

27 July 2007

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Wellington

Tena koe Tracey

**Submission on
the IPP for the Review of Sustainability Measures and Other
Management Controls for 1 October 2007**

1. Introduction

This submission is from Aotearoa Fisheries Limited (AFL) in response to the Ministry's Initial Position Papers (IPPs) entitled -

- *Review of Sustainability Measures and Other Management Controls for 1 October 2007*
- *Review of Review of Deemed Value Rates For Selected Fishstocks*

This submission supports the submissions made by the New Zealand Seafood Industry Council and Te Ohu Kai Moana Trust and is designed to supplement those submissions. While generally concordant with those submissions, there are some areas below where the AFL submission raises points that are not covered in the two submissions mentioned above.

2. Background

Aotearoa Fisheries Limited has made, on behalf of its Iwi shareholders, a significant investment in the New Zealand seafood industry and its combined equity interests now total ³²NZ\$350m.

Such investment has been made on the back of clear expectations which rely upon the consistent implementation of processes outlined within the Fisheries Act 1996 and maintenance of a web of economic incentives that are ultimately crucial to the achievement of the Act's Purpose.

Namely, the QMS is designed to provide AFL and other commercial rights holders -

- A clear and secure rights based framework

³² AFL Annual Report

- A management regime and statutory processes that support the Purpose of the Fisheries Act 1996. In particular to –
 - Ensure the sustainability of commercial fish stocks for commercial harvest
 - Provide for commercial utilisation of fisheries that enables right holders to provide for their economic wellbeing
- In particular, we expect the management regime to enable AFL, as a right holder, to provide for the social, economic and cultural wellbeing of our shareholders
- We also expect these processes to be operated according to general principles of fairness and natural justice.
- Aotearoa Fisheries Limited supports measures which will reduce sustainability risk whilst seeking optimal utilisation for the benefit our Iwi shareholders.

In this submission we respond to the following issues:

- **North Island eels SFE 20-23 & LFE 20-23**
- **Deemed Values**

3. North Island eels SFE 20-23 & LFE 20-23

We accept that:

- eels have a unique life history which merits a conservative management approach
- eels are highly valued by Maori for subsistence and customary practices
- the Minister’s intention (in placing North Island Eels in the QMS) included improvement in the fishery’s availability to customary Maori fishers, its size structure and the relationship with interdependent stocks
- there is some small doubt that the current level of anthropogenic mortality of longfin eels is sustainable in the long term
- Japanese, European and American eel fisheries are in decline
- the catch limit review suggested for longfin stocks relates primarily to reducing sustainability risk whilst improving size structure, abundance and relationships with interdependent stocks

We contend that:

- New Zealand eel fisheries are already far more conservatively managed than their worldwide counterparts and, as a result, are *certainly* in better health
- managing for spawning biomass (female) is the key to managing sustainability risk in the case of both species
- TAC reduction on its own will not provide for the spawning biomass assurance required by the Minister and indeed our shareholders – we could and should find a more comprehensive solution
- The Minister through his Ministry strongly advocates for the “maximisation of value” for fisheries to stakeholders

- To that end we really have not (satisfactorily) defined the managerial objectives or targets for the eel fishery
- the catch limit review (recommended in the IPP) for shortfin stocks relates, only to improving size structure and abundance
- The IPP fails to address maximisation of value to **All** stakeholders nor considers economic impacts of such cuts sufficient to test value hypothesis
- in regard to shortfin eels there is no current sustainability risk at a level warranting action. The review in regard to shortfin eels is therefore of a lower priority and certainly not pressing.
- The IPP fails to consider alternative management options nor the wider single stock status covering the whole of Aotearoa.

We remind both Central and Local Government;

- **their continued relatively unconstrained terrestrial development through agriculture, resulting in the substantive reduction of productive waterways, uncontrolled effluent disposal and runoff, have had major impacts on the status of the eel fishery**
- **The commercial eel sector cannot and should not be asked to bear the brunt of such impacts through loss of reducing access and quota cuts in the absence of compensation.**

We remind the Ministry of Fisheries

- that all New Zealand longfin eels are part of a single New Zealand breeding stock which can only be managed by providing an adequate spawning biomass out of New Zealand as a whole.
- all shortfin eels are part of a single south west Pacific breeding stock which can only be managed by (all recruited countries) collectively providing an adequate spawning biomass.
- it would be logical and fair that, in the absence of a stakeholder direction to the contrary, M'Fish manage spawning biomass from the different regions in an equitable manner, with each QMA throughout New Zealand making its contribution pro rated to the TAC
- That MFish has a wider legislative responsibility to ensure sustainability through improving environmental conditions for the fishery.

We therefore question

- why South Island stocks are not included in the review especially in the case of longfins where sustainability risk is an issue?
- the continued management of South Island eels as combined shortfin and longfin stocks. Is this to be reviewed?
- if MFish intend to introduce similarly conservative management proposals for South Island longfin stocks within the next three years?
- why the Ministry are considering separate eel fishery plans for the North and South Islands – surely this perpetuating a strategic mistake already made.
- whether the current review commercially advantages operators in the South Island over those with their quota investments in the North.

- Why the Ministry has not challenged the policies and procedures of other government agencies responsible for terrestrial management.

We reiterate

- Management is about managing the environment as well as the stock it is a failure to do one in the absence of the other.
- TACC reductions and shutting waterways is not the way to manage the NZ eel fishery.
- the widely held view that management of the South Island eel fishery as a combined shortfin/longfin (ANG) stock is scientifically remiss.
- that, whatever advice or pressures caused this anomaly to develop, the sooner ANG is separated to SFE and LFE the better.

Response Summary

Aotearoa Fisheries Limited (AFL) is disappointed with the timing of this TAC review, especially in regard to shortfin eels.

- M’Fish has signalled that development of a comprehensive ‘fish plan’ for eels has been budgeted for next year.
- The emergence of new GIS modelling techniques and shifting managerial emphasis to ‘spawning biomass’ could revolutionise management of the eel fishery within the impending fish plan.
- Whilst AFL accepts the TAC’s as a fundamental management tool, additional management initiatives will be required to ensure an acceptable availability of large females in each river system.
- AFL, and others, have signalled a clear interest in developing eel aquaculture based on utilisation of shortfin glass eels. AFL have clearly stated a preparedness to surrender annual adult eel harvesting rights to utilise glass eels. We suggest that, utilisation of glass eels would significantly and positively affect management outcomes for the adult eel fishery.

In our opinion, management of the eel fishery could (and should) be thoroughly reviewed, with particular emphasis on objectives for the fishery, newly available science and more flexible utilisation of eels. This review should be part of the process to develop an ‘eel plan’ and should include the current review of shortfin TAC’s at that time.

4. Deemed Values (contained in Volume 3 of FAP)

The IPP details the stocks that met the set of criteria in the deemed value standard that are eligible for a review. AFLs response to specific fish stock deemed value adjustments are shown below. In the future we believe that it would be appropriate if industry representatives could participate in the review group. A greater level of transparency and the involvement of industry in the process would be appreciated.

- BAR 5 TACC needs to be reviewed, and until that occurs we see no reason to impose any higher level of penalty on fishers for breaching and inappropriate TACC.
- Although an increase in the deemed value for BCO3 would be appropriate, we cannot recommend that increase until a TACC review has been undertaken.
- We see no need to address the deemed values for BCO4 and BCO5
- An increase for BNS2 is appropriate
- FLA3 catch may be placing pressure on by-catch stocks. We recommend that the deemed value be adjusted.
- We support the need for the annual deemed value rate for GUR3 to be addressed since the deemed value is too low to be effective to curb over-catching
- We do not agree with the Ministry proposal to reduce the deemed values for GUR7 and GUR8. We consider that the deemed values should be increased to prevent them depressing ACE returns.
- If the TACC for HOK1 is reduced, we recommend that an aggressive deemed value regime be imposed to protect the new TACC.
- We believe the current deemed value rates for HPB3 depresses the ACE prices. However until the TACC has been reviewed we see no rationale in addressing the deemed value at this time
- The low deemed value for JDO2 constrains the ACE prices for quota holders. We recommend an increase to the deemed value
- We believe the proposed level of deemed value for JDO7 would not be an effective deterrent to over-catch, and recommend an increase to the deemed value.
- For all LIN stocks we believe that the absence of a differential rate would carry too much risk to the stocks and is not appropriate until the efficacy of a high annual deemed rate has been proven. AFL proposed a differential rate for the LIN stocks.
- AFL believes that the absence of a differential rate for ORH3b and ORH7B would carry too much sustainability risk to the stock and is not appropriate until the efficacy of a high annual deemed rate has been proven. AFL proposed a differential rate for the ORH stocks.
- AFL believes that the deemed value for RCO3 should be increased whether or not the TACC is decreased.
- AFL concurs with the Ministry that an increase to the deemed value for SCH1 is necessary
- AFL does not support an aggressive increase for the annual deemed value for SKI2 and does not support the need for differential rates
- AFL supports the need for an adjustment to deemed values for SNA2, SNA7 and SNA8. However does not support the Ministry proposed levels.
- AFL supports the Ministry's proposed levels of annual and interim deemed values for all SPD stocks.
- AFL supports the Ministry's decision to increase the deemed value for SPO2, but that the proposed rate is excessive
- AFL does not support an increase to the annual or interim deemed value rate for SWA3 or SWA4. However the TACC should be reviewed.
- AFL supports the Ministry's proposal for an SWO1 deemed value and the removal of a differential deemed value

- AFL do not support the aggressive increase in deemed value rates for TAR stocks. A moderate increase with differential rates is appropriate.
- AFL disagrees with the Ministry to leave the annual deemed value rate for TRE2.
- AFL supports the Ministry's decision to increase the WAR3 annual deemed value rate, and apply harder differential rates.
- AFL supports the Ministry decision that the deemed values for LFE, SFE, OYS7C, OEO1, SNA1 and SQU1T do not need adjustment
- AFL recommend that the annual and interim deemed value rates for WWA stocks remain the same, but that differential deemed value rates be implemented.

North Island eels SFE 20-23 & LFE 20-23

- ***AFL recommends that the current shortfin TAC review should be postponed and integrated with the development of a 'Fish Plan' for eels to be completed by 30 September 2009.***
- ***If however, the Ministry is unprepared to postpone this review in preference for an integrated management approach, AFL would reluctantly support the following catch limit reductions: see Appendix 2.***
- ***AFL cautiously accepts the Ministry's view that action on catch limits for longfins is somewhat more pressing. Accordingly, we recommend the following catch limit adjustments for implementation 1 Oct 2007: see Appendix 1.***

Naku noa, na

Tom McClurg

GENERAL MANAGER, STRATEGY & PLANNING

Appendix 1

AFL's Response to Proposed TAC Cuts for North Island Longfin Eel Stocks: LFE20, 21, 22 and 23

Proportional vs Non Proportional Cuts

AFL supports the principle of "equity of allocation".

Accordingly, we are consistent in supporting the 'proportional allocation' option for all stocks

Reallocation of harvesting rights between sectors would undermine the Deed of Settlement.

Positive Indicators for North Island Longfin Stocks:

- The proportion of longfins in the total landed weight of eels in 03/04 and 04/05 was 26% and 31% respectively. This is similar to the proportion (32%) of longfin between 1991 and 2003.. We take issue with Sections 37 and 68 of the IPP.
- About 1/3rd of all longfin catches since 2003/2004 were above 1000g and 50% were larger than 500g.. We take issue with Section 32 in the IPP
- The size of longfins caught in the North Island have been trending up since 2001-02.. We take issue with Sections 31 & 68 in the IPP
- Large (>1000g) longfin eels are effectively an index of potential spawning females

LFE 20

AFL recommends a smaller cut than those suggested in the IPP: TACC = 33t
30% cut to the existing TACC.

With a back drop of improving size structure and approximately 1/3rd of longfin catches being above 1kg (ie females) we believe that North Island longfin stocks are improving at current catch levels. Data for 03/04 and 04/05 would indicate that the size structure for LFE 20 is in reasonable balance with the other three QMA's. Whilst longfin eels have faster growth rates in Northern regions, AFL do not subscribe to the IPP view that these areas might endure heavier cuts to subsidise spawning biomass for other areas of New Zealand.

We acknowledge that the TACC has not been fully caught for the two years since QMS introduction. We assert however that, in the case of Northland/Auckland, the low catches have been attributable to the small number of capable fishers remaining after a mass exodus/retirement in October 2004.. Ability to recruit new fishers has been hampered by low port prices and margins caused initially by low demand and more recently by the extraordinarily high level of the New Zealand dollar. We believe that the heavier level of cuts recommended for LFE20 are largely attributable to a shortage of experienced fishers rather than the fundamentals of an inferior stock situation.

LFE21

AFL recommends option 1: TACC = 49t
23% cut to the existing TACC

We believe that option 1 will render the longfin fishery in this area to a level which will

result in improved size structure and CPUE within a five year time period. Whilst losing fishermen post introduction to the QMS, this was at a very much lower level than that experienced in Northland/Auckland. We accordingly give the argument of TACC catchability more credence in regard to this stock. Given also that of the four North Island stocks LFE21 had the smallest size structure, we are taking a cautious view.

LFE22

AFL recommends option 1: TACC = 29t

29% cut to the existing TACC

Size structure for LFE22 is superior to the two northern stocks. However, we note that growth rates are lower for colder southern regions and that the TAC should be set at a level reflecting the region's overall productivity. We are confident that the proposed harvesting level will result in improved CPUE and more extensive availability of large eels in mainstem rivers and large tributaries.

We take issue with the view (in the IPP) that reducing TAC will necessarily improve size structure throughout mainstem rivers. We remind MFish that large longfin eels are preferentially vulnerable to fishing. It will take a more sophisticated approach to achieve targetted size structures in individual river systems. During the development of a fishing plan for eels, AFL will promote a re-think of just how we might achieve this goal.

LFE23

AFL recommends a smaller cut than those suggested in the IPP: TACC = 24t

41% cut to the existing TACC

We feel that the level of cut proposed for this area is heavier than can be justified by the state of the stock and productivity for the area. As in Northland/Auckland this area has suffered from a loss of capable fishermen since (and even before) introduction to quota. To quantify the level of cut on the last two year's shortfall in catch is not appropriate in this case.

Size structure of this stock (together with LFE22) is significantly better than the northern stocks. In making our recommendation AFL has considered the current superior stock size structure, lower growth rate of southern areas and the overall productivity remaining after excluding a proportion of the Wanganui catchment.

We again reject the notion of certain QMA's being commercially disadvantaged in having to subsidise (without stakeholder agreement) spawner biomass.

Appendix 2

AFL's Response to Proposed TAC Cuts for North Island Shortfin Eel Stocks: SFE20, 21, 22 and 23

Proportional vs Non Proportional Cuts

AFL supports the principle of "equity of allocation".

Accordingly, we are consistent in supporting the 'proportional allocation' option for all stocks. Reallocation of harvesting rights between sectors would undermine the Deed of Settlement.

General indicators for North Island shortfin stocks

Shortfin eels form a single breeding stock with significant resident populations and migrant spawner contributions from south eastern Australia, New Zealand (including the Chathams), New Caledonia and Fiji. The geographically diverse population distribution renders shortfins considerably less vulnerable to migration and recruitment risk than New Zealand longfins.

With the exception of SFE22, all other shortfin stocks showed CPUE improvement for the period 1990-2002. The next CPUE report will not be available until 2009. There is no perception that shortfin eels are currently under significant sustainability risk. We assume that the intent of the proposed cuts under the IPP are primarily for the purpose of improving size structure/cpue and to further reinforce spawner biomass.

We again strongly advise that the timing for review of shortfin TAC's is not optimum! There is no urgency and the review should be integrated with the formation of an eel fishing plan signalled by MFish for 07/08 and 08/09. AFL believe that integrating the process will result in superior long term management of this species.

SFE 20

AFL recommends a smaller cut than those suggested in the IPP: TACC = 127t
15% cut to the existing TACC.

We believe that the proportionately higher level of cuts recommended for SFE20 are largely attributable to a shortage of experienced fishers rather than the fundamentals of an inferior stock situation. (*see LFE20 for more detail*).

CPUE index rose between 1992 and 2002. Growth rates are higher than more southern areas. Size structure is indeed lower than those of the two southernmost stocks but superior to SFE21.

SFE21

AFL recommends option 1 proportional: TACC = 149t
9% cut to the existing TACC

AFL is comfortable with the view expressed under IPP option 1. We do note the apparent variance between stock quality within the SFE21, most particularly between ESA's 3 (the best) and 4 (the worst). We see this as an argument for a more

sophisticated management than simple QMA wide TAC controls might allow.

SFE 22

AFL recommends no cut at this time: TACC = 108t

0% cut to the existing TACC

AFL is comfortable that the existing TAC is appropriate for this stock. The cut proposed under option 1 of the IPP is in any case, small. SFE22's TACC has been easily catchable for the two years since QMS introduction with only commercial ACE mop-up issues preventing a 100% performance. Much of the catch is taken from 'farmed' lakes on private property.

