



S7667

13 December 2006

Minister of Fisheries

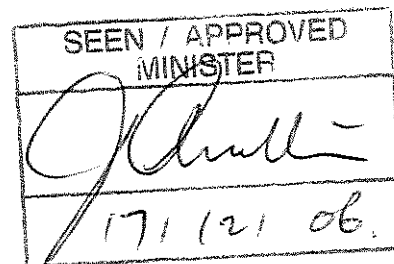
**DECISION LETTER TO STAKEHOLDERS ON REVIEW OF
SUSTAINABILITY MEASURES AND OTHER MANAGEMENT
CONTROLS FOR THE 2006-07 FISHING YEAR**

Please find attached for your consideration and signature a draft decision letter to Stakeholders for the Review of Sustainability Measures and Other Management Controls for the 2006-07 fishing year. The letter outlines your decisions and the rationale for them.

All decisions were implemented for the start of the current fishing year on 1 October 2006 except for your decision to reduce the Total Allowable Catch (TAC) for the orange roughy 1 (ORH1) fishery. Following the industry legal challenge to your decision and the interim order from the High Court preventing the reduced TAC from being implemented, you have decided not to proceed with defending the case. The reduction in TAC has therefore been revoked and the previous fishing year's TAC of 1470 tonnes and TACC of 1400 tonnes will apply.

If you approve the letter, the Ministry will arrange for it to be distributed to all stakeholders who made a submission during the consultation process undertaken earlier this year.

Tom Chatterton
for Chief Executive
Ministry of Fisheries



S7667

Dear Stakeholder

Review of Sustainability Measures and Other Management Controls for the 2006-07 Fishing Year

This letter outlines final decisions in the review of sustainability measures and other management controls for the 2006-07 fishing year.

I have made decisions regarding the management of a number of fishstocks and the deemed values that apply to the commercial sector. All changes to Total Allowable Catches (TACs) and Total Allowable Commercial Catches (TACCs) took effect on 1 October 2006.

I would like to take this opportunity to acknowledge all submissions received on this year's review. I appreciate the time taken by both groups and individuals to prepare and provide submissions on the various proposals. The information within these submissions was valuable in the consideration of each proposal.

In reaching my final management decisions for 2006-07, I carefully considered the available information from the Ministry of Fisheries (MFish), and all of the issues and information put forward in submissions on each proposal within the review.

I also had careful regard to the relevant legislative and regulatory provisions for each of the proposals considered.

A copy of MFish's Final Advice Paper (FAP) is available on MFish's website at www.fish.govt.nz.



Shelving of ACE

The issue of voluntary shelving of ACE was raised in a number of submissions from industry, particularly in regard to the PAU 5A and SPO 7 decisions. Submissions suggested that I have an obligation to take such shelving arrangements into account when making my decisions on the appropriate level at which to set a TAC for these two fisheries.

Contrary to the opinions expressed in these submissions, I consider that my obligation under s 13 of the Fisheries Act 1996 is clear – if there is a sustainability concern then I am obligated to adjust the TAC. Such a TAC reduction must be sufficient to meet the minimum requirements of stock rebuild over a timeframe which I consider is appropriate.

The decisions that I have made are consistent with this position. Commercial fishers in both PAU 5A and SPO 7 proposed voluntary shelving arrangements and I commend industry for the positive and collaborative approach they have adopted in the management of these fisheries. I cannot, however, rely on these arrangements to ensure the sustainability of the PAU 5A and SPO 7 stocks. In the case of PAU 5A there is considerable uncertainty surrounding available stock assessment information and a research programme will be initiated to reduce this uncertainty. I consider that the risk to the PAU 5A stock is acceptable in the short term at the existing TACC (a TAC has not been set for this stock yet). In SPO 7 I have determined that the risk to the stock is unacceptable and I am therefore obligated to reduce the TAC.

'Low Knowledge' stocks

MFish recommended a review of the TACs, TACCs and deemed value rates for low knowledge stocks introduced into the Quota Management System (QMS) in 1998 and 1999, provided the stocks met four criteria:

- No known sustainability concerns;
- Average of at least 20% catch in excess of the TACC during the last 3 fishing years;
- No management intervention in the last three years; and
- When the stocks were introduced into the QMS deemed value rates had been set deliberately low to encourage reporting.

In total 18 stocks were selected for review. I have decided to adjust TACs and TACCs for all of these stocks. New catch limits have been set based on an average of landings over the past seven years, with an additional 10% increase to take account of the variability of the quantities harvested as the fishery developed.

New deemed values were set based on an analysis of the 2005-06 port prices. Annual deemed value rates have been set at 75% of the port price while interim deemed value rates were set at 50% of the annual rate.

