

Review of Sustainability Measures and Other Management Controls for 1  
October 2007

**Volume 4**

**Review of Deemed Values for Selected Fishstocks:**

**Final Advice, Summary of Recommendations, Initial Position Paper,  
Summary of Submissions, Submissions**

**5 September 2007**

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## **Section One**

### **Final Advice and Summary of Recommendations**

# REVIEW OF DEEMED VALUES FOR SELECTED FISHSTOCKS: FINAL ADVICE PAPER

## Purpose

- 1 The purpose of this paper is to set out the Ministry of Fisheries (MFish) recommendations for deemed value rates for selected fish stocks for the 2007-08 fishing season. The review has been undertaken using the new deemed value standard. A summary of this standard can be found in Appendix 1.

## Executive summary

- 2 Under s. 75 (1) of the Fisheries Act 1996 (the Act) you are required to set interim and annual deemed value rates for each quota management stock. Once set, these rates continue to apply in each fishing year for that stock unless varied under this section. Section 75 (2)(a) requires you, when setting deemed value rates, to take into account the need to provide an incentive for every commercial fisher to acquire and hold sufficient annual catch entitlement (ACE) that is not less than the total catch of that stock taken by the commercial fisher. Section 75 (2)(b) sets out the factors that you may have regard to when setting deemed values. These factors form the basis of the information sheets that have been produced for each stock under review.
- 3 MFish recently developed a deemed value standard to set out a process for managing the setting, reviewing and amendment of deemed value rates. This standard has been used to review the deemed value rates as part of this sustainability round.
- 4 The new deemed value standard details a set of criteria which determine if a fish stock should be considered for a deemed value review. Table 1 details the stocks that met one or more of these criteria and therefore were eligible for a review.

**Table 1: Stocks that met the review criteria set out in the Deemed Value Standard**

Species Name	Fish Stock for review
Barracouta	BAR5 (BAR1, BAR4 & BAR7)
Blue Cod	BCO3 (BCO4 & BCO5)
Bluenose	BNS2
Red Gurnard	GUR7 & GUR8
Hoki	HOK1
Hapuka Bass	HPB3
John Dory	JDO7 (JDO2)
Ling	LIN7 (LIN1, LIN2, LIN3, LIN4, LIN5 & LIN6)
Gemfish	SKI2
Snapper	SNA1, SNA2, SNA8 (SNA7)
Spiny Dogfish	All stocks (except SPD10)
Rig	SPO2
Silver Warehou	SWA3 & SWA4 (SWA1)
Swordfish	SWO1
Trevally	TRE2
Blue (or Common) Warehou	WAR3 & WAR7
White Warehou	WWA3, WWA4, WWA5B & WWA7

- 5 In addition stocks that are being considered for a total allowable catch (TAC) review as part of the October 2007 sustainability round are included. These stocks are listed in Table 2 below.

**Table 2: Stocks that are being considered for a TAC adjustment and therefore will also require a review of their deemed value rates**

Species Name	Fish Stock for review
Flatfish	FLA3
Longfin & Shortfin Eels	LFE20, 21, 22 23 & SFE20, 21, 22, 23
Dredge Oysters	OYS7C
Oreo	OEO1
Orange Roughy	ORH1, ORH3B, ORH7B
Red Cod	RCO3 (GUR3)
School Shark	SCH1
Arrow Squid	SQU1T
Tarakihi	TAR1 (TAR2, TAR7 & TAR8)

- 6 All stocks on the review list were assessed at the deemed value review group meeting held Tuesday 15 May 2007. If the review group considered a deemed value adjustment was appropriate a range of information sources was used to propose the new deemed value rates. The individual assessments for each stock can be found in this paper.
- 7 In a number of cases stocks associated with the stock under review were also considered for a deemed value adjustment. These associated stocks include neighbouring stocks of the same species, e.g., BAR4 is included in the review of BAR5, or the bycatch stocks of a target stock under review, e.g., GUR3 is included because it is a bycatch of RCO3. These associated stocks are included in Table 1 and Table 2 in brackets.
- 8 A wide range of views on the proposed deemed value changes was received from stakeholders. MFish has taken these views into consideration and when appropriate has incorporated them into the recommended deemed value rates for your consideration.
- 9 You are not limited to choosing the deemed value rates proposed in this paper; rather you can set the deemed value rates at any level that you consider will best meet your obligations under the Act. You can also choose to leave the deemed value rates unchanged provided you are satisfied that this meets your statutory obligations, although MFish considers the proposed adjustments to the deemed value rates for the stocks listed in this advice paper are appropriate at this time

## Submissions Received

- 10 Submissions were received from the following:
- a) Aotearoa Fisheries Ltd (**AFL**)
  - b) Anton's Seafood Limited (**Anton's**)
  - c) Area 2 Inshore Finfish Management Company Ltd (**Area 2 Inshore**)
  - d) Brierley Business Development Limited (**BBDL**)
  - e) Mr. R.J. Butts (**Mr. Butts**)
  - f) Challenger Finfisheries Management Company Ltd (**Challenger**)

- g) Deepwater Group Ltd (**DWG**)
- h) Environment and Conservation Organisations of NZ Inc. (**ECO**)
- i) Independent Fisheries Ltd (**Independent**)
- j) Mr. A.C. & Mrs. K.J. MacDonald (**Mr. & Mrs. MacDonald**)
- k) New Zealand Big Game Fishing Council and option4 (**Non-Commercial Fishers**)
- l) North Beach Fishing Ltd (**North Beach**)
- m) Northern Fisheries Management Stakeholder Company Ltd (**Northern Fisheries**)
- n) New Zealand Recreational Fishing Council (**NZRFC**)
- o) New Zealand Federation of Commercial Fishers (**Federation**)
- p) ORH1 Exploratory Fishing Company Limited (**ORH1 EFC**)
- q) Pacific Trawling Ltd (**Pacific Trawling**)
- r) Sanford Limited (**Sanford**)
- s) Seafood Industry Council (**SeaFIC**)
- t) South East Finfish Management Ltd (**South East Finfish**)
- u) United Fisheries Limited (**United**)

- 11 Some submissions relate to specific stocks and the proposed deemed value rates for these stocks while others focus on the purpose of deemed values, the process for setting deemed value rates and the deemed value standard.
- 12 Submissions reveal strongly held opposing views on where deemed values should be set for the coming season. Quota owners typically favour increasing deemed value rates to levels higher than those proposed in the IPP. In contrast ACE fishers do not generally support proposals to increase deemed values on the basis that it is often difficult to source the appropriate quantity of ACE to balance their catch and that higher deemed value rates would unnecessarily penalise them, particularly in the current economic climate.
- 13 Some stakeholders believe there should be a distinction between fishers who harvest unavoidable bycatch and fishers who deliberately set out to target catch in excess of their ACE holdings. They believe that if a stock is being caught as an unavoidable bycatch then reasonable deemed value rates should be set to allow fishers to land this catch without being financially penalised. Some stakeholders believe that the status of a stock, as either a target or a bycatch, should influence where deemed values are set.

## Background

- 14 The purpose of the deemed value framework is to provide an incentive for fishers to acquire sufficient ACE to balance against catch. The objectives of the catch balancing framework are:
- a) Catch is harvested, landed and balanced with ACE.
  - b) There are no significant deemed value payments when ACE is left unused at the end of the fishing year.
  - c) Individual fishers are not able to use deemed values to undermine the QMS.

In every instance, MFish strives to identify the optimal point that balances these objectives.

- 15 The balancing regime is also a key fisheries management tool contributing to both sustainability and utilisation objectives. The sustainability objectives are achieved when deemed value rates encourage fishers to balance catch with available ACE and in so doing constrain harvesting to the total allowable commercial catch (TACC). Incorrectly set deemed values can, and have, lead to TACC breaches which may have sustainability implications.
- 16 Utilisation objectives are achieved by:
- a) Providing flexibility for operators to manage unexpected and small overruns in ACE holdings by allowing periodic rather than continuous balancing
  - b) Ensuring low deemed value rates do not reduce the value of quota because fishers may choose to pay deemed values rather than purchasing ACE.
- 17 In the long term the sustainability implications that may result from fisher's catching in excess of ACE could result in TACC reductions which also impact on utilisation objectives.
- 18 MFish developed the new deemed value standard to ensure deemed value rates are set so as to best meet the purpose of the Act. This new deemed value standard provides greater flexibility in how deemed values are set and should provide greater certainty that the right incentives are in place to encourage fishers to balance catch with ACE instead of paying deemed values.
- 19 In summary the new deemed value standard:
- a) Allows a more flexible, robust and consistent approach to setting deemed values.
  - b) Sets deemed values following the analysis of a range of information sources.
  - c) Maintains interim deemed values but allows for interim deemed values to be set at a level greater than 50% of the annual.
  - d) Maintains differential deemed values but customises their application on a stock by stock basis.
- 20 Adopting a more flexible approach means fisheries managers are able to use deemed values as a management tool to achieve appropriate behaviour in a specific fishery.

- 21 As part of the review of the stocks listed in Tables 1 & 2 the associated stocks of these key stocks were also included for review. Associated stocks include:
- a) Neighbouring stocks within the same species, e.g., BAR4 is included in the review of BAR5; or
  - b) Key bycatch stocks of the target stock that is under review if altering the deemed value or TACC of the target stock may impact on fishing activity in the bycatch fishery, e.g., GUR3 is included because it is a bycatch of RCO3.
- 22 It is apparent from submissions that some stakeholders do not support adjusting deemed values for neighbouring stocks particularly when the associated stock does not show evidence of either overfishing or excessive deemed values being paid. Challenger, DWG and SeaFIC in particular do not support this approach and consider it will unduly penalise fishers.
- 23 In contrast, Sanford supports this approach because it removes any incentive for fishers to misreport between areas because the deemed value rate of a neighbouring stock is set at a lower level.
- 24 MFish acknowledges these concerns but considers the driving goal of deemed values is to ensure fishers balance their catch with ACE rather than paying deemed values. MFish believes it is a valid concern for some stocks that fishers may choose to misreport their catch between areas if neighbouring stocks have lower deemed values. This is particularly the case if multiple stocks are fished as part of the same fishing trip. MFish does acknowledge that this is not applicable for every stock but believes there are situations when this is justified, such as in SNA1 and SNA8 and in the ling fishery. These specific situations are discussed in more detail in the analysis section for each stock.

## **Rationale for management intervention**

- 25 Under s. 75(1) of the Act you are required to set interim and annual deemed value rates for each quota management stock. Once set, these rates continue to apply in each fishing year for that stock unless varied under this section. Section 75 (2)(a) requires you, when setting deemed value rates, to take into account the need to provide an incentive for every commercial fisher to acquire and hold sufficient ACE that is not less than the total catch of that stock taken by the commercial fisher.
- 26 Section 75 (2)(b) sets out the other factors that you may have regard to. These include:
- a) The desirability of commercial fishers landing catch for which they do not have ACE
  - b) The market value of ACE for the stock
  - c) The market value of the stock
  - d) The economic benefits obtained by the most efficient commercial fisher, licensed fish receiver, retailer, or any other person from taking, processing or sale of the fish, aquatic life or seaweed, or any other fish, aquatic life or seaweed that is commonly taken in associate with the fish, aquatic life, or seaweed

- e) The extent to which catch has exceeded or is likely to exceed the TACC for the stock in any year
- f) Any other matters you consider relevant.

27 The Act requires you to set annual and interim deemed values rates and permits you to set differential deemed value rates. Section 75(7) states that any deemed value rate set or varied under section 75 of the Act takes effect on the first day of the new fishing year. A description of each deemed value type follows:

- a) **Interim deemed values:** charged monthly on catch in excess of ACE. Normally a lower monetary penalty and are refunded if the fisher subsequently sources the necessary ACE
- b) **Annual deemed values:** a higher deemed value amount that is charged at the end of the fishing year on catch in excess of ACE
- c) **Differential deemed values:** an increased deemed value rate that applies at the end of the fishing year to different levels of catch in excess of ACE.

### *Annual deemed values*

28 Section 75(3) requires you to set an annual deemed value rate that is greater than the interim rate. MFish has used a stock's average ACE trading price as a guide to where the annual deemed value rate should be set. In each case the annual rate should be at least at a level that is marginally above the ACE price. This is to make certain that fishers do not treat deemed values as a direct substitute for ACE.

### *Interim deemed values*

29 In the past, interim deemed value rates have been set at 50% of the annual rate. There is a risk that low interim deemed value rates will delay the balancing of catch until the end of the fishing season when there is a race for ACE leading to a situation where there is insufficient ACE to cover all catch and the TACC is exceeded. A low interim deemed value has the effect of reducing the incentive for prospective ACE purchasers to enter the market until the end of the year.

30 In some situations it may be appropriate to set the interim rate closer to the annual rate so as to encourage more regular balancing throughout the year. Some stakeholders support this view because they believe it encourages fishers to purchase ACE earlier in the season. This forces fishers to continually reassess their ACE needs and to monitor the status of the ACE market leading to greater awareness of the relationship between their catch and available ACE.

31 Other stakeholders strongly oppose this view and support lower interim deemed value rates since provided a fisher balances by the end of the fishing year the decision as to when this occurs rests with them.

32 In situations where more regular balancing is warranted to ensure catch levels do not exceed available ACE MFish considers the interim deemed value should be set closer to the annual rate.

### Differential deemed values

- 33 Section 75(4) permits you to set differential deemed value rates (ramped deemed value rates). The purpose of differential deemed values is to create greater incentives at the individual level to balance catch with ACE. In the past differential rates have applied to an individual when specified thresholds of catch in excess of ACE are reached. Not all stocks have differential deemed values but where applicable they currently apply at set percentages of overcatch above ACE holdings as described in Table 3 below.

