

Dear Stakeholder

## **SETTING OF SUSTAINABILITY MEASURES AND OTHER MANAGEMENT CONTROLS FOR SCAMPI STOCKS FOR THE 2004–05 FISHING YEAR**

- 1 This letter outlines my final decisions for sustainability measures and other management controls for scampi stocks for the 2004–05 fishing year. I have made decisions for all scampi stocks, including Total Allowable Catches (TACs), allowances for Maori customary non-commercial fishing, recreational fishing, other sources of fishing-related mortality, Total Allowable Commercial Catches (TACCs), regulatory proposals, and deemed values. All measures, including regulatory amendments, are to take effect on 1 October 2004 to coincide with the introduction of scampi stocks into the Quota Management System (QMS).
- 2 I take this opportunity to acknowledge all of the submissions I have received from sector groups as part of the consultation on the initial proposals. I appreciate the efforts of stakeholders in participating in the consultation process run by the Ministry of Fisheries (MFish).
- 3 In reaching my final management decisions for scampi stocks, I have carefully considered the available fishery information, advice from MFish, and all of the issues and information put forward by sector groups in response to the initial proposals.
- 4 I have also given careful regard to and applied the legislative provisions of the Fisheries Act 1996 (the Act), especially those relating to the purpose of the Act (s 8), the environmental and information principles (ss 9 and 10, respectively), and the setting and amending of sustainability measures (ss 11 and 13).

### ***General issues***

- 5 Some stakeholders' submissions raised issues regarding previous fishery access, catch limits, catch histories, and allocation of quota rights in the scampi fishery. I know those matters have been contentious for a lengthy period. However, I am mindful of the results of more recent intensive inquiries into the early management of the scampi fishery, and the recommendations made by the Primary Production Committee, the State Services Commission, and ultimately by Parliament. The Primary Production Committee recommended that catch history form the basis of the allocation of scampi quota rights. That recommendation was given effect through the enactment of the Fisheries Amendment Act (No 2) 2004, bringing scampi stocks into the QMS. The

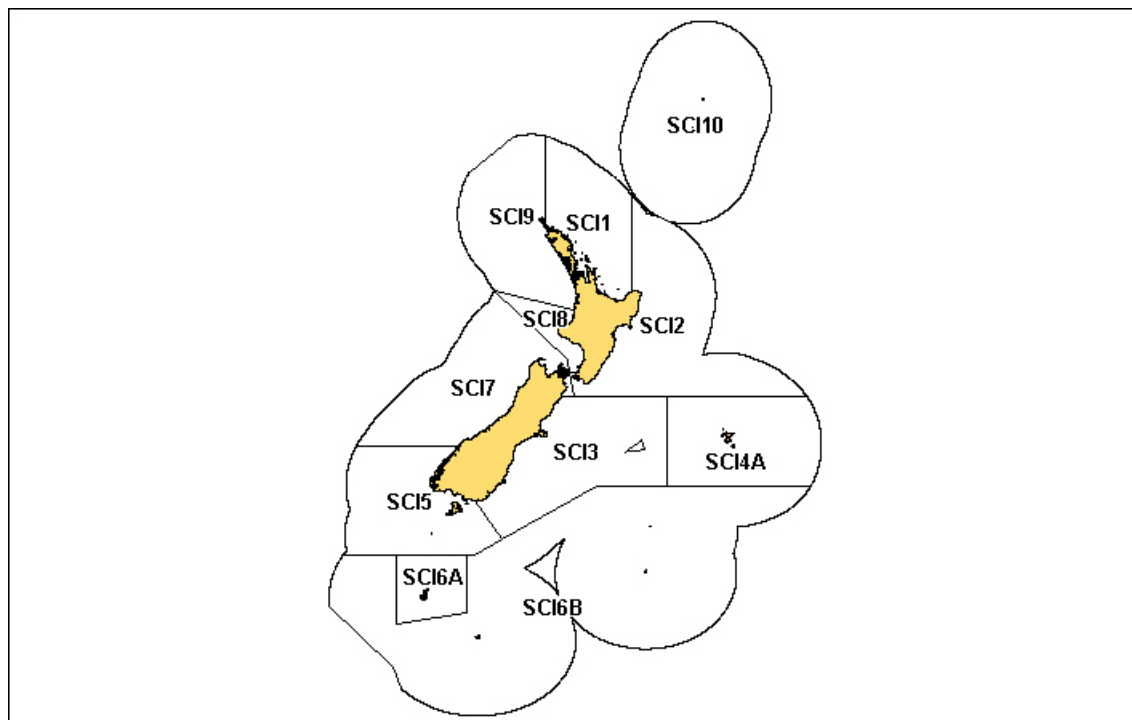
Primary Production Committee also named parties who should receive a minimum *ex gratia* payment from MFish in recognition of the justified grievance they each had with the former MAF. MFish continues to work with those named parties to resolve the outstanding issues.