There is very considerable commercially available habitat for shortfins in this QMA. Size structure is superior although cpue has reduced between 1990 to 2002. Once again we see a more sophisticated approach is necessary to separately manage the data from the large 'semi farmed' lakes on private property and the public access rivers. It is our belief that size structure in public access waters is actually better than the official figures indicate. It is, however, dragged down statistically by the 'farmed' lake fisheries which supply small eels.

SFE23

AFL recommends no cut at this time: TACC = 37t

0% cut to the existing TACC

Size structure is superior. Much of the commercial fishery comes from 'farmed' lakes on private property indicating that the public access waters carry an even better size structure than the statistics might indicate.

References

- 1/ Required research presentations, Eel Working Group meetings Hamilton 2004-2007
- 2/ AFL Shared Fisheries Submission 2007
- 3/ Interviews (telephone) with long term fishermen and operators
- 4/ Minutes of the eel working group meeting 28/02/07 - Wellington
- 5/ Draft medium term research plan 2006-2009
- 6/ Optimal management of the New Zealand longfin eel (*A dieffenbachii*) - Doole
- 7/ Longfinned eel female spawning escapement – Jellyman and Graynoth
- 8/ Recruitment of freshwater eels: 2004-2005 and 2005-2006 – Martin, Boubee, Bowman and Griffin
- 9/ EEC0 conference call Tues 24 July 2007

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27th July 2007-07-27

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Attention: Tracy Steele

Kia ora Tracy

Please receive the following submission from Huakina Development Trust (Huakina).

Huakina represents the day to day concerns of 14 Marae and Papakainga. The majority of the Marae and Papakainga are located within the lower catchment of the Waikato River while several are located on the West Coast.

All the Marae and Papakainga the Trusts represent lie within SF21 and LF21 Waikato/Poverty Bay Eel Management Area.

Tuna is a traditional food of all our marae and papakainga whanau. In the past catches were large enough to fulfil our host obligations at hui. Some of our marae no longer provide this delicacy while others are forced to buy a once abundant food source in order to meet its traditional obligations for providing at hui in particular the Poukai.

The mana of the people is dependent on the fishery being healthy.

In the interests of the fishery and our customary obligations of manaakitanga and kaitiakitanga we fully support a reduction in TACC in Area SF21, LF21.

Noho ora mai

Carmen Kirkwood

HUAKINA DEVELOPMENT TRUST



SEAFOOD INDUSTRY COUNCIL

The New Zealand Seafood Industry Council Ltd

Submission on
the IPP for the Review of Sustainability Measures
and Other Management Controls for 1 October 2007

27 July 2007

Summary

Section 10 amendment

SeaFIC does not consider it appropriate for the Ministry to request submitters to speculate about the implications for the IPP of the Fisheries Act 1996 Amendment Bill. Consultation on the IPP should reflect the law as it currently stands. We reject the suggestion that the Act requires amendment in order to reflect the internationally recognised precautionary approach.

Other general points

SeaFIC notes the uneven quality of sections of the IPP and suggests that the deep water and middle depths proposals provide a good benchmark for future IPPs. Common issues that could be improved upon in future IPPs include:

- developing a clear problem definition;
- evaluating TAC options in the context of longer term management objectives for the fishery under review;
- separating science and management processes in terms of the best available information and precaution, by (1) ensuring that the scientific information presented in the IPP is complete, unbiased and not intentionally conservative, (2) presenting a complete range of management options consistent with the purpose of the Act and (3) characterising risk in absolute rather than relative terms.

Statutory interpretation

With respect to the statutory interpretation sections of the IPP, SeaFIC:

- (i) recommends that the discussion of “adverse effects” should focus on a biological interpretation of adverse effect, rather than one influenced by community perceptions of acceptability;
- (ii) disagrees with the suggestion that social, economic and cultural factors are not mandatory relevant considerations when setting a TAC;
- (iii) does not accept that an “above Bmsy” management target may be appropriate in order to meet the wider social, cultural and economic objectives of the Act;
- (iv) notes that several of the matters that have been incorporated into the discussion on allocation as a result of the High Court’s findings in the kahawai proceedings are currently under appeal;
- (v) recommends that, in the absence of specific government policy decisions on the Shared Fisheries proposals, the Ministry’s previous default policy of proportional allocation should continue to apply; and
- (vi) submits that reallocation on the basis of government-determined estimates of value is inconsistent with the Fisheries Act.

Orange roughy general

SeaFIC considers that it would be timely to conduct a major review of orange roughy science and management, as part of the development of fisheries plans. We suggest, for example, that management under s 14 could be explored, supported by fishing in a “survey-like” mode on a rotational basis.

Orange roughy ORH 1

SeaFIC considers that there is no evidence of a current sustainability concern in ORH 1 and no need for a TAC reduction this year. We believe that the priority should be for ORH 1 quota owners and the Ministry to work together on the development of a fishery plan.

Orange roughy ORH 3B

SeaFIC supports the high priority afforded to fisheries planning for this fishery. Of the various options presented, we support those that seek to simplify the management of the fishery, in particular Option 2 (a reduction of 1,000 tonnes).

Orange roughy ORH 7B

SeaFIC considers that Options 3 and 4 are unnecessarily harsh – this small but important fishery should not be closed or severely reduced without a much more careful consideration of what is actually happening in the fishery. Our preference is therefore for Option 1 or 2, accompanied by measures to ensure better data collection and improved understanding of the stock and fishery.

Hoki

SeaFIC is concerned at the state of the western hoki stock and considers that the decline in biomass needs to be reversed. With this in mind, from a strictly biological perspective, of the options proposed we would support Option 2 (a TACC of 80,000 tonnes). However, we acknowledge this would have major economic consequences for the industry, and these need to be characterised and taken into account. We encourage the Deepwater Group and the Ministry to work together to fully articulate the differential effects of catch reductions under various options during the development of final advice.

Oreo OEO 1

We note that 95.95% of the quota owners support the proposed TAC and TACC reduction.

Squid SQU 1T

SeaFIC suggests that any TACC increase, together with wider squid jig and trawl issues, should ideally be considered as part of a fishery planning process.

North Island eels SFE 20-23 & LFE 20-23

SeaFIC considers that there is an urgent need to improve information on all types of eel catch, particularly non-commercial catch. We recommend that further work be carried out on the problem definition for both species and note that the IPP does not make a strong case for a sustainability concern for SFE. Spawning escapement is a key issue for effective management. Rather than focusing solely on TACs for the North Island, the final advice should consider a full range of management options for improving spawning escapement, including options relating to the entire biological stock, size limit changes, area closures and management of non-commercial fishing. Any TAC reductions should be proportional across the TACC and recreational allowances.

Flatfish FLA 3 and Red cod RCO 3

SeaFIC recommends that further work needs to be undertaken on the problem definition for these stocks and that fundamental questions about the way in which the fisheries are managed should be addressed, ideally prior to any TACC adjustments. As an alternative to the proposed TACC reductions, consideration should be given to the use of quota owner initiatives to withhold excess ACE in years of high abundance and spread effort to alleviate any localised abundance problems. Any TAC reductions in these fisheries should be proportional across the TACC and recreational allowances.

Tarakihi TAR 1

SeaFIC considers that there are additional utilisation opportunities in this fishery and the restricted range of options presented in the IPP does not give effect to the purpose of the Act. We recommend that the TAC and TACC should be increased.

School shark SCH 1

SeaFIC's view is that there are additional utilisation opportunities in the SCH 1 fishery and that a TAC should be set at a level that reflects an increased TACC and the best estimate of current non-commercial catch.

Dredge oyster OYS 7C

SeaFIC considers that the information presented in the IPP is unnecessarily restricted to the lower part of the range of plausible yield estimates, and that the risk characterisation of the various TAC options is inadequate. We recommend that further consideration should be given in the IPP to the ongoing development and management of the fishery, and that potential benthic impacts should be assessed in the context of historical fishing patterns.

Rubyfish RBY 8

SeaFIC supports the proposed adjustment of the TAC and TACC to correct an administrative error.

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Introduction

1. This submission is made by the New Zealand Seafood Industry Council Ltd (SeaFIC) on behalf of the seafood industry. The submission has been compiled by SeaFIC staff in consultation with our shareholders and the wider industry.
2. Our submission begins with a number of general points about this year's IPP. The remainder of the submission is in two parts. Part A addresses the statutory obligations and policy guidelines, and Part B contains comments on the reviewed fish stocks. We have prepared a separate submission on the review of deemed value rates.
3. SeaFIC staff are available to discuss any of the matters raised in this submission. In the first instance, please contact:
 - Kevin Stokes for ORH 3B & 7B, HOK, and SQU 1T;
 - David Middleton for OYS 7C; and
 - Nici Gibbs for all other stocks, plus statutory obligations and policy guidelines.

General comments on the IPP

Inappropriate to speculate about s10 amendment

4. SeaFIC does not consider it appropriate for the Ministry to request submitters to provide views on the various IPP options under the wording that might prevail if the Fisheries Act 1996 Amendment Bill were to be enacted.³³ Submitters should not be required to speculate on whether the Bill will be enacted and, if so, what its final form might take in response to submissions made during the Select Committee process. The current wording of s10 has generated a body of case law which provides submitters with a reasonable basis for interpreting how s10 might apply to particular IPP proposals. The Amendment Bill seeks to replace this with a new, as yet unknown, wording for s10 that has yet to be interpreted by the courts.
5. Consultation on the IPP is occurring under the law as it currently stands, and that is the basis on which submissions should be sought and made. The current law is also the basis on which final advice to the Minister must be prepared.

Uneven quality of the IPP

6. In previous submissions SeaFIC has had cause to comment on the quality of the advice and analysis in the IPP. This year we are pleased to note that several sections of the IPP are well-informed, clear, balanced, and carefully analysed. For example, the ORH 1 IPP is a sound basis for advising the Minister in spite of the historical “baggage” associated with recent advice papers and sustainability decisions for this fishery. The remaining deep water and middle depths proposals are similarly well considered and could provide a benchmark for some of the other IPP sections which

³³ IPP paragraph 48

are of uneven – and in some cases, poor – quality. Specific comments and suggestions on these sections of the IPP are provided in Part B of this submission.

Need for clear problem definition

7. One of the issues that arises for several of the stocks reviewed in the IPP is the lack of a clear problem definition. This is particularly apparent in (although not limited to) reviews that have been initiated by way of a request from the Minister. SeaFIC has found that if a sustainability or utilisation problem is not clearly defined in the IPP, then it is difficult for submitters to make constructive comments on the various options presented. We cannot easily submit on which option best addresses the management concerns if those concerns are not clearly articulated in the IPP.
8. For several of the stocks under review SeaFIC or other industry representatives have sought to clarify the concerns behind the IPP proposals through discussions with the relevant MFish fisheries managers. These conversations are inevitably helpful and illuminating and we appreciate the opportunity for discussion. Nevertheless the IPP should be able to be read as a stand-alone document, without the need for additional information to be obtained from MFish staff.

Relationship of IPP proposals to longer-term management objectives

9. One of the key themes in our comments in Part B of this submission is the importance of viewing the IPP management options and decisions in the context of longer term management objectives for the fisheries under review. SeaFIC accepts that the Minister has an obligation to ensure that the purpose of the Act is being met for a stock regardless of whether long-term management objectives and strategies have been agreed for that fishery (e.g., through a fisheries plan). Nevertheless, single-year management settings made as a result of the annual sustainability measures process should ideally be considered in light of the likely future management of that fishery. For instance, the Minister might view an annual TAC decision differently if it was likely that a new management approach could be agreed for that fishery within the next year, compared to a situation where reviewing the management approach was unlikely in the medium term.
10. SeaFIC considers that the advice given, and decisions made, on the sustainability measures provides an opportunity to either help embed the fisheries plan approach and reinforce its credibility with stakeholders, or alternatively, distract from the fisheries plan process by pre-judging future management approaches, exacerbating tensions between stakeholders, and reducing incentives to participate in collaborative processes.

Best available information & the assessment of risk

11. Decisions under the Fisheries Act must strike an appropriate balance between providing for utilisation while ensuring sustainability. The Act requires that decisions should be based on the best available information, and directs decision makers to be cautious where information is uncertain. SeaFIC notes that in order to strike the appropriate balance in decision making, a full range of options that could conceivably meet the purposes of the Act must be presented. Likewise, to constitute *best available information* the information provided must be complete.
12. SeaFIC is therefore concerned that, in a number of sections of the IPP, the range of options proposed is limited and the scientific information presented is intentionally conservative. SeaFIC notes the need to clearly separate the scientific and management processes. While fisheries management decisions must be cautious, the role of the scientific process is to provide the best available information. Such information is complete and unbiased, not intentionally conservative.
13. The OYS 7C IPP provides an example of both restricted provision of scientific information (yield estimates included are not the full range, given available estimates of dredge efficiency and natural mortality), and an incomplete range of management options (the highest TAC option presented is less than half the highest yield option presented).
14. In assessing the risks to sustainability of the various TAC options presented in the IPP, risk must be characterised in absolute terms. An assessment that simply notes that a higher TAC represents a higher risk is almost entirely information free. It is essential to establish whether the options presented span a range from “very low sustainability risk” to “very high risk” or simply from “very low risk” to “very slightly higher risk (while still being at the low end of the risk scale)”.

Part A: Statutory obligations and policy guidelines

Fisheries Act purpose & principles

Purpose of the Act

15. SeaFIC notes that the discussion of the purpose of the Fisheries Act in paragraphs 4 – 11 provides a useful summary of the Act’s purpose, supported by relevant case law.

Adverse effects

16. We consider that the discussion in paragraph 17 of “adverse effects” requires amendment and clarification. The Act anticipates and provides for a level of effects of fishing on the aquatic environment. These effects are lawful unless they are identified as being “adverse”. However, the statement that a determination of whether an effect is adverse is “*likely to be influenced by stakeholder/community perceptions as to what is acceptable*” confuses a “biological” interpretation of the adverse effects of fishing with a more political interpretation based on community perceptions. The paragraph appears to imply that while the Act sets some threshold level of adverse effect based on “scientific knowledge”, it does not prevent lesser effects also being classified as “adverse” if there is a wider “community perception” that the effect is unacceptable.
17. While SeaFIC agrees that the concept of community wellbeing (which may incorporate perceptions of acceptability) is incorporated into the purpose of the Act, this is through the definition of “utilisation”. The requirement to avoid, remedy or mitigate adverse effects is part of the definition of “ensuring sustainability”. We therefore consider that the overall scheme and purpose of the Act requires that any definition of “adverse effect” should be based on biologically-defined risks to the aquatic environment.
18. In our opinion it is wrong to suggest that “community perceptions” forms a separate head for consideration of whether an effect is adverse, beyond a consideration of whatever particular level of adverse effect on the aquatic environment is specified in a particular section of the Act. While the Minister clearly has considerable discretion to decide what level of control is needed to ensure sustainability and avoid, remedy or mitigate adverse effects, having done so, we believe that he can not further restrict utilisation for reasons of community perception.
19. This interpretation is consistent with the Court of Appeal’s findings in the squid case, in which, under the heading “irrelevancies”, Justice Young made the following points on behalf of the Court³⁴.

³⁴ Squid Fishery Management Company v Minister of Fisheries (CA39/04) paragraphs 82 to 84.

At the heart of this case is the killing of marine mammals as an incident of the commercial exploitation of a fishery. It is clear that the opposition of some who have criticised the proposed adoption of rule 320 would have been equally strong even if it was crystal clear that fishing-related sea lion mortality posed no risk to the sea lion population.

Running through the material we have read is a sub-theme that there may well be substantial support for a policy which protects sea lions as individuals. Associated with this are concerns sometimes mentioned in the papers as to the political acceptability of an increased MALFiRM.

We see these considerations as irrelevant to the current exercise.

20. SeaFIC further notes that it is in the interests of the industry itself to undertake its fishing practices in a manner that is responsive to societal values and community perceptions regardless of the manner in which “adverse effect” is interpreted under the Act.

Information principles & the precautionary approach

21. SeaFIC strongly disagrees with the claims in IPP paragraphs 45 and 46 that the Act requires amendment in order to reflect more clearly the internationally recognised precautionary approach. Further details on SeaFIC’s views on the proposed amendment to section 10 are contained in our submission to the Primary Production Committee³⁵.
22. With respect to the IPP, we note simply that paragraphs 45 and 46 are inconsistent with:
- the discussion of the purpose of the Act and the “bottom line” of sustainability, as set out in paragraphs 4 -11 of this section of the IPP; and
 - the Ministry’s own advice on last year’s sustainability measures, which states in relation to a discussion of the precautionary approach in the Fisheries Act that “*it is MFish’s view that the provisions of the Act, and the proposed exercise of powers under legislation contained in this FAP, are consistent with New Zealand’s international obligations*”.³⁶

Setting a TAC

23. SeaFIC disagrees with the statement that “...*social, economic and cultural factors are not usually mandatory considerations when setting a TAC*”.³⁷ Social, cultural and economic considerations are mandatory relevant considerations when considering the way and rate at which a stock moves towards Bmsy (s13(3)). The primary mechanism by which the “rate” is adjusted is by setting a TAC. Therefore

³⁵ Submission of the New Zealand Seafood Industry Council Ltd to the Primary Production Committee on the Fisheries Act 1996 Amendment Bill, 13 April 2007.

