights.

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

174. The proposed differential rates exceed the most recent port price ($2.10/kg in 2019/20) and are therefore likely to be above the market price of fish. Ramping of deemed values can disincentivise accurate reporting.

SKI7

Our view

- We support a greater reduction to the deemed value rates of SKI7 until the issue of 28N rights is resolved
- We do not support the use of differential deemed values in SKI7.

Proposed options

Stock	Option	Interim	Annual 100-120%	Differential rates ($/kg) for excess catch (% of ACE)				
				120-140%	140-160%	160-180%	180-200%	>200%
SKI 7	Current	0.65	0.72	0.86	1.01	1.15	1.30	1.44
	Proposed	0.65	Annual 100-220%	220-240%	240-260%	260-280%	280-300%	>300%
			0.72	0.86	1.01	1.15	1.30	1.44

Deemed values should be set correctly to incentivise accurate reporting

175. We support deemed values being primarily used as a utilisation tool and therefore they should not usually be set higher than the market value of fish. The deemed values should be set close to the ACE price (in this case $0.49/kg), in situations where TACC is being over caught and there are no sustainability concerns. SKI7 is predominantly a non-target fishery and an increase in ACE is not predicted to increase effort for this stock. Given the constraints of 28N rights being present in this fishery we would encourage a lower deemed value rate until the TACC can be increased in such a way that it would not diminish the proportional holdings of Iwi Settlement quota.

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

176. The proposed differential rates exceed the most recent port price ($1.37/kg in 2019/20) and are therefore are likely to be above the market price of fish. Ramping of deemed values can disincentivise accurate reporting

We oppose measures that have the potential to reduce settlement quota as a proportion of the TACC while acknowledging there is a utilisation opportunity present in SKI7

177. If 28N rights are given effect to in SKI7 through a TACC increase Māori settlement quota will be diminished. The increase proposed in the 2019 sustainability round would have diminished the settlement quota to 6.64 percent. As a result, Te Ohu Kaimoana has now take legal action to protect the integrity of the Deed of Settlement.

178. However, while the legitimacy over the way the Crown intended to give effect to the TACC Increase is being considered by the courts, it is clear that there is sustainably available SKI7 catch that is in excess of the current TACC. We can see that the deemed value regime needs to be adjusted to reflect the absence of risk to sustainability. Our view us that this means deemed values should be set close to the price of ACE.

179. As a specific step, we consider the circumstances of this fishery indicate that deemed value payments are being made to the Crown but the overcatch of the TACC is demonstrably sustainable. In this case we consider that the revenue generated from deemed values in this fishery should go back into fisheries management and not into the consolidated fund.

Pilchard – mohimohi (PIL7; PIL8)

Our view

- We support decreasing the interim and annual deem values for PIL7 and 8.

Proposed options

Stock	Option	Interim	Annual >100%
PIL 7 & 8	Current	0.41	0.45
	Proposed	0.18	0.20

Our approach

We support the deemed values for PIL7 and 8 being set close to ACE price.

180. Deemed values should be set with the best available information between the market value of fish and the price of ACE. The consultation document has stated the price of ACE to be $0.12/kg and port price to be $0.83/kg for both stocks. However, there is clear evidence that the price of ACE is being influenced by the deemed value that is in play. The management approach and the use of pilchard is the same as anchovy. The deemed value for anchovy has been set at $0.06, therefore, based on the deemed values guidelines, the deemed values of pilchard should be set in alignment with anchovy.

We acknowledge the nature of the pilchard fishery in determining our position

181. While there is a potential utilisation opportunity for pilchards, the importance of pilchards as a food source in the marine ecosystem has deterred industry from establishing a target fishery for this stock. This fishery is predominantly caught incidentally in trawls targeting other stocks and the catch goes into fish =meal (as does anchovy). Therefore, a deemed value close to the true ACE price with no ramping is the most appropriate response.

Redbait (RBT3)

Our view

- We do not support the current setting of the interim and annual deemed values.
- We do not support the use of differntial rates in RBT3.

Propose options

Stock	Option	Interim	Annual 100-120%	Differential rates ($/kg) for excess catch (% of ACE)				
				120-140%	140-160%	160-180%	180-200%	>200%
RBT 3	Current	0.45	0.50	0.60	0.70	0.80	0.90	1.00
	Proposed	0.45	Annual 100-105%		105-150%		>150%	
			0.50		0.60		0.70	

Our approach

Deemed values should be set correctly to incentivise accurate reporting

182. We acknowledge that the port price information is uncertain, however, the proposed deemed values for RBT3 are much greater than the estimated port price of $0.10/kg in 2019/20. We support deemed values being primarily used as a utilisation tool and therefore they should not normally be set higher than the market value of fish. The deemed values should be set close to the ACE price ($0.20/kg), in situations where TACC is being overcaught and there are no sustainability concerns. RBT3 is predominantly a non-target fishery with no known sustainability concerns.

Deemed values are not intended to defend the TACC

183. Deemed values are not designed to be the primary mechanism for ensuring the commercial catch does not exceed the TACC. The consultation document is proposing a differential rate greater than the port price of RBT3 to be sufficient to prevent deliberate overfishing. There are many potential causes for catches being greater than the TACC and each requires a tailored management response.

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

184. The proposed differential rates exceed the most recent port price ($0.10/kg in 2019/20) and are therefore are likely to be above the market price of fish. Ramping of deemed values can disincentivise accurate reporting.

Trevally – araara (TRE2)

Our view

- We do not support the use of differential rates in TRE2.

Proposed options

Stock	Option	Interim	Annual 100-110%	Differential rates ($/kg) for excess catch (% of ACE)					
				110-120%			>120%		
TRE 2	Current	1.13	1.25	3.50			5.00		
	Proposed	1.13	Annual 100-120%	120-140%	140-160%	160-180%	180-200%	>200%	
			1.25	1.50	1.75	2.00	2.25	2.50	

Our approach

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

185. The proposed differential rates exceed the most recent port price ($1.99/kg in 2019/20) and therefore are likely to be above the market price of fish. Ramping of deemed values can disincentivise accurate reporting.

Deemed values are a diagnostic tool that could help to inform the setting of a TAC and TACC

186. The TACC for TRE2 has been unchanged since 1992 and is regularly overcaught by between 5-20%. The payment of deemed values provide signals of the state of a fishery, there are many potential causes for catches being greater than the TACC, with each requiring a tailored management response. Due to the ongoing increase in CPUE and the magnitude of deemed value payments, industry requested that this stock be included for sustainability review for 2020. A review of deemed values for a fish stock does not substitute a review of the fishery.