**Table 3: Differential deemed value trigger points**

Percentage over-catch	Differential deemed values
100-120% of ACE	Annual deemed value
121 – 140% of ACE	120% of annual deemed value
141 – 160% of ACE	140% of annual deemed value
161 – 180% of ACE	160% of annual deemed value
>180% of ACE	180% of annual deemed value

- 34 Unlike both the annual and interim deemed value rates, differential deemed value rates only apply to fishers who continue to catch in excess of their ACE holdings. MFish considers differential deemed value rates are an important tool in addressing unwanted behaviour at the individual level.
- 35 MFish recommends that you set differential deemed values at a level that will provide every incentive for fishers to balance catch with ACE. For some stocks this may mean applying deemed values at small percentages of overcatch such as 2% or 5%, for others it may mean applying differential deemed value rates at 20% overcatch.
- 36 The DWG does not support the use of multiple ramped rates for deepwater stocks and considers setting one ramped rate at a level substantially above the market price for ACE should be sufficient. MFish supports this view for deepwater and middle-depth stocks but does acknowledge that it is not always easy to ascertain the true market price and multiple ramped rates can provide greater assurance that an appropriate financial disincentive is in place.
- 37 Sanford proposes a system whereby differential deemed values apply at catch levels 5 tonnes in excess of ACE holdings. When fishers breach this 5 tonne limit and up to a limit that is 105% of their ACE holdings then the deemed value rate should be based on the greenweight export value. If a fisher's catch is greater than 105% of their ACE holdings then Sanford recommends the deemed value should be set at 150% to 175% of the greenweight export value. This view is also supported by DWG who has requested that this issue is progressed with MFish in time for the start of the 2008-09 fishing season. United Fisheries also supports applying differential deemed value rates at a tonnage overcatch rather than a percentage because they consider this is fairer for fishers who are owners of small parcels of ACE.
- 38 MFish recognises some merit in this approach and is willing to work with the DWG to further explore this option in the future. We note that the use of both percentages and true weights at an individual level is likely to require computer system changes by FishServe.
- 39 The new standard provides that you may set differential rates at any financial amount that you consider is necessary to provide the maximum disincentive to fishers thinking of fishing without ACE. DWG submits that setting differential deemed value rates at the levels proposed in the IPP may be punitive and that you are not permitted to set punitive deemed

value rates. This view is supported by Pacific Trawling who also submits that deemed values can not be penal in nature.

- 40 MFish agrees that deemed values should not be unreasonably penal in effect but they must be set at a level that provides the necessary incentive for fishers to land their catch and balance it with ACE. Where that level lies depends on the particular fish stock and is influenced by the market value of the species, the type of operators who harvest the stock and the stock's status as either a bycatch or a target stock.
- 41 The Act permits you to consider the economic benefits obtained by the most efficient commercial operator when deciding where to set a deemed value and MFish considers a stock's, port price, export price and shadow value<sup>1</sup> are useful indicators of the economic benefits available to fishers who continue to fish in excess of ACE holdings. In the majority of cases export prices have been used as a guide to determine an appropriate maximum differential deemed value rate.
- 42 Stakeholders also submit that high deemed values rates should not be used to unnecessarily penalise the majority because of the behaviour of the few. MFish agrees with this view. MFish recommends you set higher differential deemed values for stocks where there has been continuous overfishing. In these situations it is only those fishers who deliberately continue to over fish who will be affected by the higher differential rate, not the majority of fishers operating in the fishery.
- 43 For each stock in this review MFish recommends interim, annual and differential deemed value rates at a level that MFish considers will ensure every incentive is provided to fishers to balance catch with ACE.

### *Socio-economic concerns*

- 44 All submissions acknowledge the socio-economic implications of incorrectly set deemed values. Quota owners acknowledge that incorrectly set deemed values both undermine the long term value of their asset and that low deemed value rates can force ACE prices down.
- 45 Fishers who typically do not hold sufficient ACE at the start of the fishing season submit that it is often difficult to source suitable quantities of ACE to cover their catch and they are concerned that the proposed deemed value rates represent a major threat to the continued economic viability of many of the participants in the fishing industry.
- 46 In particular Independent is concerned that the IPP does not make a distinction between those fishers who deliberately target fish in excess of their ACE holdings and rely on deemed values to cover their catch and those fishers who rely on deemed values to cover unavoidable bycatch when they have not been able to source sufficient ACE. The purpose of deemed values is to provide flexibility to manage unexpected and small overruns of catch. No distinction is made for unavoidable bycatch.
- 47 Section 75(6) is quite clear that you must not have regard to individuals or classes of person liable to pay the deemed value. This means that you cannot set different deemed value rates for fishers who target the species and a different rate for those fishers who catch it as a

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<sup>1</sup> Shadow value: In fisheries where the bycatch species acts as a constraint on the target species, the economic value of being able to continue to fish the target species may be many times the sale value of the bycatch species. Therefore the actual value of the bycatch species is higher than that implied from the market prices realised. This is termed the shadow value or the shadow price. In this situation the market price for this fish would be an unsuitable guide for where to set the maximum deemed value rate.

bycatch. MFish is clear that if a fisher is faced with bycatch for which they are unable to source ACE, then they must acquire quota or ACE, or should alter their fishing behaviour rather than continue to fish.

- 48 Independent advises that their deemed value invoice is typically \$1 million per annum but if the deemed value rates increase to the levels proposed in the IPP then their deemed value bill could be close to \$5m – this is simply to cover their ling and silver warehou bycatch. If the proposed deemed values are approved Independent believes it will no longer be able to fish its squid and hoki ACE which will lead to a loss of jobs and a significant restructuring of the company’s shore-based operations. As noted above the Act specifically prevents you from considering an individual liable to pay the deemed value when making your decision.
- 49 Both the Federation and Independent submit that increasing deemed values will lead to market distortion in the ACE market because:
- a) ACE prices will be driven up to match the deemed value rate
  - b) Quota owners might choose not to release ACE during the year so fishers may be forced to pay a higher ACE price at the end of the fishing season rather than risk paying the higher differential deemed value payment.
- 50 MFish acknowledges that deemed values should not be set at a level that allows quota owners to extort other fishers and there is a risk that high differentials in particular could provide a disincentive for prospective ACE sellers to enter the market before the end of the year. MFish notes that low deemed value rates have depressed ACE prices in the past and increasing deemed value rates will inevitably lead to some increase in ACE prices. This further emphasises the need to carefully set each deemed value by considering the specific circumstances of each stock.
- 51 Independent submits that increasing deemed values will drive up ACE prices at a time when international fish prices are static, the New Zealand dollar is overvalued and economic margins are tight. MFish recognises these concerns but does acknowledge there are a range of factors that can influence ACE prices of which deemed values is only one. Independent believes setting lower deemed value rates will free up ACE for sale. MFish does not support this view as low deemed value rates will not provide an appropriate incentive for fishers to source ACE.
- 52 SeaFIC acknowledges this issue in their submission but concluded that setting realistic deemed values is unlikely to result in ACE prices moving to unrealistic or unprofitable levels. MFish agrees with this view.
- 53 MFish acknowledges these views but the Act requires you to set deemed values at such a level that all commercial fishers have the necessary incentive to balance their catch with ACE. This will adversely affect some operators, particularly in the short term, as they adjust their fishing operations. Such impacts are necessary if TACs are to be adequately protected.

## Process

- 54 The deemed value standard sets out a process for reviewing and adjusting deemed value rates. This process was used to identify stocks for review and to propose the deemed value rates that are set out in this advice paper.

- 55 All quota management system (QMS) stocks were assessed against the following deemed value criteria:
- a) Catch is in excess of available ACE
  - b) Catch is in excess of an individual's ACE holdings and deemed values have been invoiced but ACE has remained unused
  - c) The port price of a stock has changed
  - d) The Seafood Industry Council (SeaFIC) made a direct request on behalf of quota owners
  - e) A stock's TACC or the TACC of key bycatch stocks was recently changed
  - f) The stock recently entered the QMS and the deemed value rate was set using limited information.
- 56 A significant proportion of QMS stocks met one or more criteria but due to resource constraints and timing issues it was not possible to review all eligible stocks in this review round. Stocks were prioritised based on industry requests and the relevant fishery manager's perception of the risk of leaving the deemed value rates unchanged for another season. All fishstocks detailed in Table 1 above were prioritised for inclusion in this review.
- 57 Following an assessment of the stock's performance against the criteria described above information sheets were prepared for each stock. These information sheets include:
- a) Quantitative information detailing the stock's performance against the criteria described above.
  - b) Qualitative and anecdotal information on the fishery including an assessment of the types of behaviour that the deemed value is required to manage.
- 58 This information was analysed to determine why deemed value rates for some stocks may not be effective. This formed the basis of the following analysis:
- a) Likely reasons for the TACC overcatch/ACE breaches.
  - b) An assessment of the bycatch fisheries associated with the stocks under review.
  - c) If there has been significant changes in the structure of quota/ACE holdings for the stocks.
  - d) Likely risk that the deemed value requirements set out in the Act may not be met.
  - e) Impact of changes in market price and/or structure for the fish product/species under review.
- 59 These information sheets can be found in Appendix 2.<sup>2</sup>

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<sup>2</sup> These information sheets have been updated to include the current port price and the most recent average ACE trading price information.

- 60 Also included in this review are the deemed values for fish stocks that are subject to a TAC review as part of the October 2007 sustainability round. This is to ensure that, in situations when a TACC is adjusted, the deemed value is also adjusted to a level that will protect the new TACC.
- 61 All stocks included on the list were reviewed by the deemed value review group. This review group consisted of a representative from SeaFIC and MFish officials representing inshore and deepwater fisheries, Compliance and the Socio-Economic team. At this meeting each stock was assessed using the information and analysis described above. This assessment determined if a deemed value adjustment was appropriate.
- 62 If a deemed value adjustment was considered appropriate the following information sources were used to determine how the proposed new deemed value rate should be set. This information was available to participants at the deemed value review group meeting:
- a) Port price
  - b) ACE trading price
  - c) Export prices as a proxy for market values (where appropriate)<sup>3</sup>
  - d) Bycatch ratios (where appropriate)
  - e) Cost recovery levy rates.

### *Port price*

- 63 Port price data is collected at a stock level through an annual survey of the greenweight price a fisher receives from a licensed fish receiver (LFR).
- 64 MFish uses the port price index as one of the information sources for determining where the deemed value rate for a stock should be set. When the deemed value review group met the 2006-07 port price was the most current information available. However, by the time MFish consulted on the IPP the port price information for 2007-08 had been approved by you and was available for use.
- 65 Section 10 of the Act requires you to set deemed value rates using the best available information. MFish considers the current 2007-08 port price index is the best available information and that this should be used to guide deemed value rates for the coming season. The analysis section on each stock explicitly details when the 2007-08 port price information differs from the information used to determine the annual deemed value rates proposed in the IPP.
- 66 Therefore MFish recommends that the 2007-08 port price is used to guide the recommended deemed value rates. SeaFIC supports this approach.

### *ACE price*

- 67 MFish has access to ACE trade price information through FishServe.<sup>4</sup> This information includes the number of ACE trades for each stock and information on the lowest, average and highest value ACE trades since the start of the fishing year. The average ACE trading

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<sup>3</sup> Export price information relates to the processed state of the species being exported.

<sup>4</sup> ACE trade price information is supplied by fishers when transferring ACE and is collated by FishServe.

price is used to guide the appropriate level at which annual deemed value rates should be set.<sup>5</sup>

- 68 In their submissions both SeaFIC and DWG state that the average ACE trading price that the Ministry relies on may underestimate the actual ACE trading value. This is because many of the ACE transactions provided by FishServe include inter company ACE transfers which do not take place at market prices. SeaFIC submits that these trades depress the average ACE price and recommends that MFish use the highest ACE trade price as the most reliable indicator of ACE market value.
- 69 MFish accepts these views but notes the average ACE price information is groomed to remove trades that FishServe considers may not be representative of open market transfers. It also may not be appropriate to rely on the highest ACE value for a variety of reasons including the fact that the higher price may not be limited to ACE trades but could include other assets or services.
- 70 MFish considers the ACE price information provided by FishServe is the most reliable ACE trade price information available. However, as part of future deemed value review processes MFish intends to crosscheck the validity of the ACE price information on a stock by stock basis with both SeaFIC and DWG to ensure the most reliable ACE price information is being used. For some of the deepwater stocks more accurate ACE prices were employed following a meeting with quota owners.

## **Consultation process**

- 71 Section 75A requires you to consult, if practicable, with persons or organisations that you consider represent classes of persons who have an interest in the stocks under review, including Maori, recreational, commercial and environmental interests. MFish followed its standard consultation process for IPPs in the October 2007 sustainability round. This involved posting all IPPs on MFish's website and alerting stakeholders to this through a letter sent to approximately 350 companies, organisations and individuals.
- 72 In addition to making the IPP publicly available MFish also met with SeaFIC, DWG and Area 2 Inshore to discuss the proposed deemed value rates.

### ***SeaFIC***

- 73 SeaFIC participated in the deemed value review group meeting and MFish has also kept SeaFIC informed of the development of the deemed values rates that are recommended for your consideration in this advice paper.

### ***Deepwater Group Ltd (DWG)***

- 74 In August 2007 the DWG invited MFish to attend a directors meeting to discuss the proposed deemed value rates for the deepwater stocks under review. Following extensive discussion on this issue DWG provided MFish with a submission which summarised the views held by quota owners in attendance at the meeting. DWG advised MFish that these views were not universally held by all quota owners but represented a broad consensus within which deemed values rates could be set for the coming season.
- 75 DWG recommends that differential deemed values should apply to target species when

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<sup>5</sup> The average ACE trade price as of 31 July 2007 is used.

catches are more than 102% above ACE holdings and should apply to bycatch species when catch are more than 120% above ACE holdings. MFish notes that often it is not possible to discern whether a species is a bycatch or a target as this depend on the fishing operation, as is the case with silver warehou. DWG also recommends that for all deepwater stocks the interim deemed value should be set at 50% of the annual rate to allow fishers the flexibility to decide when to balance their catch. MFish supports this proposal.

- 76 MFish acknowledges the input of the DWG and deepwater quota owners in developing the proposed deemed value rates for deepwater stocks for your consideration. MFish has included these views in the specific stock analyses that follow. Where individual companies have provided alternative options for deemed value rates for deepwater stocks MFish, in general, has been guided by the submission from DWG.

### ***Area 2 Inshore***

- 77 MFish also participated in meetings with Area 2 Inshore to discuss the proposed deemed value rates for stocks from quota management area 2 (TRE2, BNS2, TAR2, SNA2, SPO2 SKI2, JDO2). Following these meetings Area 2 Inshore has provided preferred options for the deemed value rates for these stocks
- 78 MFish has used this information to recommend the relevant deemed value rates for your consideration.