³⁶ Review of Sustainability Measures and other Management Controls for the 2006-07 (1 October) Fishing Year. Final Advice Paper, 4 September 2006, paragraph 154

³⁷ IPP paragraph 70

social, cultural and economic considerations must be relevant to the setting of a TAC.

24. We note that the IPP is inconsistent in its suggestion that social, economic and cultural factors are not always relevant to setting a TAC. Subsequent paragraphs in the “statutory obligations” note the relevance of these factors to setting a TACs – see for example paragraph 90 which acknowledges that “*prior to setting a zero TAC the Minister would need to have regard to the social, cultural and economic costs and benefits associated with such a measure*”. The advice on sustainability measures for particular stocks also notes the relevance of social, economic and cultural factors to setting a TAC. For example, the ORH 1 IPP states that “*MFish is of the view that the Minister can have regard to the relevant social, cultural and economic factors for both the options that propose a TAC reduction, and Option 1 which retains the current TAC*”.³⁸
25. We also note that the discussion of the relevance of social, cultural and economic factors to the setting of TACs frequently confuses the setting of a TAC with the determination of a target stock level. For example:
- paragraph 70 states that social, cultural and economic factors “*can be considered when, for example, setting a TAC above a level that can produce MSY*”; and
 - paragraph 76 states that “*Section 13(3) makes it explicit that those qualifying factors are relevant in the determination of the way and rate, rather than in the determination of the target stock level.*” While this is correct, the determination of the target stock level is set by the Act (“at or above a level that can produce the maximum sustainable yield”) and the sentence is silent on the key issue of the relevance of the “qualifying factors” to the setting of the TAC.
26. SeaFIC considers that much of the confusion in this section of the IPP comes from an attempt to incorporate the findings of the High Court in the recent kahawai case³⁹. We note that the Court’s finding that there was a distinction between the concepts of sustainability and utilisation which was recognised in the different purposes of a TAC under s 13 and a TACC under s 21 is currently under appeal.
27. The IPP states that “*the Act specifies that the TAC is the primary tool for moving a stock towards the target stock level. Other measures may be adopted in conjunction with a change in the TAC, however such additional measures should not be relied on in place of the TAC*”.⁴⁰ SeaFIC notes that the Act specifies no such thing – this is simply the Ministry’s interpretation and should be identified as such.

³⁸ IPP ORH 1 paragraph 34

³⁹ NZ Recreational Fishing Council Inc and Anor v Minister of Fisheries and Ors HC AK CIV-2005-404-4495 [21 March 2007]

⁴⁰ IPP paragraph 87

Management above Bmsy

28. While we agree that setting stock management targets above Bmsy may be appropriate where there is consensus amongst stakeholders to do so, we do not accept that an “above Bmsy” target level “*may be an appropriate management strategy in order to meet the wider social, cultural or economic goals provided for under s8 (the purpose) of the Act*”.⁴¹ If government sets stock targets above Bmsy without the support of rights holders it is inappropriately making assumptions about the relative value of the stock to the various fishing sectors and is therefore applying the management target as an allocation tool rather than a sustainability measure.
29. We also note that the suggestion that a stock management target above Bmsy is an appropriate management strategy under the Fisheries Act is inconsistent with the Ministry’s previously stated interpretation of the Act:⁴²

Under the Fisheries Act 1996 the Minister must set a TAC that moves the stock toward a point at or above Bmsy, but by the current Ministry interpretation of the Act, the Minister is constrained to the sole objective of Bmsy unless this threatens the sustainability of associated or dependent stocks (generally by-catch stocks in trawl fisheries). Thus the management system currently is not adapted well to consider management of stocks above Bmsy to provide better for non-commercial values.

Allocating the TAC

Matters under appeal

30. SeaFIC notes that the IPP policy guidelines on allocation appear to have been rewritten in light of the High Court findings in the kahawai case. The incorporation of the High Court’s findings has not in any way improved or clarified the Ministry’s allocation policy. We note that some of these findings are currently under appeal.

Common law fishing rights

31. The matters relevant to allocating the TAC now include “recreational fishers common law fishing rights”.⁴³ SeaFIC disputes whether it is at all useful to refer to common law fishing rights when s89(2)(a) of the Act makes it clear that the taking of fish otherwise than for the purpose of sale must be undertaken in accordance with any amateur fishing regulations made under the Act and any other requirements imposed by the Act. Suggesting that the Minister must take into account “recreational fishers common law fishing rights” provides no useful guidance for allocation decisions. SeaFIC considers that a more relevant and useful

⁴¹ IPP paragraph 82

⁴² Connor, Robin (2006). Necessary but not sufficient: allocation of allowable catch as a management tool in shared fisheries. Paper presented at the Sharing the Fish Conference, Perth, February 2006. This paper goes on to state that some clarification of the Fisheries Act may be required to systematically implement the Labour party’s policy of managing shared stocks above Bmsy.

⁴³ IPP paragraph 110

consideration for the Minister when allocating the TAC would be the regulations and other provisions under which recreational fishing takes place, since it is these controls that help determine the actual harvest.

Providing for non-commercial interests where they exist

32. Paragraph 113 of the IPP reflects the kahawai decision in the statement that “*The Act assigns no priority between commercial and recreational interests, except to the extent that **customary and recreational non-commercial interests must be provided for to some degree where they exist***” (emphasis added). SeaFIC notes that the specific finding that under s 21 of the Act, recreational fishing interests must be provided for to the extent they exist, unlike commercial fishing interests, is currently under appeal.
33. We also dispute the logic of the notion that recreational interests must be provided for to some degree where they exist. The finding in the kahawai decision is inconsistent with earlier Court of Appeal decisions which make it clear that a recreational allowance should be made on the basis of an estimate of recreational catch given the controls that exist on that catch.⁴⁴ If, for example the Minister has closed an area to recreational fishing by regulation for some reason, then the recreational allowance could in theory be set at zero, regardless of whether any recreational interests exist.

Proportional vs reallocative

34. The “statutory obligations and policy guidelines” in previous IPPs and FAPs have expressed a relatively clear MFish policy preference for proportional allocation. For example, in 2006 the FAP stated that “...*when adjusting TAC/TACCs for sustainability reasons alone, the current default MFish policy is a proportional approach (assuming that all other things are equal), as this does not change the relative positions of the sectors and provides some certainty to stakeholders*”.⁴⁵ SeaFIC has supported this policy as it is consistent with the purpose of the Act and essential for maintaining the integrity of the QMS.
35. We note with considerable concern that the current IPP sets out a very weakened and distorted allocation policy. The preference for proportional allocation now, in the Ministry’s view, applies only “*where there is an absence of information about the relative benefits to be derived from allocating a stock to one or other sector*”.⁴⁶ This implies that the preferred allocation policy is now a “value based” approach to reallocation based on estimates of benefits to each sector, rather than a proportional approach. No explanation is provided in the IPP to justify this change in policy position. SeaFIC considers it particularly inappropriate that the Ministry has changed its policy in spite of the fact that all sectors firmly rejected the value-based

⁴⁴ The Court of Appeal considered the recreational allowance at page 16 of the *Snapper 1* case: *Take recreational fishers as an example, the “allowance” is simply the Minister’s best estimate of what they will catch during the year, they being subject to the controls which the Minister decides to impose upon them eg bag limits and minimum lawful sizes.*

⁴⁵ Review of Sustainability Measures and Other Management Controls for the 2006-07 (1 October) Fishing Year Volume 1: Final Advice Paper, 4 September 2006, paragraph 72

⁴⁶ IPP paragraph 115

approach to allocation in submissions on the government's Shared Fisheries proposals. We note that Cabinet has yet to make decisions on the Shared Fisheries proposals and recommend that until new policy is agreed the current approach (i.e., a default policy of proportional allocation) should continue to apply.

36. SeaFIC also notes that all of the examples of reallocation provided in the IPP policy guidelines entail reallocation away from commercial sector in favour of the recreational sector – see for example paragraphs 101, 102, 113 and 121. SeaFIC considers that this lack of balance should be rectified in the final advice to the Minister.

Allocating on the basis of “value”

37. Paragraphs 120 to 122 of the IPP repeat the Ministry's views about the role of government-determined estimates of “value” in allocation decisions. SeaFIC's views on this matter have been well documented in previous submissions dating back over three years⁴⁷. It is disappointing that we have yet to receive any coherent policy engagement from the Ministry on these central issues.

38. For completeness, we restate our position as follows.

- (i) There is nothing in the Fisheries Act that legitimises the Ministry's approach. Value is not referred to in the Act. The purpose of the Act is to provide for the utilisation of fisheries resources while ensuring sustainability. Utilisation means “conserving, using, enhancing and developing fisheries resources to enable people to provide for their social, economic and cultural wellbeing”.
- (ii) Enabling people to provide for their wellbeing means precisely that. It is about making sure there are no impediments put in the way of people being able to provide for themselves unless there are good sustainability reasons. It is not about the Ministry (or the Minister) making decisions about where the collective best interest lies.
- (iii) Not only is there no statutory basis for the Minister or the Ministry to assign fisheries resources to particular sectors in the hope of maximising value for society but the task is beyond the government in any case. There is no adequate way of comparing market and non-market values. Even if this could be done any decisions made on the basis of such a valuation will be time bound and unresponsive to changes in the way that society values the resource.
- (iv) Maximising value for society can be achieved efficiently only through a market mechanism that can quickly respond to sectoral and societal changes in preference. SeaFIC considers the Ministry should concentrate on instead on completing the rights-based framework for fisheries management.

⁴⁷ In 2006, for example, we made comments in paragraphs 49-51 of our submission on Proposed Fisheries Services to be provided in 2006/07, and in paragraphs 68-69 of our submission on the Sustainability Measures IPP dated July 2006. In 2007 we set out our views again in paragraphs 5-11 of our submission on proposed fisheries services and in paragraphs 22 to 42 of our submission on the Shared Fisheries proposals.

The obligation to monitor non-commercial catch

39. The IPP notes that *“If the TAC is reduced, the Minister should take reasonable steps to monitor the customary and recreational allowances so as to ensure that the level of harvest is within those allowances. To fail to do so provides a risk that any reduction to those allowances and also the TAC could be rendered futile.”*⁴⁸ SeaFIC supports the intent of this policy, and we look forward to seeing some evidence of its implementation. We further note that the Ministry has an obligation to monitor recreational harvest to ensure it remains within the allowance regardless of whether a TAC is reduced.

Population trends

40. To the extent that population trends may be a relevant consideration in allocation decisions⁴⁹, SeaFIC notes that population trends do not affect only the level of recreational fishing. They also affect the amount of fish purchased in fish shops, restaurants and supermarkets.

Attributing the effects of overfishing

41. The IPP proposes that *“the consistent overfishing of a TACC or an allowance, which results in the reduction of the TAC, as a general principle, ought to be attributed to the stakeholder group responsible for the overfishing”*.⁵⁰ SeaFIC has two concerns with this suggestion.
42. First, the main mechanisms for controlling commercial overfishing are the setting of TACCs, deemed values and other elements of the balancing regime. If significant persistent commercial over-catch is occurring, this implies that either a) the management settings are not correct or b) some fishers are deliberately fishing without ACE because it is commercially profitable for them to do so. SeaFIC questions why quota owners as a whole (whose interests are already being adversely affected by the overfishing) should be further disadvantaged as a result of something that is the responsibility of either a) the Ministry of Fisheries, or b) individual fishers over which the quota owners have no control. As a response to point b), the Ministry noted in its FAP last year that the actions of individuals may lead to management measures being applied to the sector as a whole⁵¹. SeaFIC agrees that this is common, but that does not make it right.
43. Second, the proposed attribution is not equitable across sectors because lack of a recreational reporting regime means there is no way of knowing whether a recreational allowance is being over-fished.

⁴⁸ IPP paragraph 116

⁴⁹ IPP paragraph 119

⁵⁰ IPP paragraph 123

⁵¹ Review of Sustainability measures and other management controls for the 2006-07 (1 October) Fishing Year. Final Advice Paper. 4 September 2006, paragraph 110.

Part B: Fishstocks for Review

Orange Roughy general comments: need to review management approach

44. SeaFIC is of the view that a major re-think of ORH science and management would be timely and should be conducted as part of a deepwater fishery plan development process. In SeaFIC's view, current science processes are not helping a move towards good fishery management.
45. ORH 3B is a good example of a stock for which scientific advice is increasingly tenuous. We have commented previously in technical and management processes that stock assessments for the Andes and Northeast hills sub-areas are no more than assessment conveniences and have little or no real-world management utility. We will not repeat arguments here but reiterate, as an example, that it is biological nonsense to consider the Northeast hills as a separate stock and to provide advice in terms of "Bmsy" for this "stock". Given the lack currently of viable management options at the level of the Northeast Hills, such an assessment convenience provides little utility to the management process.
46. SeaFIC's view is that despite sterling efforts by the Deepwater Stock Assessment Working Group over many years, and a not inconsiderable expenditure on research, stock assessments have provided little of value to the management process in recent years. The current assessment and management paradigm, and alternatives, need to be objectively and critically appraised.
47. Of course, such statements are easy to make. Finding alternative, credible, viable approaches will not be easy. We can, however, conceive of alternatives. One such alternative that might be considered in detail for some or even all orange roughy fisheries would build from the ideas embodied in the ORH 1 AMP.
48. The Plenary report for ORH 1 (as noted at paragraph 24 of the ORH 1 IPP document) states *The WG was unable to determine the sustainability of catches, because ORH 1 "probably includes a number of constituent stocks" and "it is not possible to estimate Bmsy for any of the individual stocks, let alone aggregate up to an estimate for ORH 1 as a whole"*. This statement could reasonably be made for all orange roughy stocks and it is, therefore, debatable that orange roughy stocks should be managed under s13 of the Act. Recognizing the seeming biological impossibility of determining Bmsy for orange roughy, or indeed what constitute orange roughy stocks, it would be reasonable to consider whether s14 management is more appropriate.
49. Further, given concerns over commercial catch rates not reflecting underlying stock abundance, and given the now relatively low level of orange roughy catches, it is increasingly possible to contemplate fishing following a "survey-like" mode, additionally rotating effort between areas over a multi-year cycle. Catch rates could

then possibly be interpreted as relative indices at least of local abundance to guide management. Such a rotational fishing pattern would also allow management under s14 of the Act.

50. Under such a rotational scheme, if catch rates were maintained in an area, fishing could be scheduled for the next rotational cycle. If catch rates were not maintained (within specified limits) the management regime would require fishing to miss one or more cycles. Such an approach would, as intended for ORH 1, spread effort and reduce pressure in given locations. Such an approach would be “adaptive” and would meet s14 requirements.
51. The problem with an approach such as that outlined is that currently industry regard management in, for example, ORH 3B, as already having too many lines on the map. Given current fishing patterns and interests, management of catch limits within areas is difficult. The scheme outlined could only viably operate in a changed (collaborative) fishing plan.
52. The above idea is not presented as a definitive way forward for orange roughy. It is just an idea, but one which might be more carefully developed and properly evaluated as a basis for fishery plans in specific orange roughy fisheries if fishing plans were able to be changed. The service requirements for such an approach would be very different to those currently associated with orange roughy fisheries and the costs and benefits, both with regard to sustainability and utilization would need to be carefully appraised.

Orange Roughy (ORH 1)

53. SeaFIC has considered the issues raised in the IPP and discussed the proposals with the relevant CSO, the ORH 1 Exploratory Fishing Company Ltd (EFC). We note that the IPP is thoughtful, well constructed and provides a sound basis for advising the Minister. Our main conclusion is that as there is no evidence of a current sustainability concern in the ORH 1 fishery, the priority should be for the ORH 1 quota owners and the Ministry to work together to develop a fishery plan so that future management decisions can be made within an agreed framework. Our more detailed comments below are intended to complement the EFC’s submission.

Fisheries plan and general management approach

54. SeaFIC considers that the ORH 1 fishery is ideally placed for the development and implementation of a fisheries plan. Positive factors for developing a plan include the relatively small number of quota owners and vessels, the developmental nature of the fishery, the existing sub-QMA reporting and management commitments under the AMP, and the demonstrated willingness of the EFC and the Ministry to work together to ensure effective management of the fishery. We also note the absence of non-commercial extractive interests and pressing or complex environmental challenges in this fishery. The fishery is relatively “clean” in terms of fish by-catch, there are no significant interactions with marine mammals or seabirds, the benthic footprint is extremely small (more on this later) and a

significant level of protection has already been provided through seamount closures, BPAs and other commercial fishing closures.