The following table sets out the TACs, TACCs and deemed value rates for the 18 stocks.

| Fish stock | Old TAC (tonnes) | New TAC (tonnes) | Recreational allowance (tonnes) | Customary allowance (tonnes) | New TACC (tonnes) | New annual deemed value rate (\$) | New interim deemed value rate (\$) |
|------------|------------------|------------------|---------------------------------|------------------------------|-------------------|-----------------------------------|------------------------------------|
| CDL4 | 5 | 66 | 0 | 0 | 66 | 0.52 | 0.26 |
| CDL5 | 2 | 22 | 0 | 0 | 22 | 0.52 | 0.26 |
| FRO2 | 22 | 112 | 1 | 1 | 110 | 0.26 | 0.13 |
| FRO3 | 128 | 176 | 0 | 0 | 176 | 0.34 | 0.17 |
| FRO4 | 5 | 28 | 0 | 0 | 28 | 0.24 | 0.12 |
| GSH1 | 10 | 22 | 0 | 0 | 22 | 0.43 | 0.22 |
| GSH2 | 33 | 66 | 0 | 0 | 66 | 0.37 | 0.19 |
| GSH8 | 12 | 22 | 0 | 0 | 22 | 0.39 | 0.20 |
| GSH9 | 8 | 22 | 0 | 0 | 22 | 0.39 | 0.20 |
| RBY4 | 3 | 6 | 0 | 0 | 6 | 0.42 | 0.21 |
| RBY7 | 27 | 33 | 0 | 0 | 33 | 0.42 | 0.21 |
| RBY8 | 1 | 55 | 0 | 0 | 55 | 0.42 | 0.21 |
| RIB6 | 124 | 231 | 0 | 0 | 231 | 0.80 | 0.40 |
| RIB7 | 55 | 330 | 0 | 0 | 330 | 0.80 | 0.40 |
| SPE1 | 20 | 35 | 1 | 1 | 33 | 0.45 | 0.23 |
| WWA3 | 401 | 585 | 1 | 1 | 583 | 1.03 | 0.52 |
| WWA4 | 222 | 332 | 1 | 1 | 330 | 1.03 | 0.52 |
| WWA7 | 62 | 129 | 1 | 1 | 127 | 1.03 | 0.52 |

Orange Roughy (ORH 1)

For the 2006-07 fishing year, I decided to withdraw the management arrangements for ORH 1 from the Adaptive Management Program (AMP), and reduce the TAC for ORH 1 to the pre-AMP level of 840 tonnes, with a corresponding reduction in the TACC to 800 tonnes.

In reaching my decision to reduce the TAC under s13 of the Fisheries Act 1996, I carefully considered the likely economic consequences of such a reduction. I recognised that such consequences would be significant for industry. However, I weighed the near-term consequences against the long-term economic benefits of ensuring a sustainable fishery. On balance, I set the TAC at 840 tonnes, a level best satisfying me that utilisation is being provided for while better ensuring the long-term sustainability of the ORH 1 stock.

The low productivity of orange roughy, and the past tendency to overestimate yields for this species, guided me to take a cautious approach in deciding to discontinue managing ORH 1 under the AMP and to reduce the TAC/TACC for ORH 1.

I also decided that ORH1 stakeholders should implement reduced sub-area and feature catch limits to ensure localised depletion of orange roughy populations would not occur. I also requested that 100% observer coverage for all ORH1 fishing trips and all fishing in the Mercury-Colville 'box' is retained.

Subsequent to my decision, certain members of the fishing industry lodged legal proceedings challenging that decision. An interim order in October 2006 prevented the reduced TAC from being implemented, pending a hearing on the substantive case in early 2007.

That challenge has highlighted concerns surrounding the level of information available regarding catch data and the impacts on fishers for this fishery; and the ambiguity surrounding the application of the precautionary approach in New Zealand.

Debating these issues in court would be an expensive exercise, with no guarantee of guidance from the court on such issues. Having considered these matters, I have decided not to proceed with defending the case. Instead, I intend to address some of these issues through the clarification of fisheries legislation

As a result, the previous fishing year's TAC of 1470 tonnes and TACC of 1400 tonnes will apply. The previous voluntary catch limit arrangements to apportion catch across designated sub-areas and features (as set out in the AMP) will apply. This includes the ORH 1 bycatch-only 30 tonnes limit for the Mercury-Colville 'box'. I request that industry continue the monthly reporting programme of the catch by sub-area and by feature. I urge industry stakeholders in the ORH 1 fishery to abide by those sub-area and feature limits.

I intend to review the ORH1 sustainability measures for the 2007/08 fishing year, using the best available information.

Orange Roughy (ORH 3B)

I have decided to decrease the TAC for the ORH 3B fishery from 13,335 to 12,075 tonnes, and the TACC from 12,700 to 11,500 tonnes, providing an allowance for other sources of fishing related mortality at 575 tonnes. I have set zero allowances for customary Maori interests and recreational fishery interests.