## Assessment of management options

- 79 This section sets out a summary of the analysis for each stock, an assessment of why a deemed value adjustment is appropriate and recommended deemed value rates for your consideration.
- 80 Not all stocks included on the review list required a deemed value adjustment. Details of these stocks are presented at the end of the analysis section.
- 81 You are not limited to choosing the deemed value rates proposed in this paper; rather you can set the deemed value rates at any level that you consider will best meet your obligations under the Act. You can also choose to leave the deemed value rates unchanged provided you are satisfied that this meets your statutory obligations, although MFish considers the proposed adjustments to the deemed value rates for the stocks listed in this advice paper are appropriate at this time.
- 82 MFish advises that for stocks that are subject to a TAC review in this sustainability round, you should consider the appropriate deemed value rate after you have considered the TACC for that stock. Where there are different TACC choices for your consideration, this paper provides recommendations on deemed value rates that MFish believes should protect the new TACC levels.
- 83 The analysis for each stock follows.

### ***Barracouta: BAR1, BAR4, BAR5 & BAR7***

- 84 BAR5 is caught as a target species and a bycatch species in the jack mackerel and squid fisheries. BAR5 is included in the review because:
- a) In the last two fishing seasons BAR5 has been over caught (126% above available ACE in the 2005-06 fishing season).
  - b) Deemed value invoices of \$490,975 were issued at the end of the 2005-06 fishing season.
  - c) A direct request for a deemed value review was received from quota owners.
- 85 The current average ACE trading price for BAR5 is \$0.13 per kg which is below the current annual deemed value rate. However, it is apparent that the current annual deemed value is not encouraging fishers to balance their catch with ACE and therefore the deemed value rate should be increased. It is also likely that the current annual deemed value rate may be depressing the average ACE trading price.
- 86 Three companies are responsible for 73% of the total \$490,975 deemed value bill. This suggests that certain fishers are deliberately choosing to fish in excess of available ACE and that an adjustment to the differential deemed value rates may be the most appropriate tool to use at this time.
- 87 In the IPP MFish proposed retaining the existing interim and annual deemed value rates for the coming season but proposed an increase to the differential deemed value rates. The deemed value rates for the remaining BAR stocks were also reviewed and it was proposed that they should be adjusted in line with BAR5. This is to make certain there is no incentive for fishers to misreport fish between BAR5 and the other BAR fisheries in an attempt to

exploit a lower deemed value rate in a neighbouring stock.

- 88 However, stakeholders did not support the proposed increase to the differential deemed value rate for BAR5 and instead recommended the TAC is reviewed as a matter of priority. MFish can advise that barracouta is being considered for further stock research in 2008-09. If this research goes ahead it will mean the TAC can be reviewed in time for the 2009-10 fishing season.
- 89 Challenger does not support increasing the deemed value rates for BAR7 because of overfishing in BAR5. However, MFish does note that the BAR7 TACC was overfished in 2004-05 and as of the end of July 2007 only 5 % of available ACE remains uncaught.
- 90 MFish acknowledges the views received through the submission process. However, the 2007-08 port price for BAR4, BAR5 and BAR7 has increased by 34% to \$0.25 per kg and for BAR1 by 33% to \$0.24 per kg. When considered alongside the current average export price for barracouta of \$1.17 per kg MFish considers this provides sufficient incentive for fishers to deliberately harvest these stocks in excess of their ACE holdings.
- 91 MFish also considers it appropriate to set consistent deemed value rates for stocks that are routinely fished as part of the same fishing trip so as to avoid any incentive for fishers to misreport catch by taking advantage of a lower deemed value rate in a neighboring stock.
- 92 For the reasons described above MFish recommends you increase the both the interim and annual deemed value rates for these stocks to reflect the current port price.
- 93 MFish notes that these proposed increases, to reflect the change in port price, were not consulted on with stakeholders explicitly. MFish considers the proposed annual rate of \$0.25 per kg best reflects the information we now have available, and the changed deemed value rate is not so materially different that further consultation is necessary.
- 94 MFish also considers the differential deemed value rates should be increased but only to two levels - \$0.50 per kg at catch levels of 10% in excess of available ACE and \$1.00 at catch levels 20% or more in excess of available ACE.
- 95 MFish recommends you approve the following deemed value rates for BAR1, BAR4, BAR5 and BAR7 for the 2007-08 fishing season:
- a) Annual deemed value rate to increase from \$0.19 per kg to \$0.25 per kg.
  - b) Interim deemed value rate to increase from \$0.10 per kg to \$0.12 per kg, which is 50% of the annual deemed value rate.
  - c) Differential deemed value rates to apply so that:
    - (i) A rate of \$0.50 per kg applies to all catch that is 110% or greater but less than 120% of a fisher's ACE holdings
    - (ii) A rate of \$1.00 per kg applies to all catch that is greater than 120% of a fisher's ACE holdings.

**Blue cod: BCO3, BCO4 & BCO5**

- 96 Blue cod (BCO3) is a key bycatch species in the southern inshore fin fishery. BCO3 is included in the review because:

- a) It has been consistently over caught in recent fishing seasons (109% of available ACE in the 2005-06 fishing season).
  - b) Deemed value invoices of \$53,147 were issued at the end of the 2005-06 fishing season.
- 97 The current average ACE trading price for BCO3 is \$1.41 per kg which is below the current annual deemed value rate of \$1.92 per kg.
- 98 Stakeholders submit that since the BCO3 TACC has not been reviewed since 1993-94 it is inappropriate to review the deemed value rates for this stock at this time. MFish does not support this view particularly since the 2007-08 port price (\$3.81 per kg) is substantially higher than the current annual deemed value rate (\$1.92 per kg) which means fishers have an incentive to continue fishing beyond their ACE holdings, pay the deemed value and still realise a profit.
- 99 MFish recommends you increase the annual deemed value rate for BCO3 so that it better reflects the average port price in this fishery. MFish also recommends that the differential deemed value rates for BCO3 are adjusted to reflect the proposed alterations to the annual rate.
- 100 MFish notes that this proposed increase, to reflect the change in port price, was not consulted on with stakeholders explicitly. MFish considers the proposed annual rate of \$3.25 per kg best reflects the information we now have available, and the changed deemed value rate is not so materially different that further consultation is necessary.
- 101 In the IPP MFish also proposed increasing the deemed value rates for BCO4 and BCO5 increased in line with BCO3 to ensure there are no incentives for fishers to misreport fish between areas so as to exploit a lower deemed value rate in a neighbouring stock. This proposal was not supported by stakeholders and MFish now considers the deemed value rates for these two stocks should not be increased at this time as inshore fishers are unlikely to harvest blue cod across multiple QMAs during the same trip. However, both stocks will be monitored over the coming season to ensure catch levels remain within the TACC.
- 102 MFish recommends you:
- a) Approve the following deemed value rates for BCO3 for the coming season
    - (i) Annual deemed value rate for BCO3 to increase from \$1.92 per kg to \$3.25 per kg
    - (ii) Interim deemed value rate to increase from \$0.96 per kg to \$1.63 per kg which is 50% of the proposed new annual rate:
    - (iii) Differential deemed value rates adjusted to reflect the proposed new annual deemed value rate, outlined in the table below.
  - b) Retain the existing deemed values rates for BCO4 and BCO5 for the coming season.

**Table 4: Proposed differential deemed value rates for BCO3**

Current differential rates		Proposed differential rates	
Catch in excess of ACE holdings (%)	Current deemed value rate BCO3 (\$)	Catch in excess of ACE holdings (%)	Proposed deemed value rate (\$)
120	2.30 per kg	120	3.90 per kg
140	2.69 per kg	140	4.55 per kg
160	3.07 per kg	160	5.20 per kg
180	3.46 per kg	180	5.85 per kg
200	3.84 per kg	200	6.50 per kg

**Bluenose: BNS2**

103 BNS2 is traditionally caught as a bycatch in the alfonsino and gemfish trawl fisheries but is increasingly becoming a target fishery. BNS2 was considered for a deemed value adjustment because:

- a) The TACC has been exceeded in the past twelve fishing seasons.
- b) Deemed value invoices of \$196,539 were issued at the end of the 2005-06 fishing season.
- c) Average port price is \$3.74 per kg.

104 The current average ACE trading price is \$1.82 per kg which is below the current annual deemed value rate of \$2.18 per kg.

105 MFish considers the existing annual deemed value rate is low compared to both the port price and average export price (\$8.94 per kg) and this may provide an incentive for fishers to fish in excess of ACE holdings. In the last fishing season one company was responsible for 66% of the total deemed value bill for the fishery which suggests that this company’s operating costs are sufficiently low so as to enable it to deliberately fish in excess of ACE, pay the deemed value and realise a profit.

106 In the IPP MFish proposed increasing both the annual and interim deemed value rates to better reflect the market value of the fish. Higher differential rates were also proposed which would apply at catch levels 105% of available ACE to limit the behaviour of those fishers who choose to deliberately fish in excess of their ACE holdings.

107 Area 2 Inshore initially expressed a strong preference to use over fishing thresholds to address deliberate over fishing of BNS2. However, following discussions with MFish it now supports trialling an increase to the deemed value rates for bluenose for the coming season.

108 MFish recommends you approve the following deemed value rates for BNS2 for the 2007-08 season:

- a) Annual deemed value rate to increase from \$2.18 per kg to \$3.00 per kg.
- b) Interim deemed value rate to increase from \$1.09 per kg to \$1.50 per kg, which is 50% of the new annual deemed value rate.
- c) Differential deemed value rates increased as detailed in the table below.

Table 5: Proposed differential deemed value rates for BNS2

Current differential rates		Proposed differential rates	
Catch in excess of ACE holdings (%)	Current deemed value rate (\$)	Catch in excess of ACE holdings (%)	Proposed deemed value rate (\$)
120	2.616 per kg	105	4.00 per kg
		110	5.00 per kg
140	3.052 per kg	120	6.00 per kg
		130	7.00 per kg
160	3.488 per kg	140	8.00 per kg
		150	9.00 per kg
180	3.924 per kg	160 and over	10.00 per kg
200	4.360 per kg		

**Flatfish: FLA3**

- 109 Flatfish is one of the major target species in the southern inshore fin fishery. This fishery is being reviewed in the October sustainability round as there are concerns that the TAC is set too high and this is impacting on bycatch species as fishers try to harvest the full FLA3 TACC.
- 110 FLA3 is included in the deemed value review to ensure appropriate deemed value rates are in place to protect the TACC.
- 111 In the IPP MFish proposed increasing the deemed value rates only if the TAC is reduced. MFish does not consider the current deemed value rates will adequately protect a lower TACC particularly since the current annual deemed value rate of \$1.50 per kg is below both the port price (\$3.17 per kg) and average export price (\$5.49 per kg).
- 112 Stakeholders support increasing the deemed value rates for FLA3 although both SeaFIC and AFL consider the annual rate should be set at \$3.00 per kg rather than the proposed \$2.80 per kg since this better reflects the 2007-08 port price. MFish agrees with this proposal.
- 113 AFL and SeaFIC also submit that the interim deemed value rate should be set closer to the annual rate. However, MFish believes that in the short term, the interim should be set at 50% of the annual to give fishers the flexibility to decide when to balance their catch particularly as they adjust to a TACC decline and an increase in the annual rate.
- 114 MFish does note that these proposed deemed value adjustments are dependant on a TAC reduction. If you choose not to reduce the TAC then MFish recommends you retain the existing deemed value rates for the coming season.
- 115 MFish recommends you:
  - Either
    - a) Approve the following deemed value rates for FLA3 for the 2007-08 season.
      - (i) Annual deemed value rate to increase from \$1.50 per kg to \$3.00 per kg.
      - (ii) Interim deemed value rate to increase from \$0.75 per kg to \$1.50 per kg, which is 50% of the new annual deemed value rate.

- (iii) Differential deemed value rates adjusted to reflect the proposed new annual deemed value rate, outlined in the table below.

**Table 6: Proposed differential deemed value rates for FLA3**

Current differential rates		Proposed differential rates	
Catch in excess of ACE holdings (%)	Current deemed value rate (\$)	Catch in excess of ACE holdings (%)	Proposed deemed value rate (\$)
120	1.80 per kg	120	3.60 per kg
140	2.10 per kg	140	4.20 per kg
160	2.40 per kg	160	4.80 per kg
180	2.70 per kg	180	5.40 per kg
200	3.00 per kg	200	6.00 per kg

Or

- b) Retain the existing deemed value rates for FLA3 if you agree to maintain the existing TACC.

**Gurnard: GUR3, GUR7 & GUR8**

116 Gurnard is a major bycatch of inshore trawl fisheries across most of New Zealand. The following gurnard stocks were included in the current deemed value review – GUR3, GUR7 and GUR8.

**GUR3<sup>6</sup>**

117 GUR3 is a bycatch of the RCO3 and FLA3 fisheries which are both being considered for a TAC review as part of the October sustainability round. GUR3 is included in this review because:

- a) In the last two fishing seasons GUR3 has been over caught (113% of available ACE in the 2005-06 fishing season).
- b) Deemed value invoices of \$142,677 were issued at the end of the 2005-06 fishing season.
- c) There is a risk that fishing effort may shift to GUR3 if the RCO3 and FLA3 TACCs are reduced and MFish considers it necessary to ensure appropriate incentives are in place to prevent over fishing.

118 The current average ACE trading price is \$0.49 per kg which is well below the current annual deemed value rate of \$0.85 per kg.

119 Since the current annual deemed value rate is below both the port price of \$1.71 per kg and the average export price of \$7.69 per kg MFish believes this may provide an incentive for fishers to catch in excess of available ACE since there is still a relatively high profit margin available once the deemed value has been paid.

120 In the IPP MFish proposed increasing the annual deemed value rate to reflect the stocks' port price. This increase was based on the 2006-07 port price of \$1.09 per kg. However the

<sup>6</sup> The information relevant to this stock can be found in the RCO3 and FLA3 information sheet.

2007-08 GUR3 port price has increased by 57% to \$1.71 per kg. This suggests that an increase greater than that proposed in the IPP is warranted so as to deter fishers deliberately fishing in excess of ACE.