55. SeaFIC believes that all these factors should ensure that an agreed management approach for ORH 1 can be developed and implemented in a relatively short time frame. We are willing to provide support in the development of any fisheries plan for ORH 1.
56. As noted in our general comments on orange roughy above, one of the issues that should be addressed in the development of a fisheries plan is whether ORH 1 is best managed under s 14 as a fishery for which it is not possible to estimate Bmsy. We also note that, consistent with s 14 criteria, the developmental nature of the fishery suggests that it could be managed effectively through an exploratory fishing plan akin to a rotational fishery, with monitoring and assessment occurring on a finer spatial scale than is usual under s 13.
57. While positive about the prospects for a fishery plan for ORH 1, SeaFIC has some reservations about what a fisheries plan can currently achieve, particularly if the fishery remains under s 13. We note that the Fisheries Act provisions are not wholly supportive of effective implementation of fisheries plans and that legislative amendment may ultimately be required to operationalise agreements set out in a plan. For example the IPP suggests that a fisheries plan would include “*pre-arranged decision rules to manage non-adherence to the terms of the plan*”.⁵² The status of such decision rules is unclear because, regardless of any agreements recorded in a plan, any TAC adjustment must still comply with the specific requirements of s 13.

No need for TAC reduction this year

58. We note from the IPP that “*there is little risk that there will be stock depletion resulting from catching 1,400 tonnes of roughy this year*”.⁵³ Given that there is a willingness to develop a fisheries plan for ORH 1, and no sustainability concern that needs to be addressed in the current year, SeaFIC considers that the current TAC should be maintained for a further year while the fishery plan is developed. This would provide stronger basis for developing an enduring longterm strategy for the sustainable management of ORH 1 than the imposition of a TAC reduction that could disrupt the fishery and cause significant economic impacts in the interim.
59. While there is general agreement that there is no indication of any current sustainability concern, the key question for this fishery is whether – given what we know of orange roughy fisheries – there would ever be sufficient warning of an impending sustainability risk prior to the fishery exhibiting serious sustainability concerns. SeaFIC believes that implementing a fine-scale management approach under a fisheries plan provides the best opportunity for detecting and responding in a precautionary way to any future sustainability risks for ORH 1.

Precaution

⁵² IPP paragraph 48

⁵³ IPP paragraph 4

60. SeaFIC considers that the IPP contains useful analysis of the various options in relation to the need for precaution. With respect to the references to SeaFIC's views on precaution, we note that these views were expressed in a general context (i.e., a submission to the Select Committee on the proposed amendment to s 10) and were not specific to the current or historic decisions on ORH 1.
61. As a further point in relation to precaution, we note that the existing regulated closures in ORH 1 (BPA closures plus seamount closures) reflect a precautionary approach to stock management as well as benthic protection. In addition to whatever level of precaution may be reflected in the TAC, the closed areas also set aside a reservoir of the ORH 1 stock. Within ORH 1, 2,890 km² (3.95% of the currently fishable area⁵⁴) is closed through seamount closures and BPA closures, and a further 2,367 km² (3.23% of the fishable area) is closed to vessels longer than 46m. In comparison, only 122 km² (0.17% of the fishable area or 0.01% of the QMA) has actually been trawled during the period 2000-2006⁵⁵. SeaFIC is willing to discuss this analysis further with the Ministry.
62. The large proportion of unfished ground that is within the depth range of orange roughy habitat may also be indicative of the considerable development potential within this fishery.

Stocks managed collaboratively by the Ministry and Deepwater Group

63. SeaFIC has discussed the IPP proposals for these stocks with the Deepwater Group and our comments below are intended to complement the CSO's submission.
64. As stated earlier, we are pleased to note that deepwater and middle depths initial proposals are generally well considered. We are of the opinion that this is a function both of the Ministry Deepwater Team and of the relationship between that team and the Deepwater Group, as provided for in a signed memorandum of understanding between the Ministry and the Group and progressed by the Team and Group participants. We hope that final advice will be determined collaboratively and that any decisions made on the basis of final advice provided will form a strong foundation for further constructive engagement and fishery planning for middle depth and deepwater fisheries in the 2007/08 fishing year and beyond.

Orange roughy (ORH 3B)

65. As noted above in general comments on orange roughy, industry is of the general view that there are currently too many lines on the map and that those lines do not reasonably reflect biological reality or viable management units. Unless and until a new approach to management is implemented, however, SeaFIC recognises that the

⁵⁴ The area within the depth contours 600m to 1,200m

⁵⁵ Calculation based on plotted trawl paths from 2000 to 2006, assuming each path is 10m wide.

Ministry must work with the best available information, as delivered through the stock assessment approaches.

66. SeaFIC is pleased that the IPP recognises the difficulty of managing to the sub-areas previously considered and that options 2 and 3 in the IPP attempt to simplify matters, albeit constrained by the structures imposed for stock assessment convenience. Our preference, amongst the options currently presented, is for one of these options rather than the unworkable *status quo*. These options go some way towards simplification and, therefore, increased likelihood of management success.
67. In principle, adding up available catches from the many “stock assessments”, there is probably no need for an aggregate TACC reduction at all; arguably, this would be the “best available information”. However, as noted at paragraph 33, there are concerns over the structure of existing assessments. These concerns do provide pause for thought. Already, prior to the 2006/07 fishing year ORH 3B quota holders proposed a staged reduction of 1,000 tonnes per year for ORH 3B TACC. Last year the 1,000 tonnes reduction was targeted at the Arrow Plateau. In the coming fishing year we understand there is quota holder support for a further 1,000 tonne reduction to be targeted at the east and south Chatham Rise. This implies support for Option 2, a position to which SeaFIC adds its support.
68. We note at paragraphs 36-38 the high priority afforded by the Ministry to ORH 3B fishery planning. SeaFIC is very supportive of this activity. We reiterate our general comment about the need for a serious re-think of orange roughy assessment and management and see the way forward potentially being outside s13 of the Act, potentially requiring major paradigm shifts within both the Ministry and industry.

Orange roughy (ORH 7B)

69. SeaFIC notes that ORH 7B provides yet another example of orange roughy stock assessment providing little of utility to the management process. Certainly, no estimate of Bmsy is available and is unlikely to be so.
70. Despite problems with the stock assessment, the “best available information” is that the stock was below Bmsy when assessed in 2004 but that the stock should have increased in recent years at the recent TACC or catches (less than the TACC). We note that although catch rates per tow have not changed, there is concern that tow length has actually been increasing.
71. Against this change in effort distribution, it is interesting that fishers active in the fishery explain recent fishing activity (long tows) due to the fishery now being reduced to a few vessels operating in a huge and mostly flat area where it is easy to miss “hotspots” and with skippers towing longer than previously on the flat as they lack experience and knowledge to locate better tows.
72. We understand that the Deepwater Group and Talley's Fisheries will make submissions in this respect. Our discussions with Talley's Fisheries suggest that it is perhaps unhelpful to interpret the increased tow length data too superficially. We are concerned that a small but important fishery should not be closed or severely

reduced without a much more careful consideration of what actually is happening in the fishery. We are also concerned that any reduction in the fishery would lead to less information being collected and think the way forward is to maintain the TACC but put in place measures to ensure better data collection and improved understanding of the stock and fishery.

73. SeaFIC's view is that Options 3 and 4 are unnecessarily harsh and would result unhelpfully in a reduction or cessation of data collection. Our strong preference would be for Option 1 or 2. Either of these options, however, would most usefully be accompanied by a commitment to a clear catching plan to ensure reliably interpretable catch rate data. Given that fishing is carried out by very few vessels, establishment of a standardised fishing plan might be contemplated.

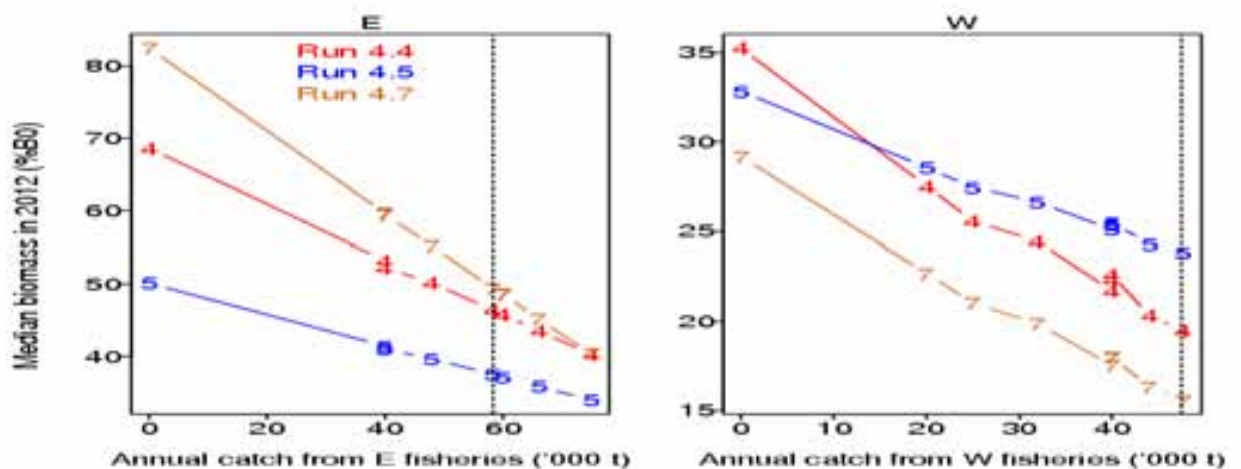
Hoki (HOK 1)

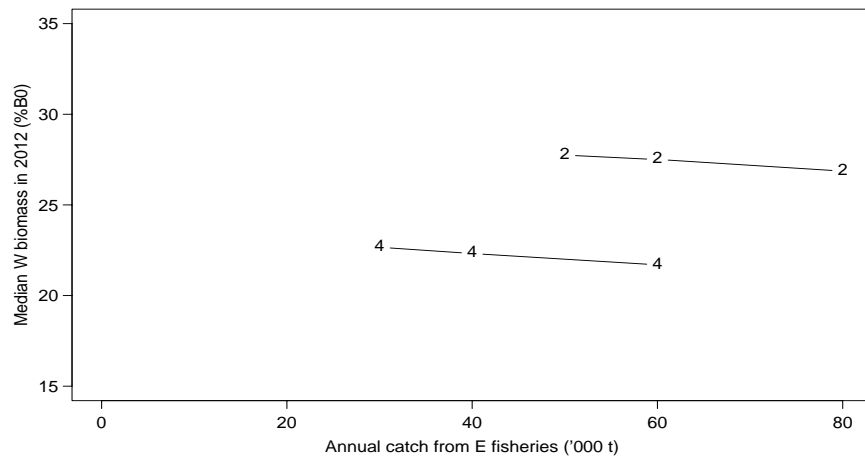
74. The stock assessments for HOK 1 were reconsidered in 2007. In SeaFIC's view, the assessments provide a sound starting point for making management decisions on TACC and catch splits. SeaFIC is grateful to the Ministry and NIWA for making additional information available (see below).

Biological implications of management options

75. At IPP paragraph 2 it is noted that *all options (proposed) should facilitate a rebuild towards Bmsy for HOK 1 overall, though at differing rates*. Technically this is correct and a good starting point for consideration of options. The technical basis for the options is worthy of further analysis. Beyond biology, however, there are also other matters that need to be taken in to account in decision making. These include, amongst others, the short-term differential economic consequences for different companies and fishers, longer term considerations of credibility (of management and Ministry-Deepwater group relations), and market-related issues (e.g. as driven by certification).
76. From a strictly technical perspective, Option 1, if catches were constrained to the TACC and 60:40 east:west split, would likely result in a very small rebuild (of the order of 1%B0 or less) of the western stock over 5 years given recruitment similar to the past ten years. At paragraph 25, this small rebuild is referred to as "negligible", suggesting little encouragement to the Minister that the Ministry considers the option to be viable.
77. Option 3, moving a small amount of western catch to the eastern fisheries (changing the east:west split to 65:35, and imposing an additional limit of 35,000 tonnes on the Chatham Rise catch) but at the current TACC, would likely result in a very slightly faster rebuild than Option 1 (of the order of 1%B0), again assuming recent recruitment patterns and that catches would not exceed the TACC.
78. Whether the rebuild expected under Options 1 or 3 is sufficiently fast would need to be balanced against the economic and other consequences of achieving a faster rebuild by reducing overall catches to below the current TACC.

79. Generally, SeaFIC is concerned at the state of the western hoki stock. It is SeaFIC's view that the continuing poor recruitment and consequent western biomass decline is probably environmentally driven. Although the recent assessments indicate that the decline in biomass has been halted, it ideally should be reversed; the way and rate of that reversal are, of course, the crux of the decision that now needs to be made.
80. In the short term (next 5 years), the state of the western stock will mostly be determined by direct measures aimed at the western stock itself. During the Working Group process this year, two useful summary plots were shown that provided insight as to how eastern and western biomass respectively would likely change in response to eastern or western catches, kept constant over 5 years.
81. Since the Plenary meeting, at SeaFIC's request, NIWA has produced a further plot showing the projected state of the western stock in 2012 in response to varying the eastern catch while the western catch is held constant at either 40,000 tonnes or 20,000 tonnes. All three plots are shown below. In the upper plots the colours and symbols differentiate the three different assessment models. In the lower plot "2"s indicate the relationship with a constant western catch of 20,000 tonnes while "4"s indicate a constant western catch of 40,000 tonnes.





82. The plots make very clear that there is a small effect on the western biomass in 2012 that can be achieved by changing the eastern catch. There is, by contrast, a major effect on the western biomass by varying the western catch.
83. Reductions to the eastern catch (especially the Chatham Rise fishery) may help maintain stronger western biomass in the longer term (i.e. beyond the 5 year projection period considered). Long-term any increased eastern stock catches may be detrimental to the western stock, especially if these come from the shared juvenile grounds on the Chatham Rise.
84. Option 2 proposes a reduction in the HOK 1 TACC to 80,000 tonnes, with an east:west catch split of 60:20 (i.e. a reduction in the western catch to 20,000 tonnes whilst maintaining the eastern catch at 60,000 tonnes). From the plots above it can be seen that this would likely lead by 2012 to an increase in the western biomass to 25-30%B0 even under the recent poor recruitment assumption. To achieve the same western stock rate of rebuild at western catches above 20,000 tonnes would require greater reductions in eastern catch (and hence a lower TACC than 80,000 tonnes).
85. From a strictly biological perspective and seeking to rebuild the western stock, of the options proposed, SeaFIC would support Option 2. We note, however, that any improvements in recruitment will result in a western stock rebuild even at current catch levels. We note also that the initially proposed options are not exclusive and that intermediary options, leading to differing expected rebuild rates are available to the Minister.

Other factors

86. Further, SeaFIC recognises that a reduction in the western catch to 20,000 tonnes would have major economic consequences for many players in the industry. The implications of such a reduction would not be confined to direct losses of hoki catch, but would also likely include effects on hake, ling and warehou fisheries to the west and south of the South Island, on ACE packages available to inshore trawlers, and to processing and charter arrangements.

87. In order to make a decision the Minister will need to balance the likely rate of rebuild of the western stock under different TACCs and catch splits against the economic consequences of any catch reductions.
88. SeaFIC is not in a position to describe or quantify these effects so that they can be properly taken in to account to arrive at a balanced decision as to TACC and catch split. To clarify such implications and allow the Minister to make a balanced recommendation is the role of the Deepwater Group. SeaFIC encourages the Ministry and Deepwater Group to work collaboratively to fully articulate the varied and differential effects of western catch reductions during development of final advice.
89. Finally, SeaFIC is supportive of the good relationship and memorandum of understanding between the Ministry of Fisheries and the Deepwater Group. SeaFIC is hopeful that hoki fishery planning can proceed in the coming year to ensure a clear foundation for future hoki management. In SeaFIC's view, it is imperative that decisions taken on HOK 1 this year carefully weigh the implications of the credibility of that relationship and are made on an inclusive as possible basis to support rather than hinder effective fishery planning.

Oreo (OEO 1)

90. SeaFIC notes that the owners of 95.95% of OEO 1 quota support Option 2, i.e., reducing the TAC and TACC by 50% to 2,500 tonnes.
91. We have no further comment to make on this section of the IPP, other than to point out that the cost recovery savings resulting from Option 2 (described in IPP paragraphs 20 and 38) apply only to OEO 1 quota owners. If the OEO 1 TACC is halved as provided in Option 2:
- the overall amount of costs recovered from the industry will remain unchanged; and
 - all other (non-OEO 1) quota owners will be subject to a slightly increased share of the non-attributed costs that are recovered from the industry.

Squid (SQU 1T)

92. SeaFIC commends the Ministry on a thorough and thoughtful IPP on SQU 1T. We note also that the inclusion of this section is for utilisation purposes and at the request of some industry stakeholders.
93. We recognise the rationale of some stakeholders for seeking an increase in the TACC as well as the many issues that need to be considered in deciding upon a course of action. We understand from the Deepwater Group that SQU 1T quota holders have differing positions regarding a TACC increase and that these positions relate not just to SQU 1T itself but to wider squid trawl and jig issues. In our opinion, these matters would ideally be considered as part of a wider squid fishery planning process. We note that the DWG and Ministry are collaborating on the

development of a fishery plan for SQU trawl fisheries, including SQU 1T, in time for the start of the 2008 fishing season.

94. Should the final advice be for no increase at this time but to consider an increase in the fishery plan context, we note the good work done in development of the IPP will potentially expedite a current year in-season increase should one be requested as well as providing valuable groundwork for the fishery plan process.