- 6 The setting of sustainability measures and the allocation of quota rights are separate processes, and one process should not be influenced by the other.
- 7 I have also noted the submission regarding outstanding reviews of permitting decisions under s 329. My view is that the introduction of scampi into the QMS has not precluded the outstanding reviews from being completed, and I am aware that MFish will be completing the reviews under s 329 in the near future. The scope of issues that might be reviewed under s 329 relate to permitting decisions and not to sustainability considerations, hence my view is that they are not of relevance to setting sustainability measures for scampi.

### ***Sustainability measures and other management controls***

- 8 I have determined sustainability measures and other management controls for all scampi Quota Management Areas (QMAs) that are defined in the Fisheries Amendment Act (No 2) 2004. The scampi QMAs are shown in Figure 1.

**Figure 1. Scampi Quota Management Area boundaries**



9 My decisions for sustainability measures and other management controls are summarised in Table 1 below.

**Table 1. Summary of decisions on sustainability and other management controls for scampi (TACs, TACCs, and allowances in tonnes greenweight)**

Stock	TAC	Customary allowance	Recreational allowance	Other mortality	TACC	Interim DV	Annual DV	Overfishing threshold	Regulatory amendments
All						\$ 25.65	\$ 51.30	No	Reporting codes
						Differential deemed values to apply			Minimum mesh size
SCI 1	126	0	0	6	120				
SCI 2	210	0	0	10	200				
SCI 3	357	0	0	17	340				
SCI 4A	126	0	0	6	120				
SCI 5	42	0	0	2	40				
SCI 6A	321	0	0	15	306				
SCI 6B	53	0	0	3	50				
SCI 7	79	0	0	4	75				
SCI 8	5	0	0	0	5				
SCI 9	37	0	0	2	35				
SCI 10	0	0	0	0	0				

10 Section 13 of the Act represents the most appropriate management option to be applied when setting TACs for scampi stocks managed under the QMS. Scampi stock abundance is not known to be highly variable from year to year, nor do scampi stocks qualify for management under the criteria outlined in s 14 or s 14A of the Act.

11 Section 13 requires that I set TACs that will maintain scampi stocks at or above the level that can produce the maximum sustainable yield (MSY), or move stocks towards or above that level, having regard to the interdependence of stocks. However, there are no reliable estimates of unfished (virgin) biomass or the biomass that will produce the MSY for any scampi stock.

12 Given the general lack of reliable estimates of abundance and stock status for scampi, the important considerations in determining scampi TACs include the levels of past and current utilisation, current commercial catch limits, indications of fishery performance, any available stock assessment information, the biological and fishery characteristics of scampi, implications for interdependent stocks and the aquatic environment, and such social, cultural, and economic factors that I consider to be relevant. In general, the information available on the aforementioned factors has formed the basis for the TACs I have set for scampi stocks.

13 Before setting or varying the TAC (or any sustainability measure), I am required (under s 11) to take into account any effects of fishing on any stock and the aquatic environment, existing controls that apply to the stock, and the natural variability of the stock concerned. My determinations regarding these factors are explained below.

14 Scampi vessels use relatively light bottom trawl gear, and the physical effects of scampi trawling on bottom sediments have been shown to be relatively minor. Scampi trawlers share common fishing grounds with other finfish target trawl fisheries. There is currently no information to confirm that there are effects of fishing on the aquatic environment that are uniquely associated with scampi trawling as opposed to other target trawl fisheries that share the same grounds.