As part of this decision, I have agreed to allow the Deepwater Group Limited (DWG) to manage the spreading of commercial catch within the designated sub-areas under the following arrangements:

| ORH 3B Sub-area | Catch Limit (tonnes) |
|--|-----------------------------|
| Northwest Chatham Rise | 750 |
| East and South Chatham Rise | 8650 |
| Puysegur (research) | 250 |
| Arrow Plateau | 0 |
| Sub-Antarctic | 1850 |
| TACC | 11500 |
| Other sources of fishing related mortality | 575 |
| TAC | 12075 |

As part of this spreading, no more than 2,000 tonnes will be taken from the South Rise and no more than 7,250 tonnes will be taken from the East Rise. I consider that the voluntary designated sub-area catch limits and the governance arrangements that I have chosen are based on the best available stock assessment information and the voluntary catch spreading agreements with DWG. I am concerned about the status of localised fisheries within the overall ORH 3B Quota Management Area indicated by the stock assessment information. Specifically, the Northwest Chatham Rise stock is estimated to be below the level that can support Maximum Sustainable Yield (MSY) and

the biomass levels for fisheries within the East Chatham Rise (Northeast Hills and Andes Complex) show evidence of localised depletion.

I note there is uncertainty associated with stock assessment information, but information from the fishery supports the conclusions of the assessments.

The responsibility for ensuring compliance with the voluntary catch spreading agreements lies primarily with the DWG. As part of this TAC reduction, however, a reporting framework has been designed to increase MFish monitoring and compliance of the voluntary catch spreading agreements.

In the near term, the status of the ORH 3B stock will be reassessed to determine if further reductions in the TAC are warranted. In light of the uncertainty associated with assessment of this stock and the low productivity of the stock, a cautious approach is necessary in future management of the fishery.

Paua (PAU 5A)

After careful consideration of the available information and submissions on PAU 5A, I consider the risk to the stock at the existing TACC is acceptable in the short-term, provided a research programme is undertaken to reduce the uncertainty in the stock assessment. I have decided, therefore, that the TACC will remain at the existing level of 148.983 tonnes as proposed in Option three and four combined in the MFish FAP.

In making my decision, I acknowledge that there is considerable uncertainty with the stock assessment for PAU 5A. It is not known where the stock is in relation to B_{MSY} . It is generally agreed that southern sub-stocks are depleted at current catches. However, there is considerable uncertainty about the state of the sub-stocks in the currently poorly-surveyed northern zones. The assessment relies on the survey information from southern zones adequately providing an index of paua abundance for the whole of PAU 5A.

MFish has advised me that it accepts that the stock assessment has not provided an adequate assessment for PAU 5A as a whole. It is not possible to speculate on the state of the sub-stocks in northern zones on current information. I am advised that this is the second time that the stock assessment for PAU 5A has not been adequate. I consider, therefore, that the most important action to be taken for this fishery is that an improved research programme is undertaken to remedy the current deficiencies in the stock assessment information.

I am advised that greater certainty about the state of the PAU 5A stock can be gained by a more comprehensive research diver survey, which includes additional northern zones. I would like to see this survey undertaken in 2007-08 accompanied by a stock assessment.

Following a further diver survey in 2009-10, I expect a considerable improvement in the assessment, as a longer time series will be available for all zones, including the northern zones.

I am aware that some stakeholders consider that the TACC should be reduced, on the basis of the available information. Industry, on the other hand, is opposed to a TACC reduction. Industry highlights the uncertainty in the information and wishes to implement a package of voluntary

measures, including shelving 45 tonnes of ACE and catch spreading, to reduce the sustainability risk to PAU 5A. I am aware that I cannot rely on voluntary measures to ensure the sustainability of the stock.

I note that industry has agreed to implement their package of voluntary measures to reduce the possibility of over-fishing PAU 5A. I commend PauaMac5 for the positive approach they have taken to improve the collaborative management of this fishery.

Rig (SPO 7)

The information provided in the IPP and FAP indicates the rig (SPO) 7 stock size is below B_{MSY} . I am particularly concerned by the decline in commercial set net catch per unit effort, and the decline in the relative biomass estimates from the trawl survey data. Taking into consideration that rig are long lived and have low fecundity (and are therefore probably susceptible to the effects of overfishing), I do not believe the current 403 tonne TAC will restore the stock size to or above B_{MSY} . I have therefore decided to reduce the TAC to 270 tonnes.