North Island Eels (SFE 20-23, LFE 20-23)

95. SeaFIC has considered the issues raised in the IPP and discussed the proposals with the relevant CSO, the Eel Enhancement Company. Our conclusions in relation to the IPP are that:

- there is currently insufficient information on the eel fishery to make sensible management decisions. The management priority should be to improve information on all types of catch, in particular the non-commercial catch component;
- the problem definition for both LFE and SFE requires further work. In particular the IPP does not make a strong case for a sustainability concern with SFE;
- a full range of management options for improving spawning escapement should be evaluated in the final advice; and
- any TAC reductions for SFE or LFE should be proportional across the TACC and recreational allowances.

96. More generally, we believe that there needs to be a major rethink of the management approach for the North Island eel fishery. The stock characteristics (e.g., single LFE biological stock for New Zealand, single SFE stock for Australia and New Zealand, reliance on spawning escapement to ensure sustainability, inability to estimate Bmsy), mean the fishery is not well suited to a standard management approach based simply on adjusting TACs on a QMA basis. A more innovative approach incorporating a range of measures needs to be developed, recognising the need to integrate large-scale single stock management with smaller scale harvesting activity. The quality of the fishery is strongly influenced by non-fishery factors such as environmental degradation and therefore an integrated approach across various jurisdictions (including MFish, DoC and regional councils) is required. A fisheries plan – to which regard must be had under the Resource Management Act – could assist in this respect. Different stakeholders have different interests in, and objectives for, this fishery both within and between sectors. These objectives need to be clarified and reconciled before any useful progress can be made.

97. Our more detailed comments below are intended to complement the Eel Enhancement Company's submission.

Inadequate level of information provided in the IPP

98. SeaFIC considers that this section of the IPP is full of unsubstantiated anecdotal commentary, and is unnecessarily long and repetitive, yet provides very little real

information or analysis on which management decisions can be based. It is claimed that “*there is a reasonably extensive amount of information on the fishery and its uses sufficient to make the recommendations contained in this paper*”.⁵⁶ SeaFIC strongly disagrees -

- Information on stock status is poor. The 2007 Plenary Report concludes that “*Estimates of current and reference biomass for any eel fish stock are not available; and there are no stock assessments, or reliable data or time series on which to base specific recommendations on catch levels*”.⁵⁷
- Information on commercial harvest is uneven. Time series data is hampered by numerous changes to reporting requirements, there is no up-to-date CPUE analysis, and other potentially useful sources of information (e.g., information on closed areas which is directly relevant to spawning escapement and therefore TAC setting), while available, are not presented in the IPP.
- There is no information at all on recreational or customary harvest. The 2007 Plenary Report notes that: “*There is no overall assessment of the extent of the current or past customary take; There is no quantitative information on the recreational harvest of freshwater eels; and The extent of the recreational fishery is not known although the harvest by Maori may be significant*”.⁵⁸

99. The IPP presents numerous descriptions of the values associated with non-commercial fishing, but this does not make up for the fact that there is absolutely no quantitative information on non-commercial extraction. Descriptions of people raising eels as if they were pets, the significance of eels for “subsistence lifestyles”, eel fishing as a way of “learning about the natural world and outdoor self sufficiency”, the interest taken in eels by “new immigrants in the greater metropolitan area”, and the claim that “children and other people from rural communities will typically undertake eel fishing as a pastime” paint a colourful picture, but do not tell us whether the current non-commercial allowances and bag limits are adequate to meet these needs, or whether non-commercial catch is being managed within the allowances.

100. SeaFIC notes that, from the time that North Island eels were introduced into the QMS in 2004, information gathering was at the heart of fine-tuning the adopted management approach. For example, TACs were set at reduced levels, with the view that these provided “*a reasonable starting point from which the management strategy can be addressed, while **further review of commercial and non-commercial catch information and new scientific information can contribute to any necessary refinements in future years***”⁵⁹ (emphasis added). Aside from two additional years of commercial landings data, no new scientific information or non-commercial catch information has been made available. We note that the Ministry has commissioned further research on estimates of recreational and customary catch, but that has not been available for this review.⁶⁰

101. SeaFIC considers that the sustainability of the eel fishery and the interests of all sectors are not well served by the inadequate level of information presented in the

⁵⁶ IPP paragraph 179

⁵⁷ Ministry of Fisheries, 2007. Report from the Fishery Assessment Plenary, May 2007: stock assessments and yield estimates, page 253 and 255

⁵⁸ *ibid*, page 248.

⁵⁹ IPP paragraph 24

⁶⁰ IPP paragraph 62

IPP. Instead of attempting to obscure the basic lack of information with lengthy anecdotal descriptions, the Minister should simply be advised that there is no information on non-commercial extraction.

Problem definition and management options

102. SeaFIC submits that further analysis needs to be undertaken to clarify a problem definition and analyse a full range of management options for both LFE and SFE.
103. In relation to LFE, we note the Plenary Report's conclusion that "*the current assessment of spawning escapement for longfin eels is that escapement is possibly sufficient to maintain existing depleted stocks but not sufficient for rebuilding stocks*".⁶¹ If the objective is to rebuild a depleted stock, then we agree that the issue of spawning escapement is a key one that needs to be addressed. However, the IPP contains no analysis to support the assumption that a TAC reduction is the most appropriate way of ensuring an adequate level of spawning escapement. A TAC reduction applied to North Island QMAs is a blunt instrument for providing for increased escapement of longfin eels from catchments throughout New Zealand.
104. SeaFIC recommends that the final advice should analyse the advantages and disadvantages of alternative approaches such as changes to size limits and area closures. We note that minimum and maximum size limits do not currently apply to non-commercial catch and suggest that this should be reviewed as part of this analysis.
105. In relation to SFE, we note that the IPP does not make a strong case for any sustainability concern or TAC reduction. The 2007 Plenary Report records that the Eel Working Group "*did not consider that the same [sustainability] risk applied to SFE although caution is required given the nature of eel biology and exploitation before spawning escapement*".⁶² Absolutely no justification or evidence has been provided in the IPP for the conclusion that "*size composition data, the level of use, and perceptions of the condition of the fishery all suggest that the management strategy is unlikely to be achieved within the 10 year timeframe under the existing TACs*".⁶³
106. There are only two years of catch data since QMS introduction so it is too soon to draw conclusions about the impact of current TACs and catches on eel size and species composition – particularly when the data appears to have been drawn from landings rather than from eel population sampling. For example, the IPP states that landing data show "*no clear trend ... that the average size of eels in either shortfin or longfin stocks has increased. An increase in the population of large eels in the North Island commercial catch would indicate an improvement in shortfin and longfin population size structure*".⁶⁴ This conclusion about size structure has been reached without any analysis of the factors that contribute to

⁶¹ Ministry of Fisheries, 2007. Report from the Fishery Assessment Plenary, May 2007: stock assessments and yield estimates, page 253

⁶² *ibid*, page 255

⁶³ IPP paragraph 67

⁶⁴ IPP paragraph 31

the size composition of landed eels (as opposed to the wild population of eels) – for example, requirements of processors or markets for eels of a particular size.

107. We also note that CPUE analysis has not been updated since 2004 and it is therefore not clear the extent to which catch trends for both LFE and SFE are affected by changes in effort or reflect real changes in stock abundance. The IPP contains no analysis of why TACCs are currently undercaught. SeaFIC would expect the final advice to evaluate the extent to which factors such as changes in effort (e.g., between species or across eel size ranges), availability of harvesters, export conditions, and market requirements have influenced commercial eel landings, and whether these factors are likely to influence future catch in the same way.
108. In relation to both species, we consider that several relevant issues have not been adequately considered in the IPP. These include:
- the impact of environmental conditions on New Zealand’s eel populations and the implications of this for fisheries management and allocation (e.g., the impact of ongoing habitat modification, and the impact of broader-scale climatic change). There seems to be an assumption throughout the IPP that any “problems” in the eel fishery can be attributed to current or historical commercial fishing, and therefore any “solutions” will automatically entail the reduction of TACCs;⁶⁵
 - the need to integrate management measures across the entire biological stocks of LFE and SFE (North and South Island). The IPP currently attempts to assess options for North Island eels, without consideration of management measures (current and potential future) across the entire stock; and
 - the relationship between TAC/TACC decisions for the two stocks – e.g., the implications of reductions to LFE in terms of effort shift to SFE.
109. Also in relation to both species, we agree with the Ministry’s comment that the full range of management options, and the way in which different management measures interact to achieve a variety of objectives, should ideally be explored through a fisheries plan. However, we believe it will be difficult for stakeholders to reach agreement on objectives and strategies in a fisheries plan given the major information gaps in the eel fishery. Incentives for sectors to reach agreements over, for instance, additional area closures, may well be weakened if decisions on TAC reductions (particularly, non-proportional reductions to TACCs) are made in advance of discussions about the use of a full range of measures. In the absence of an agreed management plan, radical changes to TACs or allocations are premature.

Management of customary fishing

110. SeaFIC considers it unsatisfactory that the Ministry has not extended the Fisheries (Kaimoana Customary Fishing) Regulations 1998 (“Kaimoana Regulations”) to cover freshwater fisheries. We understand that this approach has been available to the Ministry since December 2000 when the High Court confirmed in *Te Arawa Maori Trust Board v Attorney General* that freshwater fisheries were included in

⁶⁵ See, for instance, IPP paragraph 160

the Deed of Settlement. Many submitters in 2004 requested that the Kaimoana Regulations should be extended to cover freshwater but, if any progress has been made on this, it is not reflected in the current IPP.

111. The result of the lack of coverage of the Kaimoana Regulations is that customary fishing for eels is restricted to providing for hui or tangi or other approved traditional non-commercial fishing uses under regulation 27 and 27A of the amateur fishing regulations. Unlike the Kaimoana Regulations, fishing under regulation 27/27A has no reporting requirement. Other fishing by Maori is carried out as recreational fishing, and is therefore not reported or monitored and is not provided for in the customary allowance. The Crown therefore has no information on customary fishing, and it is not clear to SeaFIC how the non-commercial Deed of Settlement obligations are being met with respect to this fishery.
112. SeaFIC supports the extension of the Kaimoana Regulations into freshwater fisheries, and full implementation of these regulations so that all customary catch can be reported. Since most “recreational” eel fishing is undertaken by Maori, we believe that incentives could be put in place to encourage this fishing to take place under the Kaimoana Regulations rather than the recreational regulations⁶⁶. If such a shift occurs, then the customary allowance can provide for this catch and the recreational allowance can be reduced. This will result in improved, integrated provision for customary fishing and management, and better reporting of non-commercial catch to assist in ensuring the sustainability of eel stocks.

Management of recreational fishing

113. SeaFIC is concerned at the lack of commitment to improving the monitoring of recreational catch. There is an implication throughout the IPP that there is a need to monitor or manage recreational catch only if the recreational allowance is reduced – for example: “*If the recreational allowance was reduced for either or both stocks... then recreational fishing activities would need to be better quantified and closely monitored*”.⁶⁷ SeaFIC seeks a commitment from the Ministry to monitor recreational eel fishing regardless of whether or not recreational allowances are reduced.
114. We are also concerned at the apparent hesitancy to impose further management measures for recreational catch in the event that recreational allowances are reduced. For example, “*A reduction in the recreational allowance may require initiatives to ensure that the relevant allowance is not exceeded. MFish would firstly wish to better establish the existing non-commercial use of the resource*”.⁶⁸ The assumption appears to be that further measures may not be necessary because allowances are not being caught. This is in direct contradiction of the assumption made in proposing various TAC options that recreational allowances are currently fully caught.⁶⁹

⁶⁶ Incentives that could be considered include reduced recreational bag limits, or recreational reporting requirements equivalent to those set out under the Kaimoana Regulations.

⁶⁷ IPP paragraph 136

⁶⁸ IPP paragraph 140

⁶⁹ IPP paragraph 70. SeaFIC notes that no evidence or analysis is provided in support of the assumption that recreational allowances are fully caught.

115. A reluctance to manage recreational fishing is also illustrated in the IPP's discussion of the application of maximum eel size limits to recreational fishing. The IPP states that MFish has previously raised the issue of introducing a 4kg maximum size "*but the concerns of non-commercial stakeholders were not necessarily focused on the relative merits of such an option for the future*".⁷⁰ It would be laughable for SeaFIC to submit that the TAC proposals should not be pursued because "the industry was not necessarily focused on the relative merits of the options for the future", and yet this explanation is deemed adequate to justify rejecting maximum size limits for recreational fishing.
116. We also seek clarification of the meaning and management implications of the numerous references to eels as part of a "subsistence lifestyle". SeaFIC considers that these references are patronising and emotive, and that clarity is needed in the use of this terminology. For instance, are people undertaking "subsistence fishing" for eels simply fishing for food in much the same way as people supplement their diet and lifestyle with recreationally-caught sea fish? Alternatively is the reference to subsistence fishing intended to convey a different type of interest and a different allocational priority to other forms of recreational fishing?
117. SeaFIC considers that the use of the word "subsistence" suggests more than simply a cultural preference and implies an economic necessity or dependency that cannot be substituted with other harvested or purchased sources of protein. The IPP claims that whole communities are "dependent" on eel fishing for subsistence, although no supporting evidence is presented for this serious and concerning assertion. Even if it could be demonstrated that "whole communities" are dependent on subsistence eel fishing, SeaFIC questions the extent to which the management and allocation of eels under the Fisheries Act is intended to contribute to alleviating socio-economic conditions arising from factors that are surely much broader than access to the eel resource.

Allocating the TAC

118. SeaFIC considers that the discussion in the IPP on proportional or non-proportional allocation options is rendered meaningless by the absence of any information on non-commercial catch. In its final advice in 2004, the Ministry noted that "*further evaluation of the recreational use of the eel resource is required before considering further adjustments to the allowances as now recommended*".⁷¹ No new information has been presented since this advice was provided. SeaFIC submits that the Ministry should follow its own advice and retain the current proportionality in this fishery as there is no new information to suggest that changes should be considered.

⁷⁰ IPP paragraph 154

⁷¹ Ministry of Fisheries, 2004. Setting of sustainability and other management controls for stocks to be introduced into the QMS on 1 October 2004. North Island shortfin and longfin eels (SFE, LFE) Final Advice Paper, 25 June 2004, paragraph 330

119. We note that the IPP provides proportional and non-proportional options for the proposed TAC reductions, but that the Ministry prefers a non-proportional approach (i.e., reduction of TACCs only).⁷² The reasons for the preference for non-proportional reductions appear to be as follows:
- (i) Eels are a highly valued non-commercial resource, with many communities depending on eel fishing for subsistence;
 - (ii) The recreational allowance was set at a level below estimated harvest levels when North Island eels were introduced into the QMS in 2004;
 - (iii) A non-proportional approach would be more consistent with statutory obligations;
 - (iv) A non-proportional approach would be more consistent with the management strategy determined for North Island eels;
 - (v) Impacts of allocative decisions on the commercial sector are not considered significant in the short term as TACCs are not fully caught; and
 - (vi) Taking of eels for recreational purposes contributes to people's well-being, including through health benefits, and well-being is not satisfied by purchasing eels.
120. SeaFIC considers that none of these reasons justifies a non-proportional approach to allocation. We respond to each point as follows.
121. In relation to reason (i), we accept that eels are valued by non-commercial fishers, but consider that estimates of relative value are not a valid basis for allocation decisions under the Fisheries Act (see paragraphs 33-34 of this submission). Even if value was a sound basis for allocation, the IPP provides no quantitative information on non-commercial catch, no estimates of non-commercial value, and no analysis of whether the values of non-commercial fishers are satisfied within current allowances. The Ministry's own policy is that in the absence of information on value, a proportional approach to allocation is preferred.⁷³
122. In relation to reason (ii), when North Island eels were introduced into the QMS in 2004, the TACCs and recreational allowances were both reduced by the same "reduction factor" from current catch estimates. We note that the application of a reduction factor to recreational catch estimates was entirely arbitrary since there were no quantitative estimates of recreational eel catch to apply the reduction factor to. More importantly, the recreational bag limit of 6 was not reduced because the Ministry – in direct contradiction of the application of the supposed "reduction factor" – advised that the current recreational harvest was likely to be close to the recommended allowances.⁷⁴ Therefore recreational catch was not reduced at the time of QMS introduction, but TACCs (and therefore commercial catch) were reduced. The sequence of historical adjustments in the eel fishery does not justify further non-proportional reductions to TACCs.
123. The IPP does not specify how a non-proportional approach is more consistent with statutory obligations (reason (iii)).⁷⁵ As set out elsewhere in this and other

⁷² IPP paragraph 8

⁷³ IPP, statutory obligations paragraph 115

⁷⁴ Ministry of Fisheries, 2004. Setting of sustainability and other management controls for stocks to be introduced into the QMS on 1 October 2004. North Island shortfin and longfin eels (SFE, LFE) Final Advice Paper, 25 June 2004, paragraph 4

⁷⁵ IPP paragraph 8

submissions, SeaFIC does not accept that a non-proportional approach to allocation is more consistent with the Fisheries Act than proportional allocation.⁷⁶

124. In relation to reason (iv), SeaFIC notes that the previous Minister agreed that one of the intended outcomes of the 2004 management strategy was to improve the availability of eels to non-commercial users. That strategy has not been confirmed by the current Minister, nor agreed to by all users through a fishery plan process. Even if this strategy and outcome were to be agreed, there is no information on which to assess whether the availability of eels to the non-commercial sector has improved or declined under current TACs and allocations, and hence no basis for reallocation.
125. Reason (v) relates to the supposed lack of short term impacts on commercial fishers of the proposed TAC/TACC cuts. SeaFIC considers that the analysis of impacts of the proposed TAC reductions on commercial fishers is superficial and limited in comparison with the descriptions of the well-being of non-commercial fishers (see, for example, IPP paragraphs 131, 134, 145). The focus on short term impacts on commercial fishers ignores the longer term consequences of increasing the proportion of non-commercial catch of eels.
126. The IPP makes no attempt to quantify or analyse the significance of the changes in proportionality that are proposed. Currently, the commercial share of the North Island eel fishery (the TACC as a percentage of the TAC) ranges from 62% (LFE 23) to 80% (SFE 22). Under the non-proportional IPP proposals the commercial share of the fishery decreases to a range of 26% to 78%. Even where “proportional” allocation is applied, the commercial share of the fishery is reduced (because the allowances for customary fishing and other mortality remain unchanged), and the range becomes 41% to 79%.
127. These changes in proportionality are of great concern to the industry because a reduction in the commercial “share” of the fishery is unlikely to ever be retrieved, regardless of any subsequent TAC increases. It also means that a greater proportion of extraction from the fishery is unmonitored, generating higher levels of uncertainty for future TACs. For two of the longfin stocks (LFE 20 & LFE 23), if the IPP proposals are implemented, the proportion of catch that is subject to a reporting regime will be around or less than 50% of the TAC.
128. In relation to the final reason (contribution of eels to well-being), SeaFIC notes that the analysis ignores the well-being derived from commercial harvest, including the well-being of people dependent on commercial harvest and processing for income and lifestyle, and the well-being derived from purchasing eel products. We note that New Zealand eel products can readily be purchased, at least in major centres, and dispute the implication that consumption of purchased eel does not generate health benefits. In relation to the specific claim that eel consumption can prevent type 2 diabetes, SeaFIC is aware that omega 3, in combination with other lifestyle changes, has been shown to be beneficial in reducing the incidence of a number of cardiovascular diseases and complications of type 2 diabetes, but we are not aware of any work demonstrating that eel

⁷⁶ For example, see SeaFIC’s submission on the Government’s Shared Fisheries proposals

consumption alone reduces the incidence of type 2 diabetes. We have been unable to evaluate the study referred to in the IPP since no reference is provided.