- 15 Limiting scampi catch by setting TACCs not only constrains commercial catch to sustainable levels, but also serves to constrain the potential for adverse effects on the aquatic environment. Scampi trawling can be characterised by relatively large proportions of finfish bycatch, including QMS and non-QMS species. Concerns were raised in the early days of the scampi fishery that the small mesh size used to take scampi would result in large bycatch quantities of juvenile QMS species. However, information observed from the scampi fishery suggests that the size range of QMS species taken in scampi trawls is generally similar to that taken in other trawl fisheries operating in the same areas (using standard mesh size).
- 16 Varying quantities of non-QMS species are taken as a bycatch of scampi trawling. Some species have commercial value and are retained to varying degrees. There is a high level of discarding of some non-QMS species, and catch reporting is unlikely to provide adequate information to assess trends in the catch of non-QMS species. The mortality of discarded fish is likely to be high given the depths of scampi fishing.
- 17 I encourage fishers to investigate ways to further reduce bycatch in the scampi fishery, and to reduce wastage by retaining and landing a greater proportion of bycatch than appears to be current practice. I expect that managing the scampi fishery within the QMS will improve the incentives for fishers to address these issues.
- 18 There are several existing controls that apply to the scampi fishery, as discussed in MFish's final advice, which I have taken into account in setting the TACs. One current measure that required attention is a condition on fishing permits that authorises scampi fishers to use 80 mm mesh in the body and 55 mm mesh in the cod-end of trawl nets used to take scampi (the standard mesh for trawls is 100 mm). The authority should be continued by regulation, and removed from fishing permits once scampi enters the QMS. Further discussion of the amendment is provided later in my letter (page 13).
- 19 When setting the TAC under s 13 to achieve the target stock level, I am required to have regard to the interdependence of stocks, the biological characteristics of the stock, and any environmental conditions affecting the stock.
- 20 The relationship between scampi and any interdependent species in any area is not well known. Scampi are preyed upon by finfish species, and in turn scampi probably scavenge on dead finfish. As described above, there is no known significantly adverse effect of scampi fishing on the species taken as bycatch in any stock. The available information does not suggest there are concerns for the interdependence of stocks under the TACs proposed for scampi.
- 21 The biological characteristics of scampi include that they are burrowing animals, and hence relatively sedentary. They have a short larval stage (days) that suggests management as discrete stocks is appropriate. New Zealand scampi have relatively low fecundity compared with other scampi species, and a rebuild from a depleted state would be slow. There is no information available regarding specific environmental conditions affecting scampi. I have taken the abovementioned characteristics into account in the TACs I have set for scampi stocks.
- 22 All mortality to a stock caused by fishing must be included within the TAC for a stock. It is likely that there are unaccounted sources of fishing-related mortality on

scampi, given that they are taken by trawling, both as a target species and as a bycatch when targeting finfish species on the same fishing grounds. Although the level of fishing-related mortality associated with scampi trawling has not been quantified, mortality could include the incidental effects of trawl gear on scampi and their habitat, as well as the death of any discarded scampi. In the absence of a quantitative estimate, I have set the allowance for other sources of fishing-related mortality at 5 % of the TACC for each scampi stock.

- 23 I have set the scampi TACs as a composite of the allowances for other sources of fishing-related mortality and the TACCs. Other sources of fishing-related mortality will have occurred in addition to directed fishing mortality within the catch limits over the history of the fishery. Given that the (past and current) commercial catch limits provide the general basis for the TACCs, I have decided that it is reasonable to add the allowances for other sources of fishing-related mortality to the TACCs in making up the TACs for scampi stocks.
- 24 Section 9 of the Act requires that I take into account the specified environmental principles. The first principle is that associated or dependent species should be maintained above a level that ensures their long-term viability. There is limited information available to inform an assessment of the effects of scampi trawling on the disturbance, capture, and discard of associated or dependent (non-harvested) species. Discarded species are unlikely to survive given the depths of scampi fishing. However, the available information does not suggest there to be significantly adverse implications for associated or dependent species that are unique to scampi fishing.
- 25 The second principle is that biological diversity of the aquatic environment should be maintained. Scampi fishing occurs in relatively discrete areas within overall stock boundaries, and the effect of the fishery on the maintenance of biodiversity is considered to be limited to those areas. The exact impact of scampi trawling on benthic communities is not known, however, it is unlikely that scampi fishing at the proposed TAC/TACC levels will adversely affect the maintenance of biodiversity within the overall area of respective stock boundaries.
- 26 The third environmental principle to be taken into account is that habitat of particular significance for fisheries management should be protected. No such habitats have been identified within scampi fishing areas. Scampi fishing occurs on grounds commonly shared by trawlers targeting other species. There is no information to confirm that there are effects of scampi fishing on habitat that are unique to scampi trawling as opposed to trawling for other species.
- 27 For all stocks I considered that there was no known historical or contemporary catch by Maori customary or recreational fishers. Given the depths at which scampi are found, I do not think it likely that non-commercial fishers will have been involved in the fishery historically. I have set the allowances at zero.

### *TAC and TACC for SCI 1*

- 28 I consider that the current commercial catch limit provides a reasonable basis for setting the TAC. I have set the TAC for SCI 1 at 126 tonnes. Within that TAC, I have set zero allowances for non-commercial fishing, and an allowance for other

sources of fishing-related mortality at 5 % of the TACC. The TACC will be 120 tonnes.