- 121 AFL and SeaFIC support increasing the deemed value rates for GUR3 and recommend that it should be set at \$1.60 per kg to reflect the most recent increase in port price. MFish supports this view since it should provide an appropriate financial incentive to encourage fishers to acquire or maintain sufficient ACE to balance their catch.
- 122 MFish notes that this proposed increase, to reflect the change in port price, was not consulted on with stakeholders explicitly. MFish considers the proposed annual rate of \$1.60 per kg best reflects the information we now have available, and the changed deemed value rate is not so materially different that further consultation is necessary.
- 123 This proposed increase to the annual deemed value rate also means the differential deemed value rates will be adjusted as per Table 7 below.

### **GUR7 & GUR8**

- 124 Recent compliance operations in the GUR7 and GUR8 fisheries have found evidence that significant quantities of gurnard are being high graded and dumped. High grading occurs because the price fishers receive is dependant on the length of gurnard landed – small gurnard, under 28cm in size, attract only \$0.07 per kg compared to gurnard greater than 33cm which can attract a price of \$1.75 per kg. This provides a significant financial incentive for fishers to high grade the smaller gurnard. In 2005-06 catches from both fisheries were within the limits of available ACE suggesting that fishers are choosing to dump rather than pay deemed values, although there has been significant overfishing of GUR7 in previous years.
- 125 In the IPP MFish proposed lowering both the interim and annual deemed value rates for both stocks to encourage fishers to report and land all gurnard in an attempt to improve reporting and ultimately the quality of management information available. MFish also proposed increasing the differential deemed value rates so that they provide a backstop to fishers who may view the lower annual rate as an invitation to fish in excess of ACE.
- 126 In general stakeholders have not supported this approach on the grounds that incidences of misreporting and high grading should be dealt with by Compliance through improved monitoring and enforcement rather than by adjusting the deemed value rates. SeaFIC and AFL submit that the deemed value rates for these stocks should be increased rather than reduced, to reflect the recent increase in port price. In contrast Challenger does not consider the deemed values should be adjusted until the issue of misreporting is addressed.
- 127 MFish acknowledges these views and considers the proposal to amend the deemed value rates is no longer valid because even with the proposed reduction the discrepancy between the market price for small fish and the deemed value rate is sufficiently great that it is unlikely that it will encourage fishers to land their catch.
- 128 MFish recommends you approve the following deemed value rates for GUR3, GUR7 and GUR8 for the 2007-08 fishing season:
- a) Annual deemed values
    - (i) Increase the annual deemed value rate for GUR3 from \$0.85 per kg to \$1.60 per kg.

- (ii) Retain the existing annual deemed value rate for GUR7 of \$0.85 per kg.
  - (iii) Retain the existing annual deemed value rate for GUR8 of \$1.13.
- b) Interim deemed values
- (i) Increase the interim deemed value rate for GUR3 from \$0.43 per kg to \$0.80 per kg.
  - (ii) Retain the existing interim deemed value rate for GUR7 of \$0.43 per kg.
  - (iii) Retain the existing interim deemed value rate for GUR8 of \$0.57 per kg.
- c) Differential deemed values
- (i) Apply differential deemed value rates for GUR 3 as per the table below.
  - (ii) Retain the existing deemed value rates for GUR7 and GUR8.

**Table 7: Proposed differential deemed value rates for GUR3**

Current differential rates		Proposed differential rates	
Catch in excess of ACE holdings (%)	Current deemed value rate (\$)	Catch in excess of ACE holdings (%)	Proposed deemed value rate (\$)
120	1.02 per kg	120	1.92 per kg
140	1.19 per kg	140	2.24 per kg
160	1.36 per kg	160	2.56 per kg
180	1.53 per kg	180	2.88 per kg
200	1.70 per kg	200	3.20 per kg

**Hoki: HOK1**

- 129 The hoki fishery is one of the most important commercial fisheries in New Zealand and is a significant export earner. In 2004 the TACC was reduced from 180,000 tonnes to 100,000 tonnes but the deemed value rates were left unchanged. In the last two fishing seasons the fishery was overfished to 104% of ACE and there are concerns that this level of overcatch may undermine attempts to protect stock sustainability. This suggests the current deemed value rates are too low and are not constraining over fishing.
- 130 In the last fishing season \$2.7 million worth of deemed values were invoiced and six companies received invoices each in excess of \$200,000. MFish believes this provides evidence that operating cost structures within these companies are sufficiently low so as to enable operators to incur high deemed value invoices while continuing to fish.
- 131 HOK1 is also subject to a TAC review as part of the October 2007 sustainability round. MFish considers you should adjust the deemed values for hoki irrespective of what decision you make on the TAC.
- 132 In the IPP MFish proposed retaining the annual deemed value rate for the coming season but that the interim deemed value rate should increase to a level closer to the annual rate to encourage fishers to regularly balance catch throughout the fishing year. MFish also

proposed that differential rates should increase so that they applied to catch levels of 105% of available ACE.

- 133 Following discussions with DWG and many of the hoki quota owners, MFish has revised its recommendations for the deemed values rates for hoki for the coming season. In particular DWG is concerned that the average ACE price of \$0.51 per kg, used by MFish to guide where the annual rate should be set, is too low. The DWG also supports retaining the interim rate at 50% of the annual rate so as to provide operators with the flexibility to manage when they balance their catch.
- 134 Finally DWG considers that the overriding purpose of differential deemed value rates can be achieved with one ramped rate set at the correct level rather than the five rates initially proposed in the IPP. MFish supports the views of the DWG on this matter but does note that it will closely monitor hoki catch levels and deemed value payments over the coming season to ensure these revised deemed value rates are effective.
- 135 MFish notes that these proposed changes, to reflect the views of the DWG and hoki quota owners, were not consulted on with stakeholders explicitly. However, MFish does not consider the deemed value rates proposed in this advice paper are so materially different that further consultation is necessary.
- 136 MFish recommends you approve the following deemed value rates for HOK1 for the 2007-08 season:
- a) Annual deemed value rate to increase from \$0.59 per kg to \$0.90 per kg;
  - b) Interim deemed value rate to increase from \$0.30 per kg to \$0.45 per kg, which is 50% of the annual deemed value rate
  - c) Differential deemed value rates adjusted so that a rate of \$1.30 applies to all catch that is greater than 102% of a fisher's ACE holdings.

### **Hapuka/Bass: HPB3<sup>7</sup>**

- 137 HPB3 is a target fishery in its own right and is also a bycatch in the southern inshore fin fishery, caught alongside RCO3 and FLA3. HPB3 is included in this review because:
- a) In at least the last three fishing seasons HPB3 has been over caught (118% of available ACE in the 2005-06 fishing season).
  - b) Deemed value invoices of \$138,631 were issued at the end of the 2005-06 fishing season.
  - c) Current deemed value rates may not adequately protect the HPB3 TACC if fishing effort increases as fishers target HPB3 to compensate for possible TACC reductions in RCO3 and FLA3.
  - d) The 2007-08 port price is \$3.41 per kg.
- 138 The current average ACE trading price for HPB3 is \$1.00 per kg which is currently below the current annual deemed value rate of \$1.50 per kg.

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<sup>7</sup> The information relevant to this stock can be found in the RCO3 and FLA3 information sheet.

- 139 The gap between port price and the annual deemed value rate suggests fishers have an opportunity to fish in excess of ACE holdings, pay deemed values and still realise a profit. In the IPP MFish proposed increasing the annual deemed value rate to \$2.30 per kg to better reflect the high port price and export price available for HPB3 – in 2006 the average export price was \$8.92 per kg.
- 140 Non-Commercial fishers support the proposal to increase the deemed value rates for HPB3 but do not consider the proposed increases are high enough. In contrast AFL and SeaFIC do not consider a deemed value increase is appropriate until the TAC has been reviewed.
- 141 MFish acknowledges these views but considers a deemed value increase is warranted at this time given the levels of overcatch observed in recent seasons and the discrepancy between the current deemed value rate and the potential market value of hāpuka/bass.
- 142 MFish recommends you approve the following deemed value rates for HPB3 for the 2007-08 season:
- a) Annual deemed value rate to increase from \$1.50 per kg to \$2.30 per kg.
  - b) Interim deemed value rate to increase from \$0.90 per kg to \$1.15 per kg, which is 50% of the new annual deemed value rate.
  - c) Differential deemed value rates adjusted to reflect the proposed new annual deemed value rate, outlined in the table below.

**Table 8: Proposed differential deemed value rates for HPB3**

Current differential rates		Proposed differential rates	
Catch in excess of ACE holdings (%)	Current deemed value rate (\$)	Catch in excess of ACE holdings (%)	Proposed deemed value rate (\$)
120	1.80 per kg	120	2.76 per kg
140	2.10 per kg	140	3.22 per kg
160	2.40 per kg	160	3.68 per kg
180	2.70 per kg	180	4.14 per kg
200	3.00 per kg	200	4.60 per kg

**John dory: JDO2 & JDO7**

- 143 John dory is mainly taken as a bycatch in the inshore trawl and danish seine fisheries. JDO7 is included in this review because:
- a) It has been consistently over caught in recent fishing seasons (106% of available ACE in the 2005-06 fishing season).
  - b) The 2007-08 port price has increased from \$4.64 per kg to \$6.07 per kg.
- 144 The current average ACE trading price for JDO7 is \$1.32 per kg which is well below the current annual deemed value rate of \$3.17 per kg.
- 145 The recent increase in port price also reflects the current high export price for john dory of \$10.05 per kg. This suggests there may be an incentive for fishers to deliberately fish in excess of ACE because they can pay the annual deemed value of \$3.17 per kg and still realise a profit. Overfishing may also be occurring because differential deemed values do not apply in the JDO7 fishery.

- 146 In the IPP MFish proposed increasing the annual deemed value rate to reflect current port price. However, this proposed increase was based on the 2006-07 port price of \$4.64. Since the 2007-08 port price is now 31% higher at \$6.07 per kg, MFish considers it appropriate to reflect this increase in the new deemed value rates for this stock. Therefore MFish recommends that the JDO7 annual deemed value rate is increased to \$5.25 per kg to reflect the current port price of \$6.07 per kg.
- 147 MFish notes that this proposed increase, to reflect the change in port price, was not consulted on with stakeholders explicitly. MFish considers the proposed annual rate of \$5.25 per kg best reflects the information we now have available, and the changed deemed value rate is not so materially different that further consultation is necessary.
- 148 JDO2 was also reviewed to ensure there is no incentive for fishers to misreport fish between JDO7 and JDO2 because of a lower deemed value rate in JDO2. In the IPP MFish proposed that the deemed value rates should be adjusted to reflect the proposed rates for JDO7.
- 149 AFL, SeaFIC and Non-Commercial fishers support increasing the deemed value rates for JDO2 and JDO7 although SeaFIC recommends that the annual rate reflects the 2007-08 port price of \$6.07 per kg.
- 150 Area 2 Inshore does not support adjusting the JDO2 deemed value because of over fishing in JDO7 particularly since the JDO2 TACC has not been overfished. However, Area 2 Inshore does support increasing the deemed value to reflect recent changes in the port price.
- 151 MFish considers it appropriate to adjust the JDO2 deemed values in line with the proposed rates for JDO7 because some of the inshore statistical areas straddle JDO2 and JDO7 and there may be incentives for fishers to misreport between areas so as to exploit a lower deemed value rate in JDO2.
- 152 MFish recommends you approve the following deemed value rates for JDO2 and JDO7 for the 2007-08 season:
- a) Annual deemed value rates to increase:
    - (i) JDO2 from \$2.65 per kg to \$5.25 per kg.
    - (ii) JDO7 from \$3.17 per kg to \$5.25 per kg.
  - b) Interim deemed value rates to increase:
    - (i) JDO2 from \$1.33 per kg to \$2.62 per kg.
    - (ii) JDO7 from \$1.59 per kg to \$2.62 per kg.
  - c) Differential deemed value rates adjusted as outlined in the table below.

Table 9: Proposed differential deemed value rates for JDO2 & JDO7

Current differential rates			Proposed differential rates	
Catch in excess of ACE holdings (%)	Current deemed value rate JDO2 (\$)	Current deemed value rate JDO7 (\$)	Catch in excess of ACE holdings (%)	Proposed deemed value rate (\$)
120	3.18 per kg	Differential deemed values currently do not apply	120	6.00 per kg
140	3.71 per kg			
160	4.24 per kg		130	8.00 per kg
180	4.77 per kg			
200	5.30 per kg		140 and over	10.00 per kg

**Ling: LIN1, LIN2, LIN3, LIN4, LIN5, LIN6 & LIN7**

- 153 Ling is a major bycatch in the hoki trawl fishery as well as being a target species in its own right. LIN7 is included in this review because:
- a) It has been consistently over caught in recent fishing seasons (111% of available ACE in the 2005-06 fishing season).
  - b) Deemed value invoices of \$768,000 were issued at the end of the 2005-06 fishing season.
- 154 The current average ACE trading price for LIN7 is \$1.64 per kg which is below the current annual deemed value rate of \$2.21 per kg.
- 155 An assessment of recent deemed value invoices from this fishery indicate certain operators consistently catch LIN7 in excess of available ACE. These are the same companies that deemed large quantities of hoki in the 2005-06 fishing year. In the IPP MFish proposed that higher differential deemed value rates should apply to help counteract this behaviour.
- 156 In the IPP MFish also proposed the deemed value rates for all ling stocks (with the exception of LIN10) should be adjusted:
- a) To mitigate the risk that the proposed adjustments to the hoki deemed value rates may encourage fishers to shift fishing effort into the ling fishery – across all LIN stocks.
  - b) To ensure there are no incentives for fishers to misreport fish between LIN7 and the other ling fisheries in an attempt to exploit a lower deemed value rate in a neighbouring stock.
- 157 The DWG, following discussions with MFish, recommended that only the annual and interim rates for LIN5 and LIN7 should be increased for the coming season but that the differential deemed value rates for all LIN stocks should be adjusted so that they apply to all catch at 102% of ACE holdings at a rate of \$3.40 per kg.
- 158 MFish supports the DWG proposal but recommends that standard deemed value rates are applied across all ling stocks as they are routinely fished as part of the same fishing trip. This should reduce the incentive for fishers to misreport ling catches between areas so as to take advantage of a lower deemed value rate in a neighbouring stock.
- 159 MFish is also concerned that applying one differential deemed value rate may not provide the necessary incentive for fishers to balance their catch with ACE particularly when ling is

caught as a bycatch in the hoki fishery. For this reason MFish recommends that an additional ramped rate of \$6.00 per kg should apply to all catch at 120% of a fisher's ACE holdings.