129. SeaFIC also notes that the analysis in the IPP frequently confuses discussion of allowances with actual management measures and that this should be corrected in the final advice. For example:
- paragraph 119 states that “*The present recreational allowances for eel stocks are quite low and further reductions in this allowance could have significant impacts on the use of the resource*”. Reducing the recreational allowance will have no impact at all on the recreational use of the resource – impacts on recreational use will arise only as a result of changes in stock abundance or changes in the daily bag limit. We also question how it is possible for the authors of the IPP to assert that the current allowances are “quite low” when there is no catch information against which to compare the allowances; and
 - paragraph 138 states that “*If the customary allowances were maintained at existing levels, these [Maori cultural] values would not be further affected*”. It is not the customary allowance that determines whether cultural values are able to be maintained, but rather the overall state of the stock.

Flatfish (FLA 3) & Red cod (RCO 3)

130. SeaFIC has considered the issues raised in the IPP and discussed the proposals with the relevant CSO, the Southeast Finfish Management Company Ltd. Our conclusions are that:
- the problem definitions for FLA 3 and RCO 3 are not clearly developed, and fundamental questions about the way in which these fisheries are managed need to be addressed, ideally prior to any TACC adjustments. A full characterisation of the fisheries would assist in clarifying the problem definition;
 - consideration should be given to the use of quota-owner initiatives to withhold excess ACE from the fisheries and spread effort to alleviate any localised abundance problems; and
 - any TAC reductions in these fisheries should be proportional across the TACC and recreational allowances.
131. Our more detailed comments below are intended to complement the Southeast Finfish Management Company Ltd’s submission. We comment first on issues common to FLA 3 and RCO 3 and then on issues relating to the individual stocks.

Managing highly variable stocks (FLA 3, RCO 3)

132. In both FLA 3 and RCO 3, current and recent historical catches are considerably lower than the TACC. As highly variable stocks, it is to be expected that the TACCs of these stocks are unlikely to always closely match actual catches.

133. We note that there are two potentially available approaches for managing highly variable stocks. Either (1) a TACC can be set at a relatively low level, and provision made for years of higher abundance by way of in-season increases, or (2) a TACC can be set at a relatively high level and provision made for years of lower abundance by arrangements between quota owners to set aside “excess” ACE. The management regime for a highly variable fishery should also reflect the management objectives of those with rights and interests in the fishery – for example, quota owners may wish to maintain relatively constant catches over time, or they may wish to take advantage of periods of high abundance and reduce catches during periods of low abundance.
134. SeaFIC considers that ideally an appropriate management regime would be agreed between those with an interest in the fishery (for instance, by way of a fisheries plan) prior to specific decisions being made on TACCs, as set out in the current IPP.
135. The IPP proposals presume, without any supporting analysis, that setting lower TACCs and making use of the in-season increase mechanism under the Second Schedule is the most appropriate management regime for FLA 3 and RCO 3. The IPP proposals rely on the use of in-season TACC increases to alleviate any constraints on utilisation caused by the reduced TACCs proposed in the IPP. However, the IPP contains no analysis of the potential costs of this approach. Questions that should be addressed include:
- what research is required to support an in-season increase, and at what cost?
 - what is the likelihood of actually obtaining in-season increases, given other MFish regulatory priorities?
 - to what extent might the uncertain policy framework for the allocation of shared fisheries impact on the ability to secure an in-season increase for FLA 3 or RCO 3?
 - what is the ongoing cost to quota owners of the uncertainty around whether or not an in-season increase is obtained?
136. We note that the preparation of a fisheries plan for FLA 3 or RCO 3 may provide more certainty around the circumstances in which an in-season increase might be appropriate (for instance, by way of an agreed decision rule), but this does not alleviate the primary concern that other issues may take higher priority in MFish’s regulatory prioritisation process.
137. SeaFIC considers that the FAP should give explicit consideration to the alternative approach of retaining a relatively high TACC and relying on the actions of quota owners to set aside ACE in years of lower abundance (i.e., shelving). We acknowledge that there is a difference of legal opinion between MFish and SeaFIC over the extent to which shelving can be used to achieve the purpose of the Act, particularly when a stock is considered to be below Bmsy. This difference of opinion was raised in our submissions on the 2006/07 IPP and it is disappointing that a year later it has still not yet been discussed or resolved.
138. We note that the discussion in the IPP suggests that the observed mismatch between catch and TACC in these fisheries is well suited to being addressed by way of quota-owner initiatives. The IPPs for both FLA 3 and RCO 3 emphasise

the “open access” and “race for catch” characteristics of the fisheries and the resulting inefficiencies that can arise from a high TACC. In relation to RCO 3, it is suggested that current management compromises marketing continuity and obtaining best value from the fishery⁷⁷. SeaFIC submits that all of these “problems” are commercial utilisation issues that are not the business of the government, and are more appropriately dealt with by quota owners.

139. SeaFIC also notes that there is considerable within-QMA variation in abundance, particularly for FLA 3. We understand that the concerns raised by commercial fishers about this stock are localised around the Timaru area, but there are no abundance issues further south. In these circumstances industry management initiatives can usefully combine ACE shelving with catch spreading to address issues of variable regional abundance in a more sophisticated manner than can be achieved through a straight TACC cut.
140. We consider that the long-term solutions to these issues lie in developing better policy frameworks, incentives and statutory tools for collective action by quota owners.

Improving the problem definition (FLA 3 & RCO 3)

141. SeaFIC considers that the IPPs for FLA 3 and RCO 3 give inadequate consideration to the problem that the proposed TACC reductions are seeking to address. The IPP assumes that the “problem” is that TACCs for FLA 3 and RCO 3 are higher than actual catches and that this causes some undesirable consequences for sustainability and utilisation – yet much of the discussion of the implications of the mismatch between TACCs and actual catch is not supported by evidence or analysis.
142. For example, there seems to be a suggestion that fishers who have access to “excess” RCO 3 or FLA 3 ACE use this ACE as a reason to go fishing for other bycatch species that they would not otherwise be targeting (and presumably do not have ACE for).⁷⁸ This analysis makes no economic sense. Fishers do not need RCO 3 or FLA 3 ACE to target other species and are unlikely to want to purchase that ACE if they have no expectation of catching it. A commercial fishing permit provides the basic level of access to the fishery, and any catch (whether so-called target or bycatch) can be balanced by either ACE or deemed values. If fishers continue to target species for which they have no ACE, then this is a consequence of poorly set deemed values for those stocks, and will not be addressed by reducing the availability of RCO 3 or FLA 3 ACE.
143. A further example is provided in relation to RCO 3, where it is claimed that the “race for catch” causes “(i) competition for access to local fishing grounds (ii) fishing in nursery areas (iii) discarding of non-marketable fish and bycatch and (iv) unnecessary seabed damage caused by trawling for insignificant amounts of

⁷⁷ IPP RCO 3 paragraph 47

⁷⁸ IPP RCO 3 paragraph 55, FLA 3 paragraph 18

red cod".⁷⁹ In response to these fairly serious claims we make the following comments.

- (i) The claims of “competition for access to local fishing grounds” and “fishing in nursery areas” are not elaborated or substantiated in the IPP. Even if there was evidence provided of these activities, it is not clear that either of them generates a sustainability risk that could usefully be addressed through a TAC reduction. Competition for access to fishing grounds would appear to be a utilisation (efficiency) issue rather than a sustainability issue. If fishing in nursery areas results in increased sustainability risks, then this should be addressed through discussion with the CSO to establish appropriate good practice to avoid these areas. In addition, the IPP does not explain why the alleged behaviours (competition for fishing grounds, fishing in nursery areas) are the result of uncaught RCO 3 ACE rather than other factors. With a highly variable stock such as RCO 3, it could be expected that in years of low abundance fishers will naturally congregate to fish in areas where catch can be obtained with least effort, whereas in years of high abundance effort will be more widespread. This is a function of stock abundance, not a function of the availability of ACE.
 - (ii) Discarding of non-marketable fish or bycatch depends on a range of factors including the TACCs and deemed values that are set for bycatch species, and the compliance regimes that are operating in the SIF fishery. It is not clear from the IPP whether the level of discarding in these fisheries is significant, or to what extent (and by what mechanism) the presence of uncaught RCO 3 ACE contributes to the level of discarding. It could equally be argued that there are stronger incentives for high grading and discarding in fisheries where ACE is constraining catch.
 - (iii) Presumably any trawling effort is occurring in previously-trawled areas and not over new areas, so it is not clear that any seabed “damage” is occurring. In any case, the concern of the Fisheries Act is not whether fishing impacts are necessary or “unnecessary”, but rather whether an effect is adverse.
144. In relation to FLA 3 SeaFIC notes that although catches have declined, there has been no analysis of catch rates and no analysis of the contribution of the various FLA 3 species to the overall catch. Fishers will shift effort (to different areas, to different species within the FLA 3 stock, or to different stocks) in response to variations in abundance, and this makes it difficult to assess the extent to which the declining catches reflect declining abundance as opposed to reduced effort or shifts in effort.
145. In relation to both FLA 3 and RCO 3, it is clear that any TACC reductions will have disproportionate impacts across people involved in the fishery. Fishers with smaller operations will be impacted more than those with larger quota or ACE holdings, because smaller operators will currently be using all their ACE to cover their catch, whereas larger operators will have existing headroom and will not be impacted to the same extent. Similarly (for FLA 3) fishers in the south are

⁷⁹ IPP RCO 3 paragraph 7

catching their ACE currently and therefore will be affected more by a reduction than those in the north whose ACE is not fully caught, even though there is no abundance issue in the southern part of the stock.

146. The discussion above emphasises that the dynamics of variable, multi species fisheries such as those based around FLA 3 and RCO 3 fisheries are complex. It is difficult to make sensible management adjustments in the absence of a clear understanding of the nature of the fisheries and how they are fished, including relationships between species, the structure of the industry, economic considerations and fisher behaviour. SeaFIC suggests that a full fishery characterisation would be a useful first step towards the preparation of a fisheries plan. Because of the nature of the economic information required for such a characterisation, we suggest that the CSO needs to be closely involved in this work.

Proportional allocation (FLA 3 & RCO 3)

147. For FLA 3, all the proposed TAC reductions are non-proportional – i.e., the TACC is reduced but non-commercial allowances remain unaffected. For RCO 3, options 2 and 3 propose non-proportional reductions. We note that discussion of proportionality in the cases of FLA 3 and RCO 3 is made difficult by the fact that no TACs or non-commercial allowances have previously been set in these fisheries. Therefore while the IPP proposes non-proportional reductions “on-paper”, the situation with regard to actual catch is more complicated. The Ministry’s justification for proposing non-proportional reductions in each case appears to be that the various TACC options reflect measures of recent actual commercial catches, and so the non-commercial allowances should also be based on estimates of actual catch. SeaFIC considers this justification to be illogical and inconsistent. The estimates of non-commercial catch used for setting the allowances are based on estimates made in historical years of high abundance and do not reflect current catch, whereas the TACC options are based on averages that include recent years of low abundance.
148. FLA 3 serves as an example of the illogical approach, but the same arguments apply in relation to RCO 3. The FLA 3 recreational estimate is based on a mid point of surveys from 1992-94, 1996, 1999-00 and 2000-01⁸⁰. These years include periods of relatively high commercial landings (i.e., presumed high abundance). In comparison, option 3 proposes setting a TACC based on averaged actual catch over the past 5 years (2001-06) which were all years of relatively low abundance. The TACC proposed in option 4 is even lower, yet the same high recreational allowances are used. The IPP notes that “*the relatively high estimates of non-commercial catches indicate that, at least until 2000, recreational and customary fishers were still able to catch flatfish*”, and “[recreational] forum members state they have stopped fishing for flatfish because of the decreased abundance”⁸¹. These extracts reinforce the point that the high recreational allowances do not reflect recent recreational catch.

⁸⁰ IPP paragraphs 46 & 47

⁸¹ IPP paragraphs 64 and 13

149. SeaFIC submits that if actual catch is to be the basis of setting the allowances and TACCs for RCO 3 and FLA 3, then this measurement should be applied consistently across commercial and non-commercial catch, resulting in proportional adjustments that are fair to each sector.

Recreational fishing issues (FLA 3 & RCO 3)

150. SeaFIC notes that there are references throughout the RCO 3 and FLA 3 IPPs to “recreational fishers” claiming or wanting or agreeing to particular things. It is not clear who these recreational fishers are and whether they have a mandate to represent recreational fishers more generally. It appears that considerable weight has been placed in the IPP on the concerns expressed by recreational fishers, but it is not clear whether, and if so, how, the anecdotal information contributed by recreational fishers has been corroborated (as required in paragraph 41 of the statutory obligations and policy guidelines). SeaFIC recommends that both these issues should be clarified in the final advice.
151. SeaFIC considers it reasonable to expect that both commercial and non-commercial fishers will have to reduce their catches of highly variable stocks in years of low abundance, yet this self-evident concept is not reflected in the IPP. The assumption instead appears to be that non-commercial fishers should be able to continue to meet their catch expectations regardless of the natural variability in the fishery. For example:
- both the FLA 3 and RCO 3 IPPs claim that “*recreational fishers are finding that what was once an abundant and accessible species is now an uncommon catch under current management*”.⁸² This statement implies, with absolutely no justification or evidence, that current management settings (i.e., the TACC), rather than environmental variability, is the reason why recreational fishers are finding it harder to catch fish; and
 - the IPP states that “*some recreational fishers have argued that commercial fishing affects the ability of non-commercial fishers to catch a “fair” share of important recreational fisheries, including flatfish... Decreasing the TACC and making allowances for recreational catch goes some way towards addressing these issues*”.⁸³ This statement assumes that there is some valid basis (presumably based on unstated assumptions of relative value between sectors) for a non-explicit reallocation of fish from the commercial sector to recreational sector in order to maintain recreational fishers’ access to the stock regardless of any natural variability. We also note that setting a recreational allowance does nothing in itself to address any issues, since recreational catch is not provided for or constrained by the allowance, but rather by local abundance and the daily bag limit.
152. In relation to RCO 3, “recreational fishers” are reported to “*favour the course of action most likely to quickly rebuild the fishery*”, have “*deep concern for the state of the fishery*” and consider that reducing the recreational daily bag limit from 30 to 10 is “*in the best interests of the fishery*”.⁸⁴ SeaFIC considers that it is hard to

⁸² IPP FLA 3 paragraph 21, RCO 3 paragraph 30

⁸³ IPP FLA 3 paragraph 65

⁸⁴ IPP RCO 3 paragraphs 68, 73 and 59

take the protestations of recreational fishers seriously when the bag limit reduction is supported only as part of option 4 and not as part of any of the other management proposals.