- 29 The available information from the fishery and from the developing photographic survey methods provide no clear indications of either a sustainability concern, or the potential for greater utilisation in SCI 1 at this time. Recent catch rates have been comparable with the early stages of the fishery in SCI 1.

### *TAC and TACC for SCI 2*

- 30 I have set the TAC for SCI 2 at 210 tonnes. Within that TAC, I have set zero allowances for Maori customary and recreational non-commercial fishing, and an allowance for other sources of fishing-related mortality at 5 % of the TACC. The TACC will be 200 tonnes.
- 31 I note that commercial CPUE in SCI 2 has declined to its lowest-ever level. Total scampi landings from SCI 2 have reached the catch limit in only one year (2001–02) since 1991–92, and that was the first year of competitive fishing. Results from photographic surveys to determine scampi abundance suggest lower biomass and lower density of burrow openings in SCI 2 than in the adjacent SCI 1.
- 32 I note that it is not known if recent catches and the current catch limit for SCI 2 are sustainable in the long term or will allow the stock to move towards a size that will support the maximum sustainable yield. It is also not known if CPUE or photographic surveys provide reliable indicators of relative abundance in any scampi stock.
- 33 Although the information is uncertain, I am concerned that the SCI 2 stock may be declining, and that the area and available habitat might not be sufficient to warrant a TAC at the level of the current SCI 2 commercial catch limit when compared with SCI 1.
- 34 I have decided to set the TAC for SCI 2 at a level lower than the current catch limit as the first step in a phased reduction of the TAC so that it aligns more closely with that for SCI 1 over time, unless new information suggests otherwise. I am aware of the general, although not unanimous, support of stakeholders for this reduction. While I understand that the reduction might have economic and other implications for fishers, I am satisfied that the long-term sustainability benefits outweigh the costs, given the available information.
- 35 Although reliable estimates of stock status and potential yield are not available to guide the setting of a TAC, I believe that a reduction of 20 % in the catch limit for 2004–05 will serve to reduce the rate of any stock decline, perhaps stabilise the stock, or allow for a rebuild. Those outcomes are consistent with my obligations under s 13 to maintain at or above, or move stocks towards or above, the biomass that can produce the MSY.
- 36 Some stakeholders have suggested that reducing the TACC alone is not enough to secure a stock rebuild, and that measures such as protecting nursery grounds are needed. Another stakeholder has proposed closure of the existing grounds in SCI 2, while allowing fishing in the remainder of the QMA at the level of the current catch limit.

- 37 I acknowledge that the TAC and TACC alone provide no guarantee of stock rebuild, however, the TAC is the primary measure for ensuring sustainability within the QMS. I agree that the area-based rotational fishing and protection of nursery areas suggested by some submitters are measures that would best be managed under a stakeholder-driven fishery plan. I encourage stakeholders to explore those options further.

### *TAC and TACC for SCI 3*

- 38 I have set the TAC for SCI 3 at 357 tonnes. After making allowance for zero Maori customary and recreational catch, and an allowance of 17 tonnes for other sources of fishing-related mortality (set at 5 % of the TACC), I have set the TACC at 340 tonnes.
- 39 The SCI 3 QMA is a new management area, defined in the Fisheries Amendment Act 2004 (No 2), and includes all of FMA 3 and that part of FMA 4 lying to the west of the 180° meridian (see Figure 1).
- 40 Scampi fishing effort and catches in FMA 4 have been concentrated predominantly within the western part of the area, adjacent to the FMA 3 boundary. For some years, FMA 4 also has been informally separated at the 180° meridian for stock monitoring purposes. For those reasons, I agree that the starting point for setting the TAC for SCI 3 be the sum of the current CCLs for FMAs 3 and 4.
- 41 The current catch limits for both areas 3 (60 tonnes) and 4 (250 tonnes) have been reached or exceeded in most years. Since competitive fishing in both areas (as from 2001-02), the catch limits have been taken within the first month of the fishing year. Catch rates in both areas remain well above the rates recorded in the index years (1992-93 for FMA 3 and 1991-92 for FMA 4) used as the reference points. Results from the photographic survey in FMA 3 suggest that the current area 3 catch limit is likely to be conservative.
- 42 I consider that the available information supports setting a TAC for SCI 3 that is greater than the sum of the respective current scampi catch limits for FMAs 3 and 4 (the sum is 310 tonnes). However, neither stock status nor specific yield estimates are available, so the long-term sustainability risk of any chosen level of increased harvesting cannot be established.
- 43 I agree that the TAC include a 10 % increase above the sum of current catch limits to provide for increased utilisation while ensuring sustainability. I note that further utilisation potential can be explored by stakeholders over time via the available mechanisms in the Act, including fishery plans, adaptive management, and directed research.