- 160 Although MFish notes stakeholder opposition to this high differential deemed value, it is warranted given the possible shadow value of ling (the value of ling may be well in excess of its landed value given that it is a requirement to maintain participation in the hoki fishery). MFish also notes that this high differential deemed value rate will only apply to fishers who catch well in excess of their ACE entitlement.
- 161 MFish notes that these proposed changes, to reflect the views of the DWG and ling quota owners, were not consulted on with stakeholders explicitly. However, MFish does not consider the deemed value rates proposed in this advice paper are so materially different that further consultation is necessary.
- 162 MFish recommends you approve the following deemed value rates across all major LIN stocks for the 2007-08 season:
- a) Annual deemed value rates to increase:
    - (i) LIN1 from \$1.69 per kg to \$2.38 per kg
    - (ii) LIN2 from \$1.49 per kg to \$2.38 per kg
    - (iii) LIN3 from \$1.75 per kg to \$2.38 per kg
    - (iv) LIN4 from \$1.27 per kg to \$2.38 per kg
    - (v) LIN5 from \$1.81 per kg to \$2.38 per kg
    - (vi) LIN6 from \$1.67 per kg to \$2.38 per kg
    - (vii) LIN7 from \$2.21 per kg to \$2.38 per kg.
  - b) Interim deemed value rates as follows:
    - (i) LIN1 from \$0.85 per kg to \$1.20 per kg
    - (ii) LIN2 from \$0.75 per kg to \$1.20 per kg
    - (iii) LIN3 from \$0.88 per kg to \$1.20 per kg
    - (iv) LIN4 from \$0.64 per kg to \$1.20 per kg
    - (v) LIN5 from \$0.91 per kg to \$1.20 per kg
    - (vi) LIN6 from \$0.84 per kg to \$1.20 per kg
    - (vii) LIN7 from \$1.11 per kg to \$1.20 per kg.
  - c) Apply a differential deemed value rate of
    - (i) \$3.40 per kg on all catch that is 102% or greater but less than 120% of a fisher's ACE holdings

- (ii) \$6.00 per kg on all catch that is greater than 120% of a fisher's ACE holdings.

**Orange roughy: ORH1, ORH3B & ORH7B**

- 163 The following orange roughy stocks – ORH1, ORH3B and ORH7B – are included in the deemed value review because you are considering these stocks for a TAC review as part of the October 2007 sustainability round.
- 164 An assessment of the current deemed value rates in these fisheries indicate that:
- a) Current annual deemed value rates are set above the average ACE trading price of \$0.68 (ORH1), \$1.58 (ORH3B) and \$0.86 (ORH7B).
  - b) The TACCs have not been exceeded in recent years
  - c) With the exception of ORH1, the annual deemed value rates are set close to or above average port price.
- 165 MFish considers at the current time these deemed value rates are set appropriately. However, should you approve a TAC reduction for any of these stocks then you should also consider a deemed value adjustment to ensure the new TACC is adequately protected.
- 166 In the IPP MFish proposed increasing the deemed value rates for ORH1 and ORH3B if the TACCs are reduced for the coming season. In the IPP MFish proposed increasing the annual deemed value rate for ORH1 from \$2.97 to \$3.40 per kg. This increase reflected the 2006-07 port price of \$3.67 per kg. However, the 2007-08 port price has fallen to \$2.99 per kg although this is low in comparison to the average export price of \$12.48 per kg. MFish notes that insignificant deemed value payments have been made in recent years.
- 167 In the IPP MFish considered the current annual rate for ORH3B is adequate since it is set above the current port price of \$2.99 per kg but proposed an adjustment to the differential deemed value rates so that they apply at 10% catch in excess of ACE.
- 168 MFish does not consider a deemed value adjustment for ORH7B is required if you decide to leave the TAC unchanged or decide set a TACC of 1 tonne. However, if you consider a TAC reduction is appropriate then MFish believes the annual deemed value rate should be increased to \$4.00 per kg so as to ensure the new TACC is adequately defended.
- 169 A range of views were received on this issue as part of the submission process. Anton's does not support increasing the deemed value rates for ORH1 since the TACC has not been fully harvested since 2001. MFish acknowledges this view but is only recommending you increase the deemed value rates if you approve a TACC decrease for ORH1.
- 170 The DWG does not support the proposal to increase the deemed value rates for any of the orange roughy stocks at this time.
- 171 AFL does not support the deemed value rates proposed in the IPP. For ORH3B AFL recommends that the annual rate remains at \$4.00 per kg, the interim is increased to \$3.60 per kg and that a differential deemed value rate of \$8.00 apply to all catch that is 120% of available ACE. For ORH7B AFL recommends that the annual rate is set at \$2.00, the interim at \$1.80 per kg and that a differential deemed value rate of \$4.00 apply to all catch that is 120% of a fisher's ACE holdings.

- 172 SeaFIC supports the annual deemed value rates for ORH3B and ORH7B proposed in the IPP but recommends interim and differential deemed values are increased to provide greater protection to both TACCs should you choose to reduce them for the coming season.
- 173 In the IPP MFish proposed multiple differential deemed value rates for ORH3B and ORH7B. MFish believes that the purpose of differential rates, to increase the incentive for a fisher to balance with ACE by applying an increasingly higher penalty as more and more catch is caught in excess of ACE, can be achieved with just one differential deemed value rate. Therefore MFish recommends that a differential deemed value rate of \$5.00 is applied to ORH1, ORH3B and ORH7B on all catch that is 110% of a fisher's ACE holdings.
- 174 MFish notes that the proposed change to the differential deemed value rates for the three ORH stocks were not consulted on with stakeholders explicitly. However, MFish does not consider the differential deemed value rate proposed in this advice paper is so materially different that further consultation is necessary.
- 175 These proposed deemed value adjustments are dependant on a TACC decrease. If you choose not to reduce the TAC for ORH1 and ORH3B then MFish recommends you retain the existing deemed value rates for the coming fishing season. If you choose to close the ORH7B fishery then the existing deemed value rates will be adequate to maintain the nominal 1 tonne allowance.
- 176 MFish recommends you approve the following deemed value rates for ORH1, ORH3B and ORH7B for the 2007-08 fishing season:

a) ORH1

- (i) If you approve a reduction to the TACC for ORH1 then MFish recommends you increase the annual deemed value rate for ORH1 from \$2.97 per kg to \$3.40 per kg.
- (ii) If you choose to retain the existing ORH1 TACC for the coming season then MFish recommends you retain the existing annual deemed value rate of \$2.97 per kg.
- (iii) If you approve a reduction to the TACC for ORH1 then MFish recommends you increase the interim deemed value rate for ORH1 from \$1.49 per kg to \$1.70 per kg.
- (iv) If you choose to retain the existing ORH1 TACC for the coming season then MFish recommends you retain the existing interim deemed value rate of \$1.49 per kg.
- (v) Irrespective of the decision you make on where to set the ORH1 TACC for the coming season MFish recommends you apply a differential deemed value rate of \$5.00 per kg for all catch that is 110% or greater of a fisher's ACE holdings.

b) ORH3B

- (i) Retain the existing annual deemed value rate of \$4.00 per kg
- (ii) Retain the existing interim deemed value rate of \$2.00 per kg

Deleted: annual

- (iii) MFish recommends you apply a differential deemed value rate of \$5.00 per kg for all ORH7B catch that is 110% or greater of a fisher's ACE holdings.
- c) ORH7B
- (i) If you approve a reduction to the TACC for ORH7B (to a level greater than 1 tonne) then MFish recommends you increase the annual deemed value rate for ORH7B from \$3.20 per kg to \$4.00 per kg.
  - (ii) If you choose to either retain the existing TACC for ORH7B or set a 1 tonne TAC for the coming season then MFish recommends you retain the existing annual deemed value rate of \$3.20 per kg.
  - (iii) If you approve a reduction to the TACC for ORH7B (to a level greater than 1 tonne) then MFish recommends you increase the interim deemed value rate for ORH7B from \$1.60 per kg to \$2.00 per kg.
  - (iv) If you choose to either retain the existing TACC for ORH7B or set a 1 tonne TAC for the coming season then MFish recommends you retain the existing interim deemed value rate of \$1.60 per kg.
  - (v) Irrespective of the decision you make on where to set the ORH7B TACC for the coming season MFish recommends you apply a differential deemed value rate of \$5.00 per kg for all catch that is 110% or greater of a fisher's ACE holdings.

**Red cod: RCO3**

- 177 Red cod is one of the major target species in the southern inshore fin fishery. This fishery is being reviewed in the October sustainability round because of sustainability concerns. RCO3 is included in the deemed value review to ensure appropriate deemed value rates are in place to protect the TACC.
- 178 The current average ACE trading price is \$0.07 per kg which is well below the current annual deemed value rate of \$0.32 per kg.
- 179 In the IPP MFish proposed increasing the deemed value rates only if the TACC is reduced. MFish does not consider the current deemed value rates will adequately protect a lower TACC particularly since the current annual deemed value rate of \$0.32 per kg is below both the port price (\$0.56 per kg) and the average export price (\$3.58 per kg). MFish proposed increasing the annual deemed value rate to \$0.50 per kg.
- 180 In their submissions both AFL and SeaFIC recommend the deemed values for RCO3 should increase irrespective of any changes to the TACC. However MFish does not consider there is any risk that the existing TACC, should it remain unchanged for the coming season, will be overfished in the short term. MFish will continue to monitor RCO3 as part of the annual deemed value review process.
- 181 MFish advises that the proposed deemed value adjustments are dependant on you approving a TACC reduction for RCO3 for the coming season. If you choose to retain the existing TAC then MFish recommends you also retain the existing deemed value rates.

182 MFish recommends you

Either

- a) Approve the following deemed value rates for RCO3 for the coming season.
  - (i) Annual deemed value rate to increase from \$0.32 per kg to \$0.50 per kg.
  - (ii) Interim deemed value rate to increase from \$0.16 per kg to \$0.25 per kg, which is 50% of the new annual deemed value rate.
  - (iii) Differential deemed value rates adjusted to reflect the proposed new annual deemed value rate, outlined in the table below.

**Table 10: Proposed differential deemed value rates for RCO3**

Current differential rates		Proposed differential rates	
Catch in excess of ACE holdings (%)	Current deemed value rate (\$)	Catch in excess of ACE holdings (%)	Proposed deemed value rate (\$)
120	0.384 per kg	120	0.60 per kg
140	0.448 per kg	140	0.70 per kg
160	0.512 per kg	160	0.80 per kg
180	0.576 per kg	180	0.90 per kg
200	0.640 per kg	200	1.00 per kg

Or

- b) Retain the existing deemed value rates for RCO3 should you agree to maintain the existing TACC.

**School shark: SCH1**

183 School shark are widely distributed across the shelf, generally being inshore in summer and offshore in winter. SCH1 is included in the deemed value review because:

- a) A TAC for SCH 1 is being set as part of the October 2007 sustainability round, and the current TACC is also being reviewed.
- b) SCH1 has been consistently fished in excess of available ACE since the 1994-1995 fishing season - the only exception being the most recent fishing season when reported catch declined to 92% of available ACE.

184 In the SCH1 FAP MFish has provided you with three options. MFish considers the deemed value rates for SCH1 should increase irrespective of which option you approve. This is to ensure catch stays within the limits of the TACC and available ACE.

185 In the IPP MFish proposed increasing the annual deemed value rate to \$1.75 per kg to reflect the port price – currently \$1.89 per kg. This increase in the annual deemed value rate also means the differential deemed value rates will increase since they are set using the annual rate as the baseline. Stakeholders support this proposal.

186 MFish recommends you approve the following deemed value rates for SCH1 for the 2007-08 season:

- a) Annual deemed value rate to increase from \$1.61 per kg to \$1.75 per kg.

- b) Interim deemed value rate to increase from \$0.81 per kg to \$0.87 per kg.
- c) Differential deemed value rates adjusted to reflect the proposed new annual deemed value rate, outlined in the table below.

Table 11: Proposed differential deemed value rates for SCH1

Current differential rates		Proposed differential rates	
Catch in excess of ACE holdings (%)	Current deemed value rate (\$)	Catch in excess of ACE holdings (%)	Proposed deemed value rate (\$)
120	1.932 per kg	120	2.10 per kg
140	2.254 per kg	140	2.45 per kg
160	2.576 per kg	160	2.80 per kg
180	2.898 per kg	180	3.15 per kg
200	3.220 per kg	200	3.50 per kg

**Gemfish: SKI2**

- 187 SKI2 is both a target fishery and a bycatch of the TAR2 trawl fishery. Although not overfished in 2005-06, SKI2 has been overfished in four of the last five fishing seasons. Overcatch has ranged from 8% to 30%. As of the end of July 2007 the TACC has been overfished by 131%.
- 188 The current average ACE trading price is \$0.61 per kg which is well below the current annual deemed value rate of \$1.50 per kg.
- 189 In the IPP MFish proposed increasing the annual rate from \$1.50 per kg to \$3.00 per kg to reflect the 2006-07 port price of \$3.14 per kg. However, the current port price has fallen by 51% to \$1.54 per kg. While the current annual deemed value rate of \$1.50 per kg is now more closely aligned to the current port price it is still considerably lower than the average export price – in 2006 the average export price for gemfish was \$5.69 per kg. This suggests that some fishers still have an incentive to not acquire ACE to balance catch because they can pay the deemed value and still achieve a profit.
- 190 A range of views were received through the consultation process on this issue. Both AFL and SeaFIC support increasing the annual deemed value rate to \$1.75 per kg but until the current SKI2 stock assessment is complete they cannot support a more aggressive change to the deemed value rate. SeaFIC also considers that \$1.90 per kg is a more reliable market price for SKI2 than the current port price.
- 191 Area 2 Inshore considers the annual rate should remain unchanged for the current season but that the proposed increased differential deemed value rates should apply to all catch that is 120% of a fisher’s ACE holdings.
- 192 MFish considers an increase to the annual deemed value rate is appropriate at this time to reflect the high export value associated with this species but accepts stakeholders view that this increase should not be at the level proposed in the IPP. Therefore MFish recommends the annual deemed value rate is increased to \$1.75 per kg.
- 193 MFish recommends you approve the following deemed value rates for SKI2 for the 2007-08 season:
- a) Annual deemed value rate to increase from \$1.50 per kg to \$1.75 per kg
  - b) Interim deemed value rate to increase from \$0.75 per kg to \$0.88 per kg.

c) Differential deemed value rates increased as detailed in the table below.