153. The RCO 3 IPP goes on to state that “*there is an attendant cultural cost for recreational fishers being unable to access their fishery*”.⁸⁵ It is not clear whether this cultural cost relates to the status quo – in which case it reflects the unjustified assumption that non-commercial catch levels should remain high regardless of stock abundance – or if it relates to the option of reduced bag limits. SeaFIC submits that reducing the bag limit from 30 fish to 10 fish per person per day is hardly going to result in a significant cultural cost. A recent (2007) Colmar Brunton survey commissioned by SeaFIC found that the majority of New Zealanders (55%) think that a maximum of 5 fish is a reasonable daily bag limit, with a further 30% thinking that a maximum of 10 is reasonable. A large majority of recreational fishers (85%) think that up to a maximum of 10 fish per fisher per day is a reasonable daily bag limit (see full results below).⁸⁶

Customary allowances (FLA 3 & RCO 3)

154. SeaFIC notes that customary catch is almost fully reported for FLA 3 and RCO 3, and that this provides a valuable input to management considerations. We acknowledge that the Ministry seeks to provide for customary catch in full. However, the allowances made for customary fishing are far in excess of the reported catch. For example, there is no customary take at all in RCO 3⁸⁷ yet a 5 tonne allowance has been made. In FLA 3, 9000 customary fish were authorised to be taken over the period 1998 -2006, an average of 1000 fish per year but resulting in an allowance of 5 tonnes. Discussions with MFish fisheries managers have clarified that the headroom in the allowances is intended to allow for fishing currently undertaken by tangata whenua under the recreational regulations to be transferred over time to the customary regulations. If this is the case, it would have been useful to point that out in the IPP and we would also expect to see a consequential reduction in the recreational allowance.

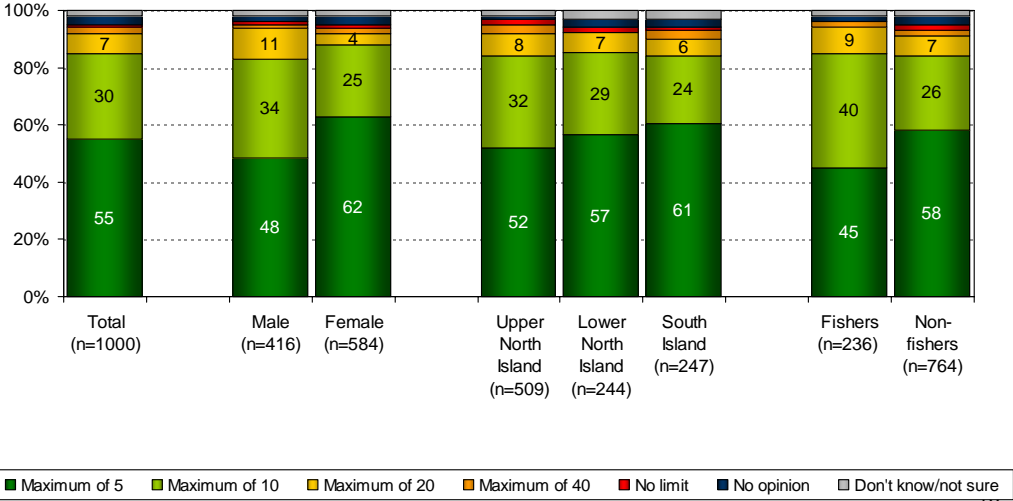
⁸⁵ IPP paragraph 69

⁸⁶ The survey consisted of a fully national sample of 1000 respondents, weighted to the NZ census 2001 data to ensure that the results are fully representative of the NZ population aged 15+. The margin of error surrounding results based on the total sample size (n=1000) is +/- 3.1% (at the 95% level of confidence). The margin of error surrounding the results for the Recreational Fisher sub-sample (n=236) is +/- 6.5% (at the 95% level of confidence).

⁸⁷ IPP paragraph 43

Large majority of New Zealanders, including recreational fishers, think that up to 10 fish per recreational fisher is a reasonable daily allowance.

“Which of the following do you think is the most reasonable number of fish that each fisher per day should be allowed to catch?”



Source: Q3

FLA 3 section 14 management

155. SeaFIC recommends that consideration should be given to managing FLA 3 under the Third Schedule – stocks for which it is not possible, because of the biological characteristics of the species, to estimate maximum sustainable yield. The FLA 3 stock is made up of 8 species each of which vary separately in annual abundance and also, presumably, in spatial abundance across the large FLA 3 QMA. In these circumstances we consider that it is not possible to estimate Bmsy, and that a more flexible, fit-for-purpose management regime could be developed for the FLA 3 complex under a s14 approach.

Tarakihi (TAR 1)

156. SeaFIC has considered the issues raised in the IPP and discussed the proposals with the relevant CSO, the Northern Fisheries Management Stakeholder Company Ltd. Our conclusion is that there are additional utilisation opportunities available in the TAR 1 fishery, including options beyond those set out in the IPP. We recommend that the TAC and TACC should be increased. Our more detailed comments below are intended to complement the Northern Fisheries Management Stakeholder Company Ltd’s submission.

Restricted range of TAC options does not achieve purpose of Act

157. SeaFIC is concerned that the options presented in the IPP are all extremely conservative and do not represent the full range of options that could conceivably meet the purposes of the Act in terms of providing for utilisation while ensuring sustainability. The IPP states that “the options presented in this paper deal only with small increases in the TAC” because (1) MFish has no estimates of current stock size or MSY and (2) estimates of non-commercial catches are uncertain. SeaFIC considers that neither of these reasons justifies the narrow range of options presented.
158. In relation to the first point (no estimates of current stock size or MSY) SeaFIC considers that the best available information indicates that the TAR 1 stock is likely to be at or above Bmsy and that there are further utilisation opportunities available in this fishery. This information includes:
- stable landings over a long period of time;
 - stable or increasing CPUE – and we note CPUE is considered to be a relatively reliable indicator of abundance of TAR 1;
 - previous stock assessments – the 2002 Plenary reported that TAR 1 was probably above Bmsy; and
 - the 2006 Plenary Report, which considered that current catches and the TACC were sustainable.
159. In comparison with the quality of information that is used to make some other sustainability decisions, we consider that the information on the status of TAR 1 is relatively certain and consistent. Further, we note that MFish’s advice that the TAC should be set under s13(1)(a) confirms the view that the stock is likely to be at or above Bmsy. Nothing is presented in the IPP to suggest that the stock may be below Bmsy.
160. It appears, therefore, that the only reason for the conservative proposals, and the lack of a full range of utilisation options, is unreliable estimates of non-commercial catch. Essentially the Ministry is proposing that the commercial sector’s utilisation opportunities should be constrained by the failure to gather information on non-commercial fishing. In this environment it would appear that no matter what proposals the industry might put forward, they will be declined on the basis of insufficient information about non-commercial catch.
161. This lack of information and the utilisation constraints it gives rise to is particularly inexcusable given the apparently large non-commercial use of the TAR 1 fishery (the customary and recreational allowances amount to 540 tonnes, 27% of the TAC). There is no suggestion in the IPP that this situation will be improved, at least in the short term. We note that the lack of information constrains not only current management options but will also significantly constrain any fisheries plan process. Sectors will find it difficult to agree on management objectives and strategies for the fishery when there is no reliable information on recreational catch and no information at all on customary catch.
162. The frustrations that the commercial sector is experiencing in this fishery are exacerbated by the failure to progress AMP proposals – both this year and in previous years. SeaFIC considers it extraordinary that the Northern Fisheries Management Stakeholder Company Ltd put forward a proposal for a TACC

increase, supplemented by measures such as additional reporting, catch spreading and further spatial separation to deal with recreational fishing concerns, and yet this proposal is not included as an option in the IPP.

163. SeaFIC recommends that in the FAP the Minister should be presented with a full range of options, including the “AMP” proposal, that reflect the utilisation opportunities available in this fishery, consistent with the purpose of the Act. We also note that it is extremely unfortunate that submitters were not provided with a chance to comment on the AMP proposal, and that this option should not be disadvantaged in the Minister’s deliberations as a result of the Ministry’s failure to consult on it.
164. SeaFIC also notes that option 1 is not the *status quo* because an increase in deemed value is proposed so there will be a reduction in actual commercial catch under this option.

Statutory obligations

165. Paragraph 56 of the IPP reads as follows (and a similar wording is used in paragraph 8 of the TAR 1 paper and paragraph 54 of the SCH 1 paper):

Section 21 requires the Minister to make allowances for Maori customary non-commercial interests, recreational fishing interests and for any other sources of fishing-related mortality before setting the TACC. In setting the allowances and the TACC, the Minister is required to consider the social, economic and cultural wellbeing of the persons within each sector.

166. SeaFIC has several concerns with the statutory interpretation provided in this paragraph. First, s 21 requires the Minister to make various allowances “in setting the TACC”, not before setting the TACC. Second, the reference to the wellbeing of “the persons within each sector” does not derive directly from the Act. There is no such requirement in s 21. Presumably this is a reference to the purpose of the Act, in which case the obligation is to enable people to provide for their social, economic and cultural well-being.
167. We recommend that in the interests of consistency the authors of the various sections of the IPP should rely on the interpretations provided (rightly or wrongly) in the section on “statutory obligations and policy guidelines” at the beginning of the IPP.

Allocating the TAC

168. SeaFIC considers that ideally any TAC increase should be allocated proportionally, provided a reasonable TAC increase is approved. However, if only conservative TAC increases are proposed (as in the IPP) then we consider that there is sufficient justification to allocate the increase to the TACC only.
169. Our reasoning is that, under all proposals put forward in the IPP, the TAC and commercial utilisation are both being artificially constrained by the lack of

information on non-commercial catch. Until there is better information on non-commercial catch, there is no justification for increasing the non-commercial allowances above estimates of current catch. Under the current regime, allocating any increase to the TACC will at least ensure that that portion of the TAC is fully reported and monitored. Any increase assigned to non-commercial allowances increases the proportion of the fishery that is not reported or otherwise effectively monitored, increasing the uncertainty in any future stock assessments and reducing utilisation opportunities for everyone. We consider that this would be inconsistent with the Ministry's own objective of getting "best value" from fisheries.

School shark (SCH 1)

170. SeaFIC has considered the issues raised in the IPP and discussed the proposals with the relevant CSO, the Northern Fisheries Management Stakeholder Company Ltd. Our conclusion is that there are additional utilisation opportunities in the SCH 1 fishery and that a TAC should be set at a level that reflects an increased TACC and the best estimates of current non-commercial catch. Our more detailed comments below are intended to complement the Northern Fisheries Management Stakeholder Company Ltd's submission.

TAC options

171. SeaFIC notes that it is incorrect to describe Option 1 as the status quo if the deemed value is increased as recommended elsewhere in the IPP. If the deemed value for SCH 1 is increased, then Option 1 is likely to result in a decrease of commercial catch.
172. The final advice paper should note that the Minister could also choose other TAC options and is not limited to the three options put forward in the IPP.

Allocating the TAC

173. SeaFIC considers that the discussion of proportional vs non-proportional allocation of the TAC is meaningless in the context of SCH 1 as there is no current TAC or non-commercial allowances against which any new allowances might be compared.
174. Proportional vs non-proportional is, however, relevant in the context of discussing actual catches of the various sectors. When examining the proportionality of actual catches, it should be noted that no real increases in actual commercial catch levels are proposed under option 1 or 2. Even option 3 provides no real increase in commercial catch if 10 year commercial catch figures are used. We note in this respect that the IPP cites 10 year old catch estimates for recreational fishing (i.e., surveys from 1995 and 2000), so it is not unreasonable to also count commercial catch across this time scale.

175. In all options the TACC and allowances represent different measures of actual catch, rather than changes in commercial or non-commercial catch levels. The issue is therefore not one of proportionality vs non-proportionality. In conclusion SeaFIC considers that there is simply no justification under any options for increasing non-commercial allowances above the levels of estimated catch.
176. We are disappointed that no progress has been made on the estimation of customary catch in spite of the practical suggestions put forward by submitters, including SeaFIC, in previous years. Basing the estimate of customary use of SCH 1 on 150% of the already highly uncertain recreational catch estimates is not good enough, particularly when school shark is a taonga species of high value to customary fishers.

Impacts of increasing the TACC

177. SeaFIC notes that options 2 and 3 increase the TACC to levels of recent actual commercial catch. It is therefore unlikely that any of the suggested impacts will occur because actual catch will not increase above recent historical averages. For example, the suggestion in paragraph 26 that a TACC increase could cause a reduction in the size and abundance of SCH 1 available to recreational and customary fishers is not supported by any analysis. Similarly, the suggestion that a TACC increase might “intensify the impact of bottom trawling on the benthic environment” is highly speculative, and in any case stops a long way short of suggesting that this “increased intensity” would result in adverse effects on the benthic environment.
178. In the unlikely event that a TACC increase results in an increase in set net effort, SeaFIC notes that the management of any additional risk associated with pupping females in the Kaipara is better dealt with through area-based or seasonal management measures (preferably voluntary) rather than through the setting of the TAC/TACC. Any risk of increased interaction with Maui dolphin is more appropriately dealt with through the threat management plan process.

Dredge Oyster (OYS 7C)

179. SeaFIC welcomes the proposal to review the TAC and TACC for OYS 7C, potentially allowing the development of a commercial fishery for dredge oysters in this quota management area.

Full range of TAC options is not presented

180. SeaFIC notes that the OYS 7C stock was introduced into the QMS on 1 October 2005 with an intentionally conservative TAC, intended to encourage rights holders to invest in the development of a viable and sustainable fishery. The new stock assessment information that is available results from a survey of the fishery commissioned by rights holders.

181. MFish is correct to note that sustainable yield estimates for the OYS 7C stock remain uncertain. Nevertheless, SeaFIC considers that MFish has unnecessarily restricted the information contained in the IPP to the lower part of the range of plausible yield estimates.
182. SeaFIC notes that the estimates of recruited oyster biomass, numbers and density provided in paragraph 20 of the IPP assume 100% dredge efficiency. These estimates can therefore be considered minimum bounds on recruited oyster biomass.
183. The virgin biomass estimates on which the MCY estimates in the IPP are based pertain to a survey area that is only a proportion of OYS 7C QMA. Although the presence of commercially viable oyster beds in other parts of the QMA has not been investigated to date, biomass estimates for the surveyed area nevertheless represent minimum bounds on the full QMA biomass.
184. As a result of uncertainty in dredge efficiency and natural mortality, yield estimates calculated using the survey biomass estimate vary considerably. Although the estimates of Maximum Constant Yield (MCY) presented in Table 2 of the IPP range from 18 tonnes to 213 tonnes, SeaFIC notes that this is not the full plausible range. The Shellfish Working Group on 14 May 2007 in fact concluded that the MCY estimates presented in the IPP represented a conservative range. The final survey report⁸⁸ includes six estimates of MCY, based on various dredge efficiency and natural mortality estimates, which range from 18 to 639 tonnes.
185. The values for the rate of natural mortality used in calculating the MCY estimates in the survey report range from 0.042 (an estimate from the Foveaux Strait oyster fishery) to 0.92 (an estimate from the Tasman Bay fishery). These values likely represent the extremes of plausible values for this parameter.
186. MCY estimates also depend on dredge efficiency, and values of 100% and 64% were used in deriving the MCY values presented in the survey report. A dredge efficiency of 100% is, in fact, not plausible; this value is described as “intentionally conservative” by the report’s authors. Dredge efficiency estimates for similar dredges in the Tasman Bay oyster fishery range from 36 to 64%. Dredge efficiencies of less than 64% are plausible, and would result in higher estimates of MCY than those presented in the survey report.
187. The IPP notes (paragraph 21) that six estimates of MCY were provided from the survey results. The two estimates omitted from the IPP are the higher estimates. The current IPP gives the misleading impression that the range of yield estimates presented are the full plausible range.
188. SeaFIC notes that, in spite of the fact that the MCY estimates presented in the IPP range up to 213 tonnes, the IPP considers TAC options that only range up to 100 tonnes. SeaFIC considers that the IPP does not present a full range of options for

⁸⁸ Brown and Horn, 2007

the Minister to consider and that it is therefore not appropriate to suggest that only alternative TAC options “that lie *within the range* of those presented” could be considered.⁸⁹ We also note that stakeholders may have been led to believe that only TACs of up to 100 tonnes could be considered.

Providing for continued development of the fishery

189. SeaFIC is disappointed that the IPP shows little foresight in regard to the ongoing development and management of the OYS 7C fishery, other than an undertaking to work with industry to manage the effects of fishing on the benthic environment. In regard to the setting of a TAC, the impression given in the IPP is that the current decision represents a one-off “set and forget” process, with only this one opportunity to appropriately balance the risks to long-term sustainability with increased utilization. SeaFIC considers that a more realistic view is that the continued development of the fishery will require further research to refine long-term yield estimates, and that development of the fishery must be managed to provide for collection of this information whilst providing an economic return to rights holders. Periodic adjustment of the TAC in the light of new and improved information is therefore a reasonable expectation.
190. The yield calculations provided in the IPP are for Maximum Constant Yield (MCY), defined as “the maximum constant catch that is estimated to be sustainable, with an acceptable level of risk, at all probable future levels of biomass”.⁹⁰ Varying catch limits to take account of changing abundance can lead to higher long term sustainable yields. New Zealand legislation provides for TACs to be varied annually, and many shellfish fisheries are managed on the basis of Current Annual Yield (CAY) strategies. A MCY based TAC represents a cautious management strategy, especially for an unexploited fishery. Ideally fisheries managers would actively select a management strategy that seeks to balance the economic potential of the fishery with the information needs for management.
191. In developing new fisheries where information is limited, SeaFIC expects that information gathering would be ongoing, and notes that there are opportunities to ensure that this information is gained efficiently.