### *TAC and TACC for SCI 4A*

- 44 I have set the TAC for SCI 4A at 126 tonnes. After making allowance for zero Maori customary and recreational catch, and an allowance of 6 tonnes for other sources of fishing-related mortality, I have set the TACC at 120 tonnes.
- 45 SCI 4A is also a new management area, defined in the Fisheries Amendment Act 2004 (No 2) as that part of FMA 4 to the east of the 180° meridian, including the waters surrounding the Chatham Islands.

- 46 Substantial fishing was reported from this area only between 1990–91 and 1992–93, and again since 1998–99. The sum of catches from the eastern area has been low, and the stock is likely to be near its virgin size. CPUE in 2002–03 was about twice that in the 1990–91 reference year.
- 47 The fishery has operated in a confined area to the north of the Chatham Islands that has remained relatively consistent. However, the bathymetry of the Chatham Rise suggests that scampi habitat, and scampi, might be available throughout the QMA. Scampi have been taken in research trawls throughout the area.
- 48 The CCL of 250 tonnes for FMA 4 was originally set on the basis of the area of scampi habitat between the 200 m and 500 m depth contours, and an estimate of yield per unit area derived from the scampi fishery in FMA 1. The area of habitat within SCI 4A is slightly less than half that within the entire FMA 4. I agree that the TAC for SCI 4A be set at approximately half the current catch limit for FMA 4.
- 49 Reliable estimates of abundance and yield are not available, and it is not known if catches at the level of the TAC will be sustainable in the long term or move the stock towards the  $B_{MSY}$  level. However, the available estimate of yield was derived from a relatively conservative method. Coupled with the likelihood that the eastern stock is near virgin size, the TAC for SCI 4A is likely to be relatively cautious. Making that yield available satisfies the utilisation purpose of the Act, while doing so cautiously ensures sustainability and addresses the environmental principles. Further utilisation potential can be explored by stakeholders over time via the available mechanisms in the Act, including fishery plans, adaptive management, and directed research.

### *TAC and TACC for SCI 6A*

- 50 I have set the TAC for SCI 6A at 321 tonnes. After making allowances for zero Maori customary and recreational non-commercial catch, and setting an allowance of 15 tonnes for other sources of fishing-related mortality, I have set the TACC at 306 tonnes.
- 51 The SCI 6A QMA is another new area, defined in the Fisheries Amendment Act 2004 (No 2) to include all of the current scampi 6A area surrounding the Auckland Islands, and the immediately adjacent part of the 6B area that has been fished.
- 52 Scientific advice is that the fishery adjacent to the Auckland Islands shelf is a single fishery operating on one biogeographical unit. All reported scampi catch from the current 6A and 6B areas has been taken from the Auckland Islands shelf area, and this suggests that the current catch limits (256 tonnes for 6A and 50 tonnes for 6B) can be summed to form an appropriate basis for the new SCI 6A QMA.
- 53 While recent catch rates in areas 6A and 6B appear to have declined well below the reference years, it is not known if CPUE is a reliable index of abundance. Further, changes to the management regime and the distance of the fisheries from the nearest ports, will have influenced the way fishers have utilised the fisheries in areas 6A and 6B since 2001–02 when competitive fishing began in area 6A. Without fishery-independent indices of abundance, it is difficult to deduce the current state of health of the fisheries with any certainty. The best available scientific advice from the Plenary is that it is not known if recent catches and current catch limits are sustainable in the

long term or will allow the stock to move towards a size that will support the maximum sustainable yield.

- 54 On balance, I consider that the sum of catch limits for areas 6A and 6B is an appropriate basis for setting the SCI 6A TAC that will satisfy my obligations under the Act. The available information about the status of the stock is uncertain or inadequate. Average landings over ten years have been close to the proposed TAC, and the need to reduce utilisation of the stock for sustainability reasons cannot be reliably established at this time. However, it will be necessary to monitor closely the performance of the fishery over the coming few years, and I agree that fishery-independent monitoring using photographic methods should be started as soon as possible.