Table 12: Proposed differential deemed value rates for SK12

Current differential rates		Proposed differential rates	
Catch in excess of ACE holdings (%)	Current deemed value rate (\$)	Catch in excess of ACE holdings (%)	Proposed deemed value rate (\$)
120	1.80 per kg	120	3.60 per kg
140	2.10 per kg	140	4.20 per kg
160	2.40 per kg	160	4.80 per kg
180	2.70 per kg	180 and over	5.40 per kg
200	3.00 per kg		

### Snapper: SNA2, SNA7 & SNA8

- 194 Snapper is the most highly valued inshore species by both commercial and non-commercial fishers.
- 195 SNA2 and SNA8 have been consistently overfished in recent seasons and at the end of the 2005-06 season deemed value invoices to the value of \$238,268 (SNA2) and \$617,540 (SNA8) were issued. This suggests that it is not small overruns of bycatch that are being deemed but that fishers are choosing to target snapper without ACE.
- 196 In both fisheries, a handful of companies are responsible for the majority of deemed values invoiced and this behaviour suggests that fishers are still able to fish in excess of ACE, pay the deemed value and realise a profit.
- 197 Given the relative success of the high annual deemed value rate in SNA1 (currently set at \$13.00 per kg) in constraining reported catch to available ACE, MFish considers that a deemed value adjustment is appropriate in both SNA2 and SNA8. In the IPP MFish proposed increasing the annual deemed value rate for both stocks to \$8.00 per kg and applying differential deemed value to all catch that is 11% of a fisher's ACE holdings.
- 198 The deemed value rates for SNA7 were also reviewed and in the IPP MFish proposed they should be adjusted in line with SNA2 and SNA8. This is to ensure there is no incentive for fishers to misreport either SNA2 or SNA8 fish as SNA7 in an attempt to exploit lower deemed value rates in a neighbouring stock.
- 199 A range of views were received from stakeholders on the proposed deemed value rates for snapper. Sanford and Non-Commercial Fishers support the proposed deemed value increases. SeaFIC and AFL recognise that the deemed value rates should increase but not to the level proposed in the IPP and that setting the annual deemed value rates so they reflect the current port price of \$4.98 per kg is more appropriate.
- 200 Following discussions with MFish, Area 2 Inshore submits that SNA2 is a bycatch in the TAR2 and GUR2 fisheries and is not a large target fishery like SNA1 and SNA8. It also submits that SNA2 is currently in a rebuild phase and that increased abundance has led to increased landings. Area 2 Inshore is concerned that increasing the deemed value to the level proposed in the IPP will potentially lead to dumping of fish and will undermine catch reporting and future stock sustainability. Area 2 supports the proposed differential deemed value rates noting that these would discourage deliberate over fishing of the SNA2 stock.
- 201 MFish confirms that SNA2 differs from SNA1 and SNA 8 in that it is primarily a bycatch

fishery (over 80% bycatch in 2005-06) and that the fishery is probably rebuilding. For this reason MFish recommends increasing the SNA2 deemed value to \$5.00 only, to reflect the current port price.

- 202 MFish considers the deemed value rates proposed in the IPP remain valid for your consideration with the additional option for SNA2 as described above. MFish also reminds you that there was considerable media interest in the issue of deemed values in the snapper fishery in June 2007 and there is an expectation that you will approve considerable increases to the deemed value rates for SNA2, SNA7, and SNA8.
- 203 MFish recommends you approve the following deemed value rates for SNA2, SNA7 and SNA8 for the 2007-08 season:
- a) Annual deemed value rates to increase
    - (i) Increase the annual deemed value rate for SNA2 from \$3.00 per kg to \$5.00 per kg
    - (ii) Increase the annual deemed value rate for SNA7 from \$2.01 per kg to \$8.00 per kg
    - (iii) Increase the annual deemed value rate for SNA8 from \$4.25 per kg to \$8.00 per kg
  - b) Interim deemed value rates to increase as follows
    - (i) Increase the interim deemed value rate for SNA2 from \$1.50 per kg to \$4.00 per kg, irrespective of which annual deemed value rate you choose.
    - (ii) Increase the annual deemed value rate for SNA7 from \$1.01 per kg to \$4.00 per kg
    - (iii) Increase the annual deemed value rate for SNA8 from \$1.30 per kg to \$4.00 per kg
  - c) Differential deemed value rates adjusted as outlined in the table below – note that these differential deemed value rates will apply to SNA2 irrespective of where you choose to set the annual deemed value rate for the coming season.

**Table 13: Proposed differential deemed value rates for SNA2, SNA7 & SNA8**

Catch in excess of ACE holdings (%)	Current differential rates			Proposed differential rates	
	Current deemed value rate SNA2 (\$)	Current deemed value rate SNA7 (\$)	Current deemed value rate SNA8 (\$)	Catch in excess of ACE holdings (%)	Proposed deemed value rate (\$)
120	3.60 per kg	2.412 per kg	5.10 per kg	110	9.00 per kg
				120	10.00 per kg
140	4.20 per kg	2.814 per kg	5.95 per kg	130	11.00 per kg
				140	12.00 per kg
160	4.80 per kg	3.216 per kg	6.80 per kg	150	13.00 per kg
				160	14.00 per kg
180	5.40 per kg	3.618 per kg	7.65 per kg	170	15.00 per kg
				180 and over	16.00 per kg
200	6.00 per kg	4.020 per kg	8.50 per kg		

### **Spiny dog fish: SPD1, SPD3, SPD4, SPD5, SPD7 & SPD8**

- 204 Spiny dogfish (SPD) was brought into the QMS in 2004 with an annual deemed value of \$0.05 per kg. This low deemed value reflected the difficulty in establishing the value of ACE, or the true port price in a fishery where a substantial proportion of the catch is discarded.<sup>8</sup> Instead the deemed value was based on the cost recovery and transaction charges associated with acquiring spiny dogfish ACE. It was made clear that this was to be treated as an initial decision, to be reviewed in the future.
- 205 Cost recovery charges have increased since then, as have port prices for the landed proportion of the catch. Quota holders note that the value of the ACE (which is driven by the low deemed value) is now similar to the cost recovery charges and hence there is no value in holding spiny dogfish quota.
- 206 At a minimum they request the deemed value be based on the value of fins, submitting that even where spiny dogfish is discarded fins can be utilised. They submit the value of spiny dogfish fins is \$9 per kg or \$0.30 per kg greenweight fish.<sup>9</sup> MFish has little reliable information on the value of spiny dogfish fins, but notes that their small size and low needle content means they are lower in value than pelagic sharks.<sup>10</sup> Other anecdotal information suggests prices may be as low as \$3 per kg (\$0.10 per kg greenweight).
- 207 In the IPP MFish proposed increasing the annual deemed value rate for all SPD stocks (with the exception of SPD10) to \$0.20 per kg and the interim rate to \$0.10 per kg.
- 208 A wide range of views was received from stakeholders on this issue. Some stakeholders believe the proposed increase to the annual deemed value rate is too low and does not reflect the true market price for SPD which they consider is between \$0.82 and \$1.00 per kg. These same stakeholders support increasing the annual rate to a level between \$0.30 per kg and \$0.40 per kg. SeaFIC and AFL support the deemed value rates proposed in the IPP but also consider differential rates should be applied to these stocks.
- 209 In contrast, Challenger does not support any increase to the deemed value rates for SPD until the market potential of SPD is better understood.
- 210 The current port price (2007-08) for SPD is in the range of \$0.50 to \$0.52. MFish considers it appropriate to increase both the annual and interim rates at this time to reflect this increase and to take into account that the market price for SPD is higher than MFish initially thought. MFish does not consider differential deemed values should be applied to these stocks at this time as large catches of spiny dogfish are unavoidable in some fisheries and there is no evidence of deliberate overfishing or breaching of the TACC. MFish will continue to monitor SPD as part of the annual deemed value review process.
- 211 MFish notes that these proposed changes, to reflect the revised market price information, were not consulted on with stakeholders explicitly. However, MFish does not consider the deemed value rates proposed in this advice paper are so materially different that further consultation is necessary.

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<sup>8</sup> Unwanted spiny dogfish can be discarded within the QMS, but all discarded catch is subject to ACE or deemed values. This is the only fishery with such a regime.

<sup>9</sup> Using a conversion factor for fins of 30:1

<sup>10</sup> Review of Shark Finning in Australian Waters. Report to Fisheries Resources Research Fund by Bureau of Rural Sciences. 2001

- 212 MFish recommends you approve the following deemed value rates for all major SPD stocks for the 2007-08 season:
- a) Annual deemed value rate to increase from \$0.05 per kg to \$0.30 per kg.
  - b) Interim deemed value rate to increase from \$0.03 per kg to \$0.15 per kg.
  - c) Differential deemed value rates do not apply in these fisheries.

**Rig: SPO2**

- 213 Rig (SPO) is caught as bycatch in most inshore trawl fisheries. SPO2 has been included in this review because:
- a) It has been consistently over caught in the last ten fishing seasons (126% of available ACE in the current fishing season).
  - b) Deemed value invoices of \$59,362 were issued at the end of the 2005-06 fishing season.
- 214 The current average ACE trading price is \$1.14 per kg which is half the current annual deemed value rate of \$2.25 per kg.
- 215 An analysis of the deemed value invoices from last season indicates that two companies were responsible for 79% of the total deemed value bill. This suggests the operating costs of these companies are sufficiently low as to enable them to pay deemed values and still realise a profit. There are currently no differential deemed values in this fishery and this may be encouraging fishers to target SPO2 without sourcing the necessary ACE.
- 216 In the IPP MFish proposed increasing the annual deemed value rate to \$3.00 to reflect the port price of \$3.19 per kg. However, this increase was based on the 2006-07 port price and the current port price has decreased to \$2.82 per kg. MFish also proposed applying differential deemed value rates at all catch 10% in excess of available ACE with a starting rate of \$6.00 per kg.
- 217 Area 2 Inshore, SeaFIC and AFL support increasing the annual rate but do not consider it should be as high as \$3.00 per kg. They propose that it should be in the range of \$2.70 - \$2.80 per kg. MFish supports this proposal and given the current port price considers that an annual rate of \$2.70 per kg is appropriate at this time.
- 218 Area 2 Inshore also requests that ramping starts at 120% rather than 110% which was proposed in the IPP. However, given the level of overfishing of SPO2 in recent years MFish considers differential deemed values should apply to catch levels of 110% of a fisher's ACE holding. MFish does accept that a lower initial differential rate of \$4.50 should apply.
- 219 MFish recommends you approve the following deemed value rates for SPO2 for the 2007-08 season:
- a) Annual deemed value rate to increase from \$2.25 per kg to \$2.70 per kg
  - b) Interim deemed value rate to increase from \$1.13 per kg to \$1.35 per kg, which is 50% of the new annual deemed value rate.
  - c) Apply the following differential deemed value rates.

- (i) A rate of \$6.00 per kg applies to all catch that is 110% or greater but less than 125% of a fisher's ACE holdings.
- (ii) A rate of \$8.00 per kg applies to all catch that is 125% or greater but less than 150% of a fisher's ACE holdings.
- (iii) A rate of \$11.00 per kg applies to all catch that is greater than 150% of a fisher's ACE holdings.

**Silver warehou: SWA1, SWA3 & SWA4**

- 220 Silver warehou is traditionally caught as a bycatch in the hoki, squid, barracouta and jack mackerel trawl fisheries but in recent years it has also become a target species in its own right. Both SWA3 and SWA4 have been continuously over caught in recent fishing seasons. In the 2005-06 fishing season SWA3 was over caught by 137% of available ACE and SWA4 by 134% of available ACE. The combined deemed value bill for these two stocks in 2005-06 was \$2.86m and a handful of companies is responsible for most of this amount. As of 31 July this year both stocks have been over caught; SWA3 catch was 171% of the TACC and SWA4 catch was by 140% of the TACC.
- 221 The current annual deemed value rate for SWA3 is \$0.97 per kg and for SWA4 is \$0.98 per kg. This is above the current port prices of \$0.77 per kg for SWA3 and \$0.80 per kg for SWA4. The annual deemed value rate is also above the average ACE trading price which is \$0.72 for SWA3 and \$0.71 for SWA4. The average export price for silver warehou in 2006 was \$3.24 per kg which is well in excess of the deemed value rate and this may be encouraging fishers to fish beyond their ACE holdings. It is also likely that the true value of SWA when caught as a bycatch is greater than its market value because of its ability to constrain the target catch.
- 222 MFish also considers that the critical factor in this fishery is the absence of differential deemed values. In the IPP MFish proposed a small increase to the annual deemed value rates for SWA1 and SWA3 in line with SWA4 and the introduction of differential deemed value rates for SWA3 and SWA4.
- 223 Some stakeholders do not support the proposed deemed value increases for SWA3 and SWA4 on the grounds that a TACC review is more appropriate at this time. MFish does note that both SWA3 and SWA4 are undergoing a stock status review as part of the current work programme of the middle-depths fisheries assessment working group. The outcome of this research will be used to determine if a TAC review is warranted in the 2008-09 fishing season.
- 224 DWG also believes a TAC review is necessary for these stocks but does recognise that deemed value rates need to be increased in the short term. Following discussions with MFish, DWG suggests setting an interim rate of \$0.50 per kg and an annual rate of \$1.22 per kg for both SWA3 and SWA4. Differential deemed values should also be applied but at one rate of \$1.74 per kg which will apply to all catch 20% in excess of a fisher's ACE holdings. MFish supports this proposal for the coming season but will continue to closely monitor catch levels in both fisheries throughout the 2007-08 fishing year.
- 225 DWG does not consider deemed value rates should be increased for SWA1 at this time. MFish considers it appropriate to set consistent deemed value rates for stocks that are routinely fished as part of the same fishing trip so as to avoid any incentive for fishers to misreport catch by taking advantage of a lower deemed value rate in a neighboring stock. MFish does note that these deemed value rates only apply if a fisher fishes in excess of their

ACE holdings, and based on recent catch levels in SWA1 this is unlikely to be a significant factor in this fishery.

