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25 July 2003

Minister of Fisheries

SUPPLEMENTARY ADVICE — SETTING OF TAC, TACC, AND ALLOWANCES FOR NORTH ISLAND KINA STOCKS

Purpose

1 You recently considered final advice on setting the TACs, TACCs, and other allowances for stocks to be introduced into the Quota Management System (QMS) on 1 October 2003. To assist in your final decisions, you have asked for further advice on the recommendations regarding North Island kina stocks. This paper provides further advice on the rationale for the final recommended measures for kina.

2 Advice is also provided in relation to a late submission by Mai I Nga Kuri ki Tihirau Regional Fisheries Forum (including participation by tangata whenua in the Bay of Plenty) on the recommendations for kina.

Rationale for TACs, TACCs, and allowances

3 The final recommendations for management measures for North Island kina stocks are set out in detail in the Final Advice Paper (dated 18 July 2003) that you have already considered.

4 In the absence of scientific assessments of the stock status or yields from North Island kina stocks, MFish determined the TACs from the best available information on the catches that had been taken from those stocks over time. Catches at those levels have not raised concerns about stock sustainability. Combining estimates of past catches by all sectors and other sources of fishing-related mortality provides a proxy for the sustainable yield. On a similar basis, MFish concluded that those estimates by sector provided a reasonable starting point to guide the setting of allowances and the TACC for each stock.

Estimating commercial catches

5 For most kina stocks, the initial proposals provided for commercial catches at levels above those reported in the past. The purpose was to provide some scope for development of the fishery. The MFish guidelines for setting TACs and TACCs for the introduction of new stocks provide for such consideration. MFish considers that the initial proposals were appropriate, taking into account that commercial access to non-QMS fisheries has been restricted by the permit moratorium, and that levels of past catch might thus not fully represent the yield available from the stocks.

6 However, the final recommendations take a more cautious approach to estimating some commercial catch levels and setting the TACCs than was initially proposed. The need for caution was based upon the uncertainty and paucity of information about kina abundance and yield. In addition, some stakeholders had expressed concerns about the possibility of localised depletion that could result from commercial fishing pressure, while others expressed the view that the initially proposed TACCs could be increased.

7 After considering Mr Herbert's suggestion that the TACC for SUR 1A should be set at 60 tonnes, MFish concluded that, based on the best available information, it would be premature to set the TACC for SUR 1A above the 40 tonnes initially proposed. Further consideration of the available information led MFish to take a more cautious approach towards setting the TACCs for SUR 1B, 2A and 2B compared with the initial proposals, while still providing some scope for development. Concerning the SUR 9 stock, MFish initially proposed to set the TACC at 3 tonnes. Mr Herbert suggested that it could be increased to 30 tonnes. MFish concluded that the TACC set at 10 tonnes is reasonable based upon information about the extent of kina habitat in SUR 9, and is likely to be a sustainable level of catch.

8 MFish notes that Mr Herbert operates a vertically integrated business catching, processing, and marketing kina in the North Island. He has considerable experience and knowledge of diving for kina and of the fishery in general, and his views on the potential catch from certain areas are useful, particularly where MFish has no other information. However, MFish considered the uncertainty in the estimates provided by Mr Herbert when finalising its recommendations.

Estimating non-commercial catches

9 As noted in the initial proposals, the estimates of non-commercial catch were derived from the numbers of kina taken by the recreational sector, as estimated by the surveys of recreational fishing through the 1990s. The estimated numbers of kina taken by recreational fishers were converted to weight by using the best available average weights for individual kina derived from surveys of kina in South Island waters. During consultation, stakeholders pointed out that NIWA recently had undertaken research that provided new estimates of average kina weight for the North Island stocks. The new average weights for North Island kina were substantially lower (0.62 of the value for South Island kina).

10 The smaller average weight produced lower estimates of recreational catch, customary catch, and hence recommended allowances. Those smaller estimates therefore contributed to lower TACs in all the final recommendations, except for SUR 9 and 10. The commercial catch contributions to setting the TAC did not need to be re-calculated in the same way, because they were originally based on weight estimates, not numbers of kina taken.

11 Mr Herbert's views on the allowances for non-commercial fishing were not incorporated into the final recommendations for allowances in any stocks. Although MFish considered Mr Herbert's views and suggestions (provided for your information in the Final Advice Paper) his views did not materially influence the final recommendations for non-commercial allowances. The final recommendations for non-commercial allowances demonstrate reductions in all initial catch estimates and proposals. These reductions are solely attributed to consideration of the new information available on the lower average weight of individual kina in North Island stocks, not to any intent to curtail the allowances made for non-commercial fishing interests.

Further submission by Mai I Nga Kuri a Whareki Tihirau Regional Fisheries Forum

Summary of the submission

12 On 18 July 2003, your office received a second (late) submission from Mai I Nga Kuri a Whareki Tihirau Regional Fisheries Forum. The Forum's recent submission is attached. Their original submission was summarised and addressed in the final advice that you have considered.