### *TAC and TACC for SCI 6B*

- 55 I have set the TAC for SCI 6B at 53 tonnes. After making allowances for zero Maori customary and recreational non-commercial catch, and an allowance of 3 tonnes for other sources of fishing-related mortality, I have set the TACC at 50 tonnes.
- 56 The new SCI 6B QMA is defined in the Fisheries Amendment Act 2004 (No 2) to include all of the general FMA 6 area outside the boundaries of SCI 6A.
- 57 Although FMA 6 is a vast geographic area, suitable depth ranges for scampi are restricted to four areas, generally surrounding the Campbell, Antipodes, and Bounty Islands and the Pukaki Rise area. Nevertheless, the spatial extent of the available habitat is large.
- 58 The current scampi catch limit of 300 tonnes for FMA 6 was originally set on the basis of the area of scampi habitat between the 200 m and 500 m depth contours, and an estimate of yield per unit area derived from the scampi fishery in FMA 1. The catch limit was partitioned between areas 6A (250 tonnes) and 6B (50 tonnes) for the 1992–93 fishing year, largely on the basis of catch taken in the 6A area.
- 59 The area of possibly suitable scampi habitat within 6B is considerably greater, and suggests that the proposed TAC of 53 tonnes is likely to be relatively cautious. The likely areas of habitat are far distant from the nearest ports or available shelter, little or no fishing has been done there, and the stocks are likely to be at or near their virgin size.
- 60 Reliable estimates of abundance and yield are not available, and it is not known if catches at the proposed TAC level will be sustainable in the long term or move the stock towards the  $B_{MSY}$  level. However, the available estimate of yield was derived from a relatively conservative method. Coupled with the likelihood that the stock is near virgin size, the TAC for SCI 6B recommended by MFish is likely to be relatively cautious. Making that yield available satisfies the utilisation purpose of the Act, while doing so cautiously ensures sustainability and addresses the environmental principles. I note that further utilisation potential can be explored by stakeholders over time via the available mechanisms in the Act, including fishery plans, adaptive management, and directed research.

### *TAC and TACC for SCI 5, SCI 7, SCI 8 and SCI 9*

- 61 I have set TACs and TACCs for SCI 5, 7, 8, and 9 based on the current catch limits for the stocks, making allowances for zero Maori customary and recreational non-commercial catch, and allowances for other sources of fishing-related mortality at the level of 5 % of the TACCs for SCI 5, 7, and 9. The TACs and TACCs I have set are:
- SCI 5 – TAC of 42 tonnes, and TACC of 40 tonnes;
  - SCI 7 – TAC of 79 tonnes, and TACC of 75 tonnes;
  - SCI 8 – TAC and TACC of 5 tonnes; and
  - SCI 9 – TAC of 37 tonnes, and TACC of 35 tonnes.
- 62 The current catch limits for scampi in FMAs 5, 7, 8, and 9 were set on the basis of the area of scampi habitat between the 200 m and 500 m depth contours, and an estimate of yield per unit area derived from the scampi fishery in FMA 1.
- 63 Landings reported from SCI 5, 7, 8, and 9 have been low generally, and typically between zero and two tonnes in SCI 7, 8, and 9. Substantial landings have been reported only from SCI 5 (30 tonnes reported in the 1998-99 year). Landings in 2002–03 were less than one tonne in all stocks except for 7 tonnes landed in SCI 5. Given that little catch has been reported from SCI 5, 7, 8, and 9, it is likely that the stocks are close to virgin size.
- 64 Reliable estimates of abundance and yield are not available for any of these stocks, and it is not known if catches at the TAC levels recommended by MFish will be sustainable in the long term or move the stocks towards the  $B_{MSY}$  level. However, the available estimates of yield were derived from a relatively conservative method. Coupled with the likelihood that the stocks are near virgin size, the recommended TACs for SCI 5, 7, 8, and 9 are likely to be relatively cautious. Making those yields available satisfies the utilisation purpose of the Act, while doing so cautiously ensures sustainability and addresses the environmental principles. I note that further utilisation potential can be explored by stakeholders over time via the available mechanisms in the Act, including fishery plans, adaptive management, and directed research.
- 65 The recommended TAC for SCI 8 is low in comparison to all other stocks, because the spatial extent of habitat is concomitantly small. The allowance of 5 % of the TACC for fishing-related mortality in SCI 8 has limited relevance and has not been included. Should the TAC/TACC for SCI 8 be increased in the future, or should new information about fishing-related mortality become available, I agree that the allowance should be reviewed.

### *TAC and TACC for SCI 10*

- 66 I have set a TAC and TACC of 0 tonnes for SCI 10.
- 67 No scampi catch has been reported in FMA 10. Access to scampi in the area has not been provided under the non-QMS management framework. Habitat is very restricted.