- 226 MFish recommends you approve the following deemed value rates for SWA1, SWA3 and SWA4 for the 2007-08 season:
- a) Annual deemed value rates as follows:
    - (i) SWA1: to increase from \$0.87 per kg to \$1.22 per kg.
    - (ii) SWA3: to increase from \$0.97 per kg to \$1.22 per kg.
    - (iii) SWA4: to increase from \$0.98 per kg to \$1.22 per kg
  - b) Interim deemed value rates as follows
    - (i) SWA1: to increase from \$0.44 per kg to \$0.50 per kg.
    - (ii) SWA3: to increase from \$0.49 per kg to \$0.50 per kg.
    - (iii) SWA4: to increase from \$0.49 per kg to \$0.50 per kg
  - c) One differential rate of \$1.74 per kg to be applied to all catch that is 120% or greater of a fisher's ACE holdings.

### **Swordfish: SWO1**

- 227 Traditionally swordfish has been a bycatch in the bigeye and southern bluefin tuna fisheries. However, since the species entered the QMS in 2004 there has been considerable effort by some industry members to successfully develop a target fishery. SWO1 is included in this review because the stock recently entered the QMS and the original deemed value rates were set with limited information.
- 228 MFish and stakeholders are concerned that the recent changes in the fishery outlined above are impacting on the efficient operation of the ACE market. Many stakeholders have complained that they have difficulty in sourcing the necessary ACE to balance their SWO1 bycatch. The key issue in the SWO1 fishery is that, given the size of a typical swordfish, differential deemed value rates (at 200% of annual rate) can apply to individual fish if the fisher is unable to source ACE. This means that fishers are facing high deemed value bills and are simultaneously having difficulty sourcing the necessary ACE for small amounts of catch. MFish considers the current difficulties with the ACE market are likely to be temporary as it adjusts to accommodate both the target and bycatch swordfish fisheries.
- 229 MFish considers there may be benefit in amending the deemed value rates, in the short term, to see if this can assist the ACE market to operate more efficiently. In the IPP MFish proposed removing differential deemed value rates in the short term and retaining the existing annual and interim deemed value rates. MFish believes this will provide fishers, who are legitimately trying to source ACE, some relief from high differential deemed value rates without undermining the rights of quota holders. This proposed adjustment should stimulate the ACE market and result in more trading of SWO1 ACE. This should also limit the incentives for bycatch fishers to misreport swordfish.
- 230 MFish considers this proposal is an interim measure and assures you that the SWO1 fishery will be reviewed annually to ensure fishers are not choosing to exploit the absence of

differential deemed value rates by choosing to fish without sourcing the necessary ACE.

- 231 Submissions on the proposed deemed value rates for SWO were received from AFL, SeaFIC and Non-Commercial fishers. These stakeholders support the proposed deemed value adjustments.
- 232 MFish recommends you approve the following deemed value rates for SWO1 for the 2007-08 season:
- a) Retain the existing annual deemed value rate of \$4.25 per kg.
  - b) Retain the existing interim deemed value rate of \$2.13 per kg.
  - c) Remove differential deemed value rates.

**Tarakihi: TAR1, TAR2, TAR7 & TAR8**

- 233 Tarakihi is predominantly a target fishery but can also be caught as a bycatch in the other inshore fisheries such as snapper, gurnard and flatfish. TAR1 is being considered for a TACC increase as part of the current sustainability round and the deemed value rates are being reviewed to ensure the TACC, irrespective of whether you approve an increase, is adequately protected by deemed values. MFish recommends you increase the deemed value rates for TAR1 irrespective of your decision on where to set the TAC for the coming season.
- 234 TAR1 has been fished in excess of ACE in all but one of the last ten fishing years – the exception being the 1999/2000 fishing season. In the last fishing season deemed value invoices to a value of \$80,287 were issued. One company is responsible for over half of this amount but this is the same company responsible for the majority of the SNA1 deemed value bill and it has now gone into liquidation.
- 235 The current annual deemed value rate of \$2.09 per kg is set above the port price (\$1.84 per kg) but MFish considers the high average export return of \$5.61 per kg suggests there is still a relatively high profit margin available to those fishers who choose to deliberately over fish using deemed values.
- 236 TAR2, TAR7 & TAR8 were also included in the deemed value review:
- a) To ensure the deemed value rates adequately protect the TACCs of these stocks should the proposed changes to the deemed value rates for the key snapper stocks shift fishing effort from snapper to tarakihi – although this is not a concern in the TAR2 fishery as TAR2 is the target while snapper is the bycatch.
  - b) To ensure there are no incentives for fishers to misreport catch between areas because of lower deemed value rates in a neighbouring stock.
- 237 In the IPP MFish proposed increasing the annual rate to \$3.00 per kg for all four TAR stocks and applying differential deemed value rates to all catch that is 110% of a fisher's ACE holdings.
- 238 A wide range of views were received from stakeholders on this issue. Northern Inshore and Non-Commercial fishers support the deemed value increase outright while both AFL, Area 2 Inshore and SeaFIC consider an increase is warranted but not at the level proposed in the

IPP. Area 2 Inshore considers the TAR2 annual deemed value rate should be set at \$2.00 per kg while SeaFIC supports an annual rate of \$2.50 per kg across the four tarakihi stocks.

- 239 Area 2 Inshore supports the differential deemed value rates that were proposed in the IPP. Although MFish now considers that the ramped deemed value rates should be lowered so that they better reflect the export price for tarakihi.
- 240 Challenger does not support increasing the deemed value rates for TAR7 and TAR8 because it does not consider that overcatch is a significant problem in these fisheries and that its fishers should not be penalised for fisher behaviour in TAR1. MFish notes that as of the 31 July 2007 the TAR8 TACC has been overfished and catch from TAR7 is at 92% of the TACC.
- 241 MFish notes that the 2007-08 port price is within the range \$1.41 per kg - \$1.84 per kg, and therefore the proposed rate of \$3.00 may be unnecessarily high for all TAR stocks. However given that TAR1 has been continuously overfished MFish considers the original proposal of an annual deemed value rate of \$3.00 is still applicable to TAR1.
- 242 Given the catch rates in TAR7 and TAR8 in the current season MFish also believes it is appropriate that the deemed value rates are also increased in these fisheries. Therefore, MFish considers an increase to the annual deemed value rate for TAR2, TAR7 and TAR8 to \$2.50 per kg is appropriate at this time.
- 243 MFish recommends you approve the following deemed value rates for TAR1, TAR2, TAR7 and TAR8 for the 2007-08 season:
- a) Annual deemed value rates to increase:
    - (i) TAR1: from \$2.09 per kg to \$3.00 per kg.
    - (ii) TAR2: from \$1.58 per kg to \$2.50 per kg.
    - (iii) TAR7: from \$0.83 per kg to \$2.50 per kg.
    - (iv) TAR8: from \$1.43 per kg to \$2.50 per kg.
  - b) Interim deemed value rates to increase to 50% of the proposed new annual deemed value rate:
    - (i) TAR1: from \$1.05 per kg to \$1.50 per kg.
    - (ii) TAR2: from \$0.79 per kg to \$1.25 per kg.
    - (iii) TAR7: from \$0.42 per kg to \$1.25 per kg.
    - (iv) TAR8: from \$0.72 per kg to \$1.25 per kg.
  - c) Differential deemed value rates:
    - (i) Apply a rate of \$4.00 per kg for all catch that is 110% or greater but less than 120% of a fisher's ACE holdings.
    - (ii) Apply a rate of \$5.50 per kg for all catch that is greater than 120% of a fisher's ACE holdings.

## **Trevally: TRE2**

- 244 Trevally is caught as bycatch in the mixed inshore trawl fishery but is also a target stock in its own right. TRE2 is included in the review because:
- a) It has been consistently overfished in recent seasons (167% of available ACE in the 2005-06 fishing season).
  - b) Deemed value invoices of \$161,721 were issued at the end of the 2005-06 fishing season.
- 245 The current average ACE trading price is \$0.40 per kg which is well below the current annual deemed value rate of \$0.92 per kg.
- 246 MFish considers the critical factor contributing to overcatch in this fishery is the absence of differential deemed values. This means fishers continue to pay \$0.92 per kg irrespective of whether they catch 10% or 100% in excess of their ACE holdings. Given that the 2007-08 port price for TRE2 is \$1.50 and the average export price for trevally is \$1.93 per kg, fishers have an incentive to catch in excess of ACE holdings and pay deemed values since there is still a reasonable profit margin available.
- 247 In the IPP MFish proposed retaining the current interim and annual deemed value rates but applying differential deemed value rates at catch levels of 105% of ACE holdings.
- 248 TRE1 was also included in the deemed value review to assess the likely risk that fishers might misreport TRE2 as TRE1 if different deemed value rates were set across the two stocks. Since differential deemed value rates already apply in TRE1 and given this stock has a higher annual deemed value rate than TRE2, MFish does not consider it necessary to adjust the deemed value rates for this stock at this time.
- 249 A range of views were received from stakeholders on the proposed deemed value rates for TRE2. SeaFIC submits that the TRE2 TACC should be reviewed as a matter of priority. Area 2 Inshore and AFL support increasing the annual deemed value rate so that it is set closer to the current port price but consider differential deemed value rates should only apply to catch levels at 110% of a fisher's ACE holdings. Non-Commercial Fishers submit that the annual deemed value rate should increase to \$1.24 per kg.
- 250 MFish supports the view that the annual rate should increase to reflect the current port price and considers an annual deemed value rate of \$1.10 per kg is appropriate at this time. However, MFish considers the differential rates proposed in the IPP should be amended so they apply to catch levels 110% of ACE holdings rather than 105%. MFish also considers two levels of ramped deemed value rates should apply; \$2.00 per kg at catch levels of 110% of ACE holdings and \$3.00 at catch levels greater than 120% of ACE holdings.
- 251 MFish notes that these proposed increases, to reflect the change in port price, were not consulted on with stakeholders explicitly. MFish considers the proposed annual rate of \$1.10 per kg best reflects the information we now have available, and the changed deemed value rate is not so materially different that further consultation is necessary.
- 252 MFish recommends you approve the following deemed value rates for TRE2 for the 2007-08 season:
- a) Annual deemed value rate to increase from \$0.92 per kg to \$1.10 per kg

- b) Interim deemed value rate to increase from \$0.46 per kg to \$0.55 per kg
- c) Differential deemed value rates:
  - (i) Apply a rate of \$2.00 per kg for all catch that is 110% or greater but less than 120% of a fisher's ACE holdings.
  - (ii) Apply a rate of \$3.00 per kg for all catch that is greater than 120% of a fisher's ACE holdings.

**Blue warehou: WAR3 & WAR7**

- 253 Blue (or common) warehou is caught as bycatch in the major deepwater trawl fisheries. WAR3 is included in the review because:
- a) It has been consistently over caught in recent fishing seasons (129% of available ACE in the 2005-06 fishing season).
  - b) Deemed value invoices of \$451,961 were issued at the end of the 2005-06 fishing season.
  - c) A direct request for a deemed value review was received from quota owners.
- 254 Both industry and MFish are concerned that the unusually low annual deemed value rate for WAR3 of \$0.25 per kg, in comparison to the other WAR stocks, is providing an incentive for fishers to deliberately fish in excess of available ACE. Annual rates for the other blue warehou stocks range from \$0.75 per kg to \$1.09 per kg.
- 255 One company was responsible for 87% of the total deemed value bill suggesting that, in addition to amending the annual deemed value rate, the differential deemed value rates should also be adjusted.
- 256 In the IPP MFish proposed increasing the annual rate to \$0.90 per kg and applying higher differential deemed value rates at catch levels 110% of a fisher's available ACE.
- 257 WAR7 is also being reviewed to ensure there are no incentives for fishers to misreport fish taken from WAR3 as WAR7 because they can take advantage of a lower deemed value rate in a neighbouring stock. The annual deemed value rate in WAR7 is the same as the proposed rate for WAR3 so no further adjustment to the annual deemed value rate is required at this time. However, MFish considers it appropriate to set the differential deemed value rates for WAR7 in line with the proposed changes to WAR3.
- 258 A range of views was received from stakeholders on this proposal. Challenger does not support increasing the deemed value rates for WAR7 since there is no significant overcatch in the fishery.
- 259 AFL, SeaFIC and South East Finfish support increasing the deemed value rates for both WAR3 and WAR7. However, AFL and SeaFIC do not support increasing the differential deemed value rates to the level proposed in the IPP.
- 260 In the IPP MFish proposed three differential deemed value rates which would apply to catch levels of 110%, 120% and greater than 150% of available ACE. However, following a review of stakeholder submissions, MFish now considers the differential deemed value rates should apply to all catch 110% of a fisher's ACE holdings but that only one differential rate

of \$2.00 per kg is warranted.

- 261 MFish recommends you approve the following deemed value rates for WAR3 and WAR7 for the 2007-08 season:
- a) Annual deemed value rates:
    - (i) WAR3: to increase from \$0.25 per kg to \$0.90 per kg.
    - (ii) WAR7: to remain unchanged at \$0.90 per kg.
  - b) Interim deemed value rates:
    - (i) WAR3: to increase from \$0.13 per kg to \$0.45 per kg, which is 50% of the proposed new annual deemed value rate.
    - (ii) WAR7: to remain unchanged at \$0.45 per kg.
  - c) Apply a differential deemed value rate of \$2.00 per kg to all catch that is 110% or greater of a fisher's ACE holdings.