13 In summary, the submission recognises that the decision has been made to introduce kina into the QMS, but notes that Māori in the Bay of Plenty are opposed to the introduction. The Forum submits that its position is that the TAC for kina in the Bay of Plenty should be allocated exclusively for customary use in order to honour the Crown's Treaty obligations regarding kina in the Bay of Plenty.

14 The submitted rationale for that position is based upon the importance of kina to Maori in the area, and the fear that commercial access to the resource could deplete the kina that are available for tangata whenua to harvest within their local areas. The Forum submits that the management areas under the QMS are too large to provide for the necessary localised management of a localised resource such as kina.

15 While acknowledging that a hui to discuss the introduction of kina into the QMS was held in the Bay of Plenty, the Forum submits that its views have been listened to, but essentially ignored. It submits that the consultation has been inadequate, and fails to meet the requirements of s 12 of the Fisheries Act 1996 (the 1996 Act).

16 For the above reasons, the Forum submits that the introduction of the kina stock in SUR 1B should not proceed until s 12 of the 1996 Act has been fully implemented and the stock measurements more accurately reflect the stock in the area.

17 The Forum submits two options by which you could allocate the TAC for the Bay of Plenty kina resource to customary use. Option 1 is to extend the existing regulated closure to commercial kina harvesting in the eastern Bay of Plenty so that it includes the waters from Cape Runaway to Waihi, and the outlying islands of Motuhora, Motiti, and Mayor. Under this option, the Forum suggests that the use of underwater breathing apparatus be permitted for commercial harvesting of kina to reduce fishing effort and make kina fishing business more viable. Option 2 suggests moving the southern boundary of the SUR 1A stock southwards to Waihi and then allocating all of the SUR 1B TAC to customary use.

MFish discussion

18 MFish was careful to take all submitted views into account in preparing final advice on kina. The submitted concerns of Māori noted the risks of localised depletion and the difficulties faced with accessing kina in some areas. Those concerns were taken into account, particularly in the more cautious approach to establishing the level of past commercial catch of kina that was used to determine the TAC in SUR 1B.

19 While the Forum submits that recreational fishing is a concept foreign to Māori, MFish holds the view that recreational fishing includes fishing for subsistence purposes. All non-commercial fishing (including that by Māori) within the scope of the amateur fishing rules is provided for under the allowances made for recreational interests. The allowances made for Māori customary non-commercial fishing are set to provide for customary purposes (such as hui and

tangi) beyond the scope of the amateur rules, and where specific authorisations under regulation 27 of the Fisheries (Amateur Fishing) Regulations 1986 or the Fisheries (Kaimoana Customary Fishing) Regulations 1998 are required.

20 MFish regards the tools available under s 186 of the Act as the primary tools for satisfying the Crown's Treaty obligations regarding Māori customary non-commercial fishing. Those tools include the provisions within the "Kaimoana" regulations for tangata whenua to determine tribal boundaries or rohe moana, nominate kaitiaki to manage customary fishing within those rohe, and establish mātaitai reserves. Mātaitai reserves generally exclude commercial fishing within the reserves, and provide for tangata whenua to recommend by-laws to manage all non-commercial fishing in the reserve areas.

21 The process for establishing a mātaitai reserve involves consultation with the local community, and the detailed consideration of whether or not the proposed reserve area is a traditional fishing ground and of special significance to the tangata whenua. The potential for a mātaitai reserve to affect commercial fishers' ability to take the available annual catch entitlement (ACE) for the relevant QMA must also be considered. MFish considers that such a process is the appropriate way to provide for the customary non-commercial fishing interests of Māori.

22 MFish notes also that, where problems with the availability and/or size of fish or shellfish for tangata whenua can be established, the provisions under s 186A of the Act can be used to temporarily close an area to fishing or restrict a certain fishing method. The purpose of the closure or restriction is to allow for the availability and/or size of fish to recover. The Forum representatives are familiar with the provisions of s 186A.

23 MFish does not consider that altering QMA boundaries or regulating further areas closed to commercial kina harvesting are appropriate measures at this time. The QMAs for kina stocks have been decided, and stakeholders have been consulted on the allocation process for those stocks. Altering a QMA at this stage of the process would put the allocation process at risk. MFish notes that the provisions of the Act and the QMS provide for local area management and for stakeholders to plan the outcomes that they desire from fisheries. MFish considers that the "Kaimoana" regulations provide the best tools for tangata whenua to establish and manage their traditionally important fishing areas. MFish notes the Forum's submission that Māori in the Bay of Plenty are moving towards implementing the "Kaimoana" regulations to provide for the management of customary fishing by tangata whenua. Should those measures prove not to be successful over time, then MFish notes that alternative options could be considered.

Recommendation

24 It is recommended that you:

- a) **Note** the contents of this paper.

John Taunton-Clark
for Chief Executive
Ministry of Fisheries

APPROVED/NOT APPROVED/APPROVED AS AMENDED/NOTED

Hon Pete Hodgson
Minister of Fisheries

/ / 2003