### *Revocation of existing catch limits*

68 From 1 October 2004, scampi stocks will be managed within the QMS, and the TACs and TACCs I have set will apply. The existing catch limits and commercial catch limits will be redundant, and I have decided that they should be revoked as from 1 October 2004.

### *Deemed Values*

69 The deemed value regime that will apply for scampi is summarised in Table 2.

**Table 2: Deemed value regime for scampi stocks.**

Scampi fishstock	Port price estimate (\$/kg)	% factor	Annual Deemed Value (\$/kg)	Interim Deemed Value	Differential deemed values (Y/N)	Overfishing thresholds
SCI 1, 2, 3, 4A, 5, 6A, 6B, 7, 8, 9, 10	25.65*	200 %	51.30	25.65	Yes	No

\* Average of port prices for SCI in FMAs 3, 4, 6A and 6B estimated from 2004 survey.

70 Deemed values are intended to provide economic incentives for fishers to balance their catch against ACE. Deemed values generally are also set at levels that discourage the unlawful discarding of fish if ACE is not held.

71 I agree that scampi stocks align best with the 'High Value Single Species Fisheries Fishstocks' category and the associated MFish guidelines for setting deemed values. Despite the relatively large proportions of bycatch that characterise the scampi fishery, the fishery fits the high value category best because of the need for a strong deterrent to taking catch in excess of ACE. Although scampi catches are characterised by relatively large proportions of bycatch, including QMS species of importance (ling, hoki, and gemfish), the need to obtain ACE to balance bycatch is an existing requirement for scampi fishers. Scampi has a high port price (recent estimates are from \$ 24.00/kg to \$ 28.13/kg), and target fishing takes the vast majority of the catch.

72 I have noted that some stakeholders consider the deemed value levels recommended by MFish to be either too low or too high, in part arising from perceptions about the relevance of port price as an indicator of scampi value. I note that MFish has generally relied on estimates of port price as the basis for deemed values. Further, I am aware that the deemed value regime generally is under review. I consider that the basis for deemed values recommended by MFish is satisfactory as a starting point to support QMS management, and that future updates of deemed values will refine the regime to best achieve its purpose.

73 I consider that the initial deemed values for scampi should be set at 200 % of the port price, as per the high value guidelines. Deemed values at that level are likely to create the necessary incentive for rights holders to manage their fishing within the available ACE, and not to profit from overfishing the TACCs.

- 74 I am aware that a relatively small quantity of scampi is taken as an inevitable consequence of bottom trawling for other species. I recognise that scampi ACE might not be readily available for such fishers, and that the high deemed values might create incentives to discard scampi bycatch or consume it on board vessels. If fishers do not land scampi bycatch because of the high deemed values, information about the true fishing mortality (to contribute to stock assessments) will be lost. However, estimates of bycatch levels can be determined from existing landings and from sampling of future catches. The available information suggests that the unreported component of the catch is likely to be small, and is unlikely to pose risks to the stocks.
- 75 Furthermore, I have decided that differential deemed values will apply to different levels of catch in excess of annual catch entitlements for scampi stocks (under s 75(4) of the Act) as follows:
- a) For so much of a commercial fisher's reported catch as does not exceed the fisher's ACE by more than 20%, the basic annual deemed value applies;
  - b) For so much of a commercial fisher's reported catch as exceeds the fisher's ACE by more than 20%, but not more than 40%, then 120% of the basic annual deemed value applies;
  - c) For so much of a commercial fisher's reported catch as exceeds the fisher's ACE by more than 40%, but not more than 60 %, then 140% of the basic annual deemed value applies;
  - d) For so much of a commercial fisher's reported catch as exceeds the fisher's ACE by more than 60%, but not more than 80%, then 160% of the basic annual deemed value applies;
  - e) For so much of a commercial fisher's reported catch as exceeds the fisher's ACE by more than 80%, but not more than 100%, 180% of the basic annual deemed value applies; and
  - f) For so much of a commercial fisher's reported catch as exceeds the fisher's ACE by more than 100%, 200% of the basic annual deemed value applies.
- 76 In the case of a fisher who holds no ACE, the fisher shall be deemed to hold one kilogram of ACE (s 76 (2C)).
- 77 Overfishing thresholds (ss 77, 77A and 78 of the 1996 Act) ensure that, where interim deemed values have proved inadequate to prevent fishers continuing to catch in excess of ACE, and where overfishing thresholds are applied, the fisher's permit is conditioned to prevent the fisher fishing in the relevant geographical area. Tolerance levels (ss 77 and 78 of the Act) are designed to prevent overfishing thresholds being triggered by trivial amounts of catch in excess of ACE.
- 78 Different approaches to the imposition of overfishing thresholds and tolerances exist, depending on the nature of the fishery. At least initially, only "high value single species fisheries fishstocks" introduced into the QMS are considered candidates for overfishing thresholds.