### **White warehou:**

#### **WWA3, WWA4 & WWA7**

- 262 White warehou was included in the deemed value review but following consideration at the deemed value review group meeting, MFish did not consider an adjustment was warranted at this time. However this approach was not supported by some stakeholders and MFish has reconsidered the information and now recommends an adjustment to the deemed value rates for WWA3, WWA4 and WWA7 for the 2007-08 fishing season.
- 263 White warehou is caught as a bycatch in the hoki and silver warehou target trawl fisheries. During the 2005-06 fishing season, WWA3 was over caught by 136% of ACE, WWA4 was over caught by 139% of ACE and WWA7 was over caught by 221% of ACE. However, both the TACC and the annual deemed value rates were increased for each of these stocks as part of the management measures for low knowledge stocks in the October 2006 sustainability round. These new deemed value rates were only applied at the start of the 2006-07 fishing season and therefore it is too early to fully assess their effectiveness in constraining catch to the TACC.
- 264 However, MFish is aware that as of 31 July 2007, WWA3 has been fished in excess of available ACE (8%) although catch rates from both WWA4 and WWA7 remain below the TACC limit.
- 265 In the IPP MFish considered that the recent TACC and deemed value rate increase should constrain over fishing in the short to medium term. A full assessment of the success of the recently amended annual deemed value rates was considered appropriate before further adjustments were made. For this reason MFish did not consider a deemed value adjustment was required at this time.
- 266 However, AFL and SeaFIC consider differential deemed value rates should be set for these stocks because there is still a risk that the TACCs will be breached. MFish supports this view, particularly since the WWA3 TACC has already been breached and WWA4 catch levels are at 85% of available ACE. MFish considers applying a differential deemed value

rate of \$2.00 per kg to all catch that is 110% of a fisher's ACE holdings is appropriate for the coming season.

- 267 Challenger considers the WWA7 TACC should be reviewed before any amendments are made to the deemed value rates for this stock. It is not clear from this submission if Challenger is referring to the TACC that was in place before the start of the 2006-07 fishing season. MFish notes that the WWA7 TACC was increased from 60 tonnes to 127 tonnes at the start of the current season.
- 268 MFish notes that these proposed increases, to reflect stakeholder views and the current information on catch levels in the WWA3 fishery, were not consulted on with stakeholders explicitly. MFish considers the proposal to apply differential deemed value rates to these stocks best reflects the information we now have available, and the changes proposed are not so materially different that further consultation is necessary.

### **WWA5B**

- 269 In May 2007 you agreed to amalgamate quota management areas 5 & 6 for white warehou to create WWA5B.
- 270 In order to give final effect to the amalgamation, it is necessary to set deemed values for the new WWA5B QMA. MFish consulted on the proposal to amalgamate the two QMAs in 2005 and again in 2007. None of the submissions in 2005 or 2007 made any specific comment in regard to the proposed annual and interim deemed values, differential deemed values or over-fishing thresholds.
- 271 The current interim and annual deemed values for both WWA5 and WWA6 are \$0.27 and \$0.54 respectively. MFish considers these deemed value rates are also appropriate for WWA5B for the following reasons:
- a) The combined area of WWA5 and WWA6 and average port prices will be the same;
  - b) MFish has no current information to suggest that the port price in WWA5 and WWA6 has changed significantly;
  - c) The TACCs for WWA5 and WWA6 have been under-caught, sometimes significantly, for every year since the species' introduction into the QMS in 1998-99;
  - d) MFish has no sustainability concerns for WWA5B. White warehou is predominantly a bycatch of the target trawl hoki fishery and, as such, catch volumes are influenced by fishing patterns for target species.
- 272 MFish will monitor catch against the TACC during the first year of amalgamation (ie, 2007-08) in order to ascertain whether the proposed deemed value settings are effective in restraining catch to within the TACC.
- 273 MFish recommends you approve the following deemed value rates for WWA3, WWA4, and WWA7 for the 2007-08 season:
- a) Retain existing annual deemed values rate of \$1.03 per kg
  - b) Retain existing interim deemed value rate of \$0.52 per kg

- c) Apply a differential deemed value rate of \$2.00 per kg to all catch that is 110% or greater of a fisher's ACE holdings.

274 MFish recommends you approve the following deemed value rates for WWA5B for the 2007-08 season:

- a) Set the annual deemed value for WWA5B at \$0.54 per kg
- b) Set the interim deemed value for WWA5B at \$0.27 per kg;
- c) Do not set differential deemed values or over-fishing thresholds for WWA5B.

### **Stocks reviewed but no deemed value adjustment proposed**

275 The remaining stocks listed in Tables 1 and 2 were also reviewed but following their assessment at the deemed value review group meeting, MFish does not consider an adjustment is warranted at this time. Further information on why MFish considers the deemed value rates for these stocks should remain unchanged for the coming season is described below.

#### ***Longfin & shortfin eels: LFE & SFE***

276 Longfin (LFE) and shortfin (SFE) eels were included in the review process as these fishstocks are being considered for a TAC review as part of the October sustainability round.

277 The deemed value standard specifies deemed values should be set at 200% of port price for high value stocks – eels are classed as a high value stocks for the purpose of the deemed value standard. The current port price is \$3.88 per kg for long fin eels and \$3.87 per kg for short fin eels and the current annual deemed value rate of \$8.00 is set at 200% of the port price. Therefore the review group did not consider any further adjustments to the deemed value rates is necessary at this time.

278 MFish recommends that you retain the existing deemed value rates for longfin and shortfin eels for the coming season.

#### ***Oyster: OYS7C***

279 OYS7C was included in the review process as this fish stock is being considered for a TAC review as part of the October sustainability round.

280 The deemed value standard specifies deemed values should be set at 200% of port price for high value stocks – oysters are classed as a high value stocks for the purpose of the deemed value standard. The current port price for OYS7C is \$4.00 per kg and the current annual rate of \$8.00 is set at 200% of the port price. Therefore the review group did not consider any further adjustments to the deemed value rate of this stock are necessary at this time.

281 MFish recommends that you retain the existing deemed value rates for OYS7C for the coming season.

#### ***Oreo: OEO1***

282 OEO1 was included in the review list because it is subject to a TAC review as part of the

October 2007 sustainability round.

- 283 The current annual deemed value rate is set close to port price and there has been no catch in excess of the available ACE in recent seasons. MFish considers that given the TACC is not constraining the fishery the current deemed value rates remain valid for the coming season. Therefore MFish does not propose an adjustment at this time.
- 284 MFish recommends that you retain the existing deemed value rates for OEO1 for the coming season.

**Snapper: SNA1**

- 285 SNA1 was included on the review list because of the quantity of SNA1 deemed at the end of the 2005-06 fishing season – invoices amounting to \$326,825 were issued.
- 286 However, one company was responsible for 99.6% of this amount and this company has since gone into liquidation. This would suggest the annual rate of \$13.00 per kg is delivering the required behaviour from fishers and is permitting small overruns of ACE holdings rather than excessive deeming. Therefore the review group did not consider any further adjustments to the deemed value rates for this stock are necessary at this time.
- 287 MFish recommends that you retain the existing deemed value rates for SNA1 for the coming season.

**Arrow Squid: SQU1T**

- 288 SQU1T was included in the review list because it is being considered for a TAC increase as part of the October 2007 sustainability round.
- 289 SQU1T is managed under section 14 of the Act which means that fishers can seek an in-season TAC increase in seasons of high abundance. The biological nature of squid means that they live for one year, spawn once and then die. This means that if an abundant squid stock is not present in any one season, fishers will shift their effort into other deepwater fisheries rather than continue trying to catch the TAC. If, during seasons of strong squid abundance, stakeholders are successful in securing an in-season TAC increase there is little likelihood, based on past performance, that catch will be in excess of available ACE.
- 290 In the IPP MFish proposed a permanent increase to the TAC to enable fishers to harvest squid during abundant seasons without breaching the TACC. However, stakeholder submissions were universal in their support for retaining the existing TAC and TACC for the coming season. Since the option is still available to SQU1T quota owners to request an in-season increase to the TAC, MFish considers the likelihood that the TACC will be breached and that excessive deeming will occur is low. MFish will continue to monitor SQU1T catches against available ACE for the coming season but considers it appropriate to leave the deemed value rates unchanged for the current season.
- 291 MFish recommends that you retain the existing deemed value rates for SQU1T for the coming season.

## Other issues raised

### *Incorrectly set TACs*

- 292 A common concern raised in submissions is the view that there are a large number of TACs which stakeholders consider are set incorrectly (i.e. too low) largely because they have not been reviewed in recent years. SeaFIC and DWG in particular address this issue in their submissions and submit that it is inappropriate for deemed values to be used to defend an incorrectly set TAC. There is an assumption that when a TACC is not regularly reviewed or if it has been consistently overfished then the TACC must be set too low.
- 293 MFish is sympathetic to this view and does recognise there are some stocks where a TACC review is warranted and intends to address this issue by:
- a) Reviewing key target stocks on a regular basis
  - b) Establishing a rotating review process for inshore and deepwater stocks so that major deepwater and inshore bycatch stocks will be reviewed every five years. It is anticipated that TACCs for these stocks will also be reviewed as part of the development of fish plans.
- 294 However, SeaFIC acknowledges that even when a TAC review is warranted it is not a justification for deliberately overfishing the TAC. This is a view also supported by the Federation.

### *Overfishing thresholds*

- 295 A number of submissions support the use of overfishing thresholds in place of significant increases to annual or differential deemed value rates. In particular Pacific Trawling submits that deemed values are not the mechanism to control deliberate overfishing and that the appropriate tool to use is overfishing thresholds.
- 296 Overfishing thresholds specify a percentage of catch over a fisher's ACE holdings, above which an automatic permit condition prohibiting fishing in an area takes effect. This is supported by an overfishing tolerance level which is specified as a fixed quantity of catch above which the automatic permit condition takes effect. The purpose of overfishing tolerance levels is to prevent overfishing thresholds being triggered by trivial amounts of catch in excess of ACE. Overfishing thresholds are currently in place for some of the high-value shellfish species; paua, rock lobster and scallops. For these species an overfishing threshold of 5% is in place which is supported by a tolerance level of 25kg. It is important to note that these species are hand gathered or can be returned to the sea so it is unlikely that a fisher would inadvertently exceed either the threshold or the tolerance level. This is unlikely to be the case if an overfishing threshold is applied to a stock in a mixed trawl fishery.
- 297 Like differential deemed values these tools apply at the individual fisher level rather than imposing a restriction across the fishery as a whole.
- 298 Section 77A(a) of the Act explicitly states that before you decide to set an overfishing threshold you must take into account the effectiveness of deemed values in encouraging commercial fishers to acquire or maintain sufficient ACE to cover their total catch. MFish considers that until effective deemed values have been set and their ability to influence or not influence fishing behaviour has been assessed then it is inappropriate to consider overfishing thresholds. The recommended adjustments to the deemed value rates set out in

this advice paper are the first step in setting effective deemed values.

- 299 The implications of setting an overfishing threshold in a mixed trawl fishery are severe as it restricts fishers' access to the entire quota management area (QMA) for that stock. For example, if the overfishing threshold is applied to SWA3 and it is subsequently breached, then a fisher's permit is conditioned so that fishing is prohibited not just in SWA3 but also in any QMA that overlaps SWA3.
- 300 While overfishing thresholds remain a tool for your consideration, at this time MFish considers the most appropriate response is to utilise the deemed value standard to set appropriate deemed value rates for the stocks under review.

### *Deducting catch in excess of ACE from future TACCs*

- 301 Non-Commercial fishers (Big Game Council and Option 4) submit that the simplest and most effective solution to chronic deeming is to deduct each year's overcatch from the following years TACC. Non-commercial fishers are concerned that deemed fish are not properly accounted for in the stock assessment or management processes and believe this would address this issue.
- 302 MFish disagrees with this assumption and advises that information on all catch, irrespective of whether it is caught and balanced with ACE or is deemed is available to inform both management and stock assessment processes.
- 303 Neither does MFish consider the proposal to deduct deemed catch from future TACCs is appropriate. This is because there is a time lag between the start of the fishing season and the availability of full information on the amount of catch that has been deemed during the previous fishing season. This means it is not possible to adjust the TACCs in time for the start of the fishing year to take account of the previous seasons overcatch.

### **Compliance implications**

- 304 The proposed changes to the deemed value rates could provide an incentive for commercial fishers to dump or misreport their catch rather than pay the higher deemed value rates. Some submissions acknowledge that unreasonably high deemed values will simply encourage fishers to dump their catch rather than pay the cost to land it.
- 305 Dumping is an offence and will be prosecuted. MFish Compliance will continue to monitor activity on the water to ensure levels of dumping do not increase as a result of the proposed adjustment to the deemed value rates. Compliance efforts will be supported by the increased surveillance capability at sea through Project Protector and increased aerial surveillance.

### **Statutory considerations**

- 306 **Section 8** – Section 8 of the Act describes the purpose of the Act as being to provide for the utilisation of fisheries resources while ensuring sustainability. The proposed options presented will continue to provide for utilisation and will reduce the likelihood of possible TACC breaches which could undermine sustainability.
- 307 **Section 9** – Section 9 sets out the environmental principles that you are required to consider when performing functions, duties or powers under this Act. These principles have been taken into consideration and MFish is of the view that they do not impact on this proposal.

- 308 **Section 10** – The proposed amendments to the deemed value rates fulfil the requirements under s. 10 of the Act in that the deemed value rates recommended in this paper have been developed using best available information.
- 309 **Section 75** - Section 75 of the Act sets out the purpose of the catch balancing regime including when and how deemed value rates should be set. MFish considers the proposed adjustments to the deemed value rates fulfil the requirements under this section of the Act.
- 310 **Section 75 (2)(a)** – Section 75 (2)(a) requires you to take into account the need to provide an incentive for every commercial fisher to acquire or maintain sufficient ACE that is not less than the total of that stock taken by the commercial fisher. MFish considers that the proposed amendments to the guidelines satisfy your requirements under this section of the Act.
- 311 **Section 75 (2)(b)** – Section 75 (2)(b) sets out the matters you may have regard to when setting deemed value rates. These factors have formed the basis of the content of the information sheets. They have also been used to guide where appropriate deemed value rates could be set for the coming season.
- 312 **Section 75A** – MFish consulted, on your behalf, with representative persons or organisations, on the proposed deemed value changes as required under section 75A.