I agreed with the MFish analysis that a significant reduction in catch is required to move the SPO 7 stock size to B_{MSY} . I considered three different TAC options: 215 tonnes, 231 tonnes, and 270 tonnes. Choosing between the options was difficult because the effect of a large TAC decrease would be significant for stakeholders, especially commercial users. On the other hand, a smaller TAC reduction may not move the stock towards B_{MSY} . An initiative in the Challenger Finfisheries Management Company's SPO 7 Fisheries Plan helped make my decision easier. The initiative is likely to reduce risks to the productivity of the SPO 7 stock by prohibiting commercial set netting and trawling around Farewell Spit where rig congregate to give birth. The initiative increased my level of confidence that the smaller TAC decrease would move the stock towards B_{MSY} . In the absence of the approved fisheries plan, I would have selected a greater TAC reduction to increase my confidence that that stock would rebuild at an acceptable rate.

Some stakeholders felt I did not need to reduce the TAC at all, because a second initiative in Challenger's SPO 7 Fisheries Plan – ACE shelving – would manage catches and rebuild the stock. While I have taken account of the ACE shelving component of the approved fisheries plan in my decision, my primary obligation in setting the TAC (where a stock is below B_{MSY}) remains to set a TAC that will restore the stock to or above B_{MSY} . MFish and I made this obligation clear to those involved in the SPO 7 fisheries plan prior to the plan's approval. My decision to reduce catches in the face of compelling information that suggested the SPO 7 stock was depleted below a biomass level that could support the maximum sustainable yield should, therefore, come as no surprise. The shelving of ACE is a tool that can be used by industry to effectively manage catch within the TACC (to increase the rate of rebuild of the stock for example) and I fully support such initiatives.

To implement the TAC decrease, I have reduced the TACC from 350 tonnes to 221 tonnes. I recognise this is a large decrease that will impact on the commercial sector, but I believe it is the most appropriate way to give effect to my decision to decrease the TAC. Commercial fishers are the biggest users of SPO 7 and have benefited from a high TACC under the Adaptive Management Programme (AMP) framework for 15 years. I also note that recent commercial catches in SPO 7 have been significantly less than the TACC in place in the 2005-06 fishing year.

I have also reduced the customary allowance to 15 tonnes because I do not believe the current allowance accurately reflects current customary catch levels or likely needs in the foreseeable future. I have not reduced the recreational allowance. I do not believe recreational fishers are

responsible for the decline in SPO 7 stock size as there is no information to indicate that recreational catches have increased.

For the first time I have set a 5 tonne allowance for other sources of fishing related mortality in SPO 7. The allowance is nominal but reflects the occurrence of juvenile rig being caught by set nets placed in harbours and shallow bays, and the dead rig that fall out of the net when it is being hauled.

The following table summarises my decision on the TAC and allocations for SPO 7.

| TAC (tonnes) | Customary allowance (tonnes) | Recreational allowance (tonnes) | Other sources of fishing-related mortality (tonnes) | TACC (tonnes) |
|------------------|------------------------------|---------------------------------|---|---------------|
| 270 ¹ | 15 | 29 | 5 | 221 |

I note that MFish is not renewing the SPO 7 AMP that finished on 30 September this year. I support that decision for two reasons. First, although the monitoring programme has performed reasonably well, the fishery has not. AMPs are an appropriate tool where stock size is above B_{MSY} and the best available information indicates that SPO 7 stock size is below B_{MSY} . Second, I am satisfied that the fishery monitoring industry conducted within the AMP will continue through the research programme in the SPO 7 Fisheries Plan.

I look forward to receiving more information on the status of the SPO 7 stock when it becomes available in 2008. Industry recently completed the first stock assessment for rig in New Zealand and plans to update the assessment in 2008 so it can reliably project biomass estimates under different catch levels. This is an important step towards better managing our shark fisheries.

Alfonsino (BYX 1)

I have declined the proposal from The Northern Fisheries Management Stakeholder Company Limited to renew the AMP for a five-year term and to increase the TACC from 300 tonnes to 600 tonnes for the alfonsino (BYX 1) fishery. Instead, I have decided to retain the current catch limits and the existing arrangements of the BYX 1 AMP for a further two years.

A formal assessment of the current status of the BYX 1 stock relative to the biomass that produces maximum sustainable yield is not available. Therefore the ability of the stock to remain sustainable under a higher commercial catch level is uncertain. I believe that retaining the current BYX 1 AMP arrangements, including a TACC of 300 tonnes for a further two-year term will give industry proponents an opportunity to gather further information.

¹ I note the TAC associated with option 2 in the IPP and FAP was 279 tonnes, not 270. This was a numerical error that has been corrected.

This information will be used to assess the status of the stock and the effects of fishing new grounds in BYX 1. During this period I would expect improvements in the delivery of AMP requirements including the logbook programme, collection of biological information and increased observer coverage as set out in the existing AMP arrangements.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J Anderton', with a long horizontal stroke extending to the right.

Hon Jim Anderton
Minister of Fisheries