- 79 I may have regard to the following matters when considering whether or not to recommend an over-fishing threshold:
- a) The effectiveness of deemed values in encouraging commercial fishers to acquire or maintain sufficient annual catch entitlement to cover their total catch;
  - b) The particular need, in relation to target stocks, to encourage fishers to acquire or maintain sufficient annual catch entitlement to cover their total catch;
  - c) Actual or potential risks to the sustainability of the stock; and
  - d) Any other matters I consider relevant.
- 80 It is not possible at this time to assess point (a), as scampi will be a new entrant into the QMS. Category (b) relates to target stocks and scampi is taken primarily as a target species. There is a potential risk to the sustainability of scampi stocks (c) if commercial catches exceed the TACCs, but this risk cannot be reliably quantified at this stage. A relevant consideration under (d) is the mitigation of adverse effects of fishing by constraining the extent of scampi fishing.
- 81 Scampi trawling is relatively specialised, uses non-standard trawl gear, and access has been restricted to only eight permit holders since the early 1990s. Those current permit holders are likely to remain the major fishers of scampi once stocks enter the QMS. The major fishers are likely to be the major holders of quota, and would have considerable incentives to operate responsibly and ensure the ongoing value of their stake in the scampi fisheries.
- 82 I agree that the specialised, target character of the fishery, and a limited number of participants, suggest that the deemed value framework should serve to effectively constrain catches within the respective TACC and ACE levels. My view is that the performance of the deemed value framework is easily monitored, and overfishing thresholds for scampi stocks can be set in the future if necessary.
- 83 I have decided not to set an overfishing threshold for scampi at the time of QMS entry.

## ***Proposals for Regulatory Amendment***

### ***Reporting codes***

- 84 I agree that consequential amendments be made to the Fisheries (Reporting) Regulations 2001 to specify the codes to be used when completing catch returns which must be furnished to the Chief Executive. This amendment will incorporate codes which reflect the revised QMAs for scampi.

### ***Minimum trawl net mesh size for scampi***

- 85 Relatively small mesh is required to adequately select for scampi, given that the animals are smaller in size than those finfish species generally targeted by trawling. The use of 80 mm net mesh in the body and 55 mm net mesh in the cod-end of trawl nets has been authorised by fishing permit conditions when fishing for scampi under non-QMS management. The standard regulated minimum mesh size for trawl nets is

100 mm. The scampi trawl fishery would not be able to operate effectively without the ability to use the mesh sizes currently authorised by permit conditions.

- 86 I agree that amendments be made to the Fisheries (Commercial Fishing) Regulations 2001 to allow the use and possession of 80 mm net mesh in the body and 55 mm net mesh in the cod-end of trawl nets for scampi trawling. I also agree that the existing permit conditions be revoked. In order to keep track of the use of small mesh nets, fishers will need to notify the chief executive of MFish of their intention to possess on board and use for scampi fishing the specified small mesh gear. Notification to MFish will be required once each fishing year, prior to taking the gear on board or using it. It will be an offence to possess on board, or to use, mesh less than 100 mm unless MFish has received prior notice (or other exemptions apply) for a given fishing year. MFish advice on how this notification will be practically managed will be provided to current permit holders shortly.

### ***Future research – abundance estimation and stock assessment***

- 87 I have noted the concerns expressed in some submissions about the lack of reliable information on scampi abundance and yields.
- 88 While I understand the practical difficulties associated with determining scampi abundance and yields, I agree that it would be desirable to have more reliable information to inform the management of such a valuable fishery. The developing photographic techniques appear to be showing most promise, and I encourage stakeholders to support the earliest possible refinement of this technique and its application to the priority scampi stocks. I also applaud the work done to date to develop a stock assessment model for scampi, and similarly encourage its development to the operational stage.

### ***Conclusion***

- 89 I believe that the introduction of scampi into the QMS represents a significant step forward for the fishery and its participants. Although the fishery has had its share of contentious issues over its history, I believe that stakeholders now have the chance to embrace the opportunities presented by management within the QMS. Management within the QMS provides incentives for collaboration, planning, and maximising value that the fishery has not seen previously.

Yours sincerely

Hon David Benson-Pope  
Minister of Fisheries