Risk characterisation

192. In assessing the various TAC options presented, the IPP fails to adequately characterise risks. While noting that a TAC of 25 tonnes is “highly likely” to be sustainable,⁹¹ risks for higher TACs are presented only in relative terms. For example, a TAC of 50 tonnes is described only as producing a “higher degree of risk to the sustainability of the OYS 7C stock”.⁹² Although it is axiomatic that a TAC of 100 tonnes “accepts the highest degree of risk to sustainability of the four

⁸⁹ IPP paragraph 10, our emphasis

⁹⁰ Ministry of Fisheries 2007

⁹¹ IPP paragraph 32

⁹² IPP paragraph 37

*options presented*⁹³, it is necessary to consider absolute, not relative, risk. The IPP entirely fails to establish whether the four TAC options presented span a range from “very low sustainability risk” to “very high risk” or simply from “very low risk” to “very slightly higher risk”.

Benthic impacts

193. The IPP suggests that the two higher TACs will result in a “significant” or “substantial” increase in [the effects of] fishing effort on the benthic environment. However, these assertions are made in the absence of either any consideration of the likely effort required to take an increased TACC, or the historical fishing effort in the area. In the context of long-term bottom trawling in the area (paragraph 5) the increased fishing effort required to take an increased TACC may be entirely inconsequential. SeaFIC therefore suggests that likely commercial catch rates from the areas proposed for fishery development should be considered in the context of historical trends in fishing effort in the QMA.
194. We note that historical trawling effort in the OYS 7C is likely to have been recorded only at the resolution of statistical areas, and therefore provides only limited spatial resolution. However, the IPP does indicate (paragraph 5) that the oyster beds are likely to occur in areas which have been fished historically by bottom trawling.
195. The IPP indicates that “the effects of fishing on the benthic environment under higher catch levels are an important consideration in setting an appropriate TAC level”. SeaFIC agrees that s 11 of the Fisheries Act requires the Minister to set or vary sustainability measures after taking into account the effects of fishing on the aquatic environment but shares the view of MFish⁹⁴ that the Minister should consider if measures other than the TAC are best placed to mitigate any problems.
196. SeaFIC notes that proposal to voluntarily limit commercial fishing for dredge oysters to two specific areas in OYS 7C as an interim arrangement, limits the spatial extents of any effects of oyster dredging on the benthic environment. Thus while higher catches would generally be associated with higher fishing effort, the proposed arrangement implies that the maximum area fished will be limited independently of the TAC set.

Other considerations

197. The IPP asserts that a TAC of 25 tonnes or higher “will enable the industry to develop a new fishery”.⁹⁵ This is not supported by any quantitative analysis other than an indicative landed value (Table 3) for each proposed TACC. These figures indicate the potential gross value of the commercial fishery cost, but do not take into account harvesting costs. Although some harvesting costs are variable, and therefore approximately proportional to the commercial harvest, development of a viable fishery will involve certain fixed costs irrespective of the harvest level.

⁹³ IPP paragraph 38, our emphasis

⁹⁴ IPP SQU 1T paragraph 4

⁹⁵ IPP paragraphs 33 & 36

These include the establishment of a sanitation/biotoxin regime, and ongoing research. SeaFIC recommends that MFish work with the Challenger Oyster Management Company to properly establish the economic viability of the various TACC options.

198. MFish suggests that dredging may “exacerbate and spread disease (including *Bonamia*)” in the oyster population. SeaFIC notes that the Shellfish Working Group has concluded that in the Foveaux Strait oyster fishery, where *Bonamia* outbreaks have occurred periodically, that “examination of qualitative data on fishing patterns and the spread of prevalence and intensity of infection suggest no direct link between fishing, infection, and disease mortality.”⁹⁶
199. Within a revised TAC MFish proposes maintaining the existing allowances for recreational and customary fishers, where the harvested areas are likely to be spatially separated from a developing commercial fishery, but also retain the existing nominal mortality limit or 1 tonne for other sources of fishing mortality. This allowance currently represents 50% of the TACC and is intended as an allowance both for illegal take and incidental mortality as a result of fishing operations. While accepting the lack of quantitative information to set this allowance, SeaFIC does not consider it likely that fishing related mortality will remain constant if commercial catches increase. A more plausible allocation may include a fixed allocation for illegal take, and an allowance for fishing related mortality that is proportional to the TACC.

Rubyfish (RBY 8) – correction of administrative error

200. SeaFIC supports the proposed technical alteration of the TAC and TACC for RBY 8 from 55 tonnes to 6 tonnes to correct an administrative error.

⁹⁶ Ministry of Fisheries, 2007, OYU 5 working group report

Eel Enhancement Co. Ltd.

EECo: Representing the North Island Eel Industry

27 July 2007

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IPP Proposals re N Is Eel TACs & TACCs

Background

N Is Eel entered QMS in Oct 2004, ie < 3 yrs ago, with;

- sizeable cuts to historical annual catch in the setting of TACCs (Oct 2004)
- Area reductions to create more reserves (Oct 2004)
- Industry commitment for release of migrators (2005)
- Industry Maximum size of 4kg (April 2007)
- Industry voluntary minimum LFE size from 220 to 300g by all NZ Eel Processing Co Ltd fishers (July 2006)
- Area reductions pre QMS such as to create reserves (prior to QMS)
- Industry voluntary larger escape vent sizes and enhancement programs (prior to QMS & ongoing)

Each of these measures, most of which were implemented on or since 1 Oct 2004, has reduced the immediately available catch for Industry (ie left fish in the water) post QMS in order to increase stock spawning contribution and/or improve size structure. However apart from the introduction of a recreational bag limit, other sectors have not likewise contributed.

The Eel Plenary Report 2006 makes strong conclusions on the need for “management action ... to improve the stock status of longfin eels and to rebuild the stock”. As noted above, some of the measures suggested have already been implemented.

There is little information, apart from raw catch data, available to form an assessment of the effects of these QMS and post QMS management initiatives on the fishery resource. Post QMS, annual catches (& %of TACC) have been as follows;

	04/05	05/06	Average
SFE20-23 (457 T TACC)	296.84 (65%)	375.94 (82%)	336.39 (74%)
LFE20-23 (193T TACC)	129.32 (67%)	120.75 (63%)	125.035 (65%)
Totals (650T TACC)	426.16 (66%)	496.69 (76%)	461.425 (71%)

While post QMS, TACCs have not been fully caught with an average catch for the 2 years 2004 to 2006 of; SFE 20-23 at 74% caught, and LFE 20-23 at 65% caught, this may be a function of stock changes and/or various commercial changes post QMS, such as some retirement of good fishers/lower effort and also some quota owners carrying a disproportional share of uncaught quota/ACE and/or catchability changes at/since introduction of the QMS in 2004, such as fishery management constraints that served to lower catches from previous levels.

MFish is proposing Quota reductions in N Is Eel from 1/7/07 as follows;

- SFE TACC red'n by ~12.5% to ~24.5% (depending whether proportional or industry-only)
- LFE TACC red'n by ~37.5% to ~54% (depending whether proportional or industry-only)

Comments on the MFish Proposals

Goal for Fishery Management: We support the strategy in point 23 of the IPP ie “to improve the stock structure (ie size composition) and abundance of eels over the medium term (10 years) while bringing to a halt any decline in the fishery over the short term”.

Action; We support measures towards this strategy as well as other measures to enhance the resource and the fishery and we support this all being done in a proactive, planned and equitable manner.

MFish Inaction on Maximising Value: As noted at the outset of this submission, the North Island Eel Industry has already made a very considerable contribution to improving Eel stocks. Further to this there have been initiatives for fisheries plans eg Ngati Kahungunu, as well as ongoing enhancement programs and various other initiatives to improve the stocks and the returns from the resource.

As we see it, by contrast MFish has done very little towards maximising value of this resource, especially towards facilitating enhancement of the commercial sector, especially in the North Island. Further, given various recent commercial-only constraints such as MaxLS of 4kg or re appropriate escapement tube sizes, a considerable degree of inequity appears to now be the case.

Action; We request that MFish will now, most actively; participate, contribute and

support fishery planning for the benefit of both the fishery resource and of all fishing sectors.

Definition of Problem/s & Objectives (Targets): The IPP provides very limited exploration/definition of; 1/ what the problem/s are, or 2/ what are the objective/s (targets) for the fishery.

Another issue of importance is that the IPP provides an explanation of what action it proposes should be taken (TAC/TACC cuts, and no other steps) altho it does not much explore alternative means/actions such as changes to; Minimum or Maximum size, escapement tubes, localised management. There is quite a range of views, such as within the commercial fishery, on the relative importance and priority that should be given to management alternatives, for example, Minimum Size Limit/s and escape gaps.

Action; We request that MFish now support a planned approach, to identify and implement the optimum package of actions.

Current Data and Analysis is Required: The issue/IPP suffers from a lack of assessment information, altho there is a considerable amount in the Eel Plenary doco. However all information, apart from raw catch data, is lacking in analysis of recent trends, ie in indices post QMS catch limits or more recent management initiatives. As noted at the outset, many of the QMS or subsequent initiatives have served to lower immediately available catch. The first year at least in the QMS was one of flux and the most recent year has been affected by unusual conditions and one certainly should not argue that the considerable variability in catches seen in these 2 1/2 years truly reflects actual abundance. Thus these catch figures (altho generally below TACCs) are a very poor indicator re the real question of whether catchability/abundance is improving.

We emphasize that it is also simply too early for these changes to manifest themselves – let alone show up in assessments, such as CPUE and Size frequency.

Action; We seek recognition that Collection/analysis of the real data is the way to resolve this, and also that the timing does allow for such an objective consideration.

Lack of Urgency and Need for Equitable Planned Approach (ie Management Plan): There is demonstrably no urgency in this issue, with even the LFE stock(s) considered able to sustain current (altho not previous) stock levels, at current biomass/recruitment levels. In particular, there is no apparent urgency re SFE stocks including because; 1/its stock status is not only national but extends across the SW Pacific and is broadly known to be at least OK and 2/ the stock situation of SFE is entirely unremarkable (with 65% to 82% of recent TACCs caught) by comparison to so many other fish stocks. MFish is proposing (separate) fisheries plans for N Is & S Is Eel in the near future which seems an opportune time to consider optimum management controls by stock/QMA.

The IPP has unexplained variations in the proportional sizes of proposed TACC reductions between N Is Eel stocks 20 & 21 & 22 & 23 for both species. These variations seem at odds with the declared intentions of the IPP for specified percentage changes and one wonders if the differences simply reflect mathematical errors. Please refer to our Appendix One (xl spreadsheet) for evidence in this regard.

Action; We request proportional allocation across-the-board so that all contribute and share in an improved fishery. We also request, due to the demonstrable lack of urgency and due to the imminent preparation of Fisheries Plans and S Is Eel fishery reviews, N Is action should generally be deferred and addressed comprehensively via the Plan/s.

Lack of Clarity re Imperatives of the Fisheries Act;

It is noteworthy that MFish has deferred action on changing the management of the Kahawai fishery in large part because the requirements of the law re allocation are presently unclear, with differing perspectives, and this matter is about to be clarified by the Appeal Court. However a major part of this Eel IPP proposals are for different allocation options for the burden of TAC reductions. Given all this, what ought to happen, not only in Kahawai, is that MFish should defer significant actions in shared fisheries until the law is clear. Unilateral actions now seem more than unfair (as well as unnecessary) and likely to undermine any goodwill towards fishery planning.

More gradual steps, over several years rather than one, will make little difference to the longterm picture but will also have the additional benefit of reducing the economic burden of quota and catch losses.

Action; We request that MFish not act precipitately, and that it recognises the multiple advantages of a measured approach.

Conclusions and EECO Proposal for Management Actions

In Conclusion, EECO recognises the wide importance of Freshwater Eel Stocks and supports the need to maintain them and the desire to improve them.

EECO notes that the situation of our two NZ/SW-Pacific Eel stocks (LFE and SFE) are both important but not urgent.

A planned approach should be adopted to get the best package of options, with optimum equity.

The Ministry is encouraged to actively begin to support Eel fisheries planning which is overdue.

The Ministry is also encouraged to recognise the large contributions made by the commercial Eel Industry during and after the commencement of the QMS, and to recognise that its current proposals only apply to the North Island and thus to respect EECO proposals for TACC reductions below in light of these fairness/equity/priority considerations.

EECO proposes that the Minister should;

1. Require all parties to comprehensively address all New Zealand Eel TACs and TACCs as well as other management and enhancement parameters, within the imminent comprehensive Eel fishery planning process/es.

2. Reduce the 4 North Island Longfin Eel TACCs by no more than the amounts proposed below, from 1 Oct 07, which are most similar to MFish's "Equal Option One". The aim of this measure is for risk mitigation, given concern about the status of this fishery. This measure and further such measures should be reviewed within the comprehensive imminent Fishery Planning exercise. This measure should provide encouragement for ongoing and increased adoption of voluntary stock improvement initiatives such as; micro-management of harvesting operations, increased MLS and escape gaps. Ie Reduce LFE TACCs by;

LFE 20	33T TACC	(30% reduction of current TACC of 47T)
LFE 21	49T TACC	(23% reduction of current TACC of 64T)
LFE 22	29T TACC	(29% reduction of current TACC of 41T)
LFE 23	24T TACC	(41% reduction of current TACC of 41T)

3. Due to the demonstrable lack of urgency and due to the imminent preparation of Fisheries Plans etc, any N Is SFE quota reductions should be deferred and addressed comprehensively via the Plan/s.

Alternatively, if determined to make SFE TACC reductions now, these should be no more than;

SFE 20	127T TACC	(15% reduction of current TACC of 149T)
SFE 21	149T TACC	(9% reduction of current TACC of 163T)
SFE 22	108T TACC	(0% reduction of current TACC of 108T)
SFE 23	37T TACC	(0% reduction of current TACC of 37T)

Yours sincerely

Mike Holmes, Chair, EEC

Attachments

Appendix One XI spreadsheet

Table View of MFish N Is Eel IPP's TAC & TACC Reduction Proposals

Stock	Allocation	TAC	Rec'n	Cust'	Other	Proposed TACC	Current TACC	TACC Decrease in Tonne	TACC Decrease as % of Current TACC	Av Catch in Tonne	Current Catch Cut at Proposed TACC
SFE 20 option1	equal Com'	179	23	30	4	122	149	27	18%	85.8	
	Only	179	23	30	4	117	149	32	21%		
SFE 20 option2	equal Com'	148	18	30	4	96	149	53	36%		
	Only	148	28	30	4	86	149	63	42%		
LFE 20 option1	equal Com'	45	5	10	2	28	47	19	40%	25.6	
	Only	45	8	10	2	25	47	22	47%		
LFE 20 option2	equal Com'	39	4	10	2	23	47	24	51%		
	Only	39	8	10	2	19	47	28	60%		

SFE 21 option1	equal	195	18	24	4	149	163	14	9%	134
	Com' Only	195	19	24	4	148	163	15	9%	
SFE 21 option2	equal	181	16	24	4	137	163	26	16%	
	Com' Only	181	19	24	4	134	163	29	18%	
LFE 21 option1	equal	75	8	16	2	49	64	15	23%	47.4
	Com' Only	75	10	16	2	47	64	17	27%	
LFE 21 option2	equal	60	6	16	2	36	64	28	44%	
	Com' Only	60	10	16	2	32	64	32	50%	
SFE 22 option1	equal	128	10	14	2	102	108	6	6%	93.7
	Com' Only	128	11	14	2	101	108	7	6%	
SFE 22 option2	equal	121	10	14	2	95	108	13	12%	
	Com' Only	121	11	14	2	94	108	14	13%	
LFE 22 option1	equal	41	4	6	2	29	41	12	29%	27.8
	Com' Only	41	5	6	2	28	41	13	32%	

	Only											
LFE 22	equal	34	3	6	2	23	41	18	44%			
option2	Com'											
	Only	34	5	6	2	21	41	20	49%			
SFE 23	equal	43	4	6	2	31	37	6	16%	23.2		
option1	Com'											
	Only	43	5	6	2	30	37	7	19%			
SFE 23	equal	36	4	6	2	24	37	13	35%			
option2	Com'											
	Only	36	5	6	2	23	37	14	38%			
LFE 23	equal	41	5	14	2	20	41	21	51%	24.4		
option1	Com'											
	Only	41	9	14	2	16	41	25	61%			
LFE 23	equal	34	4	14	2	14	41	27	66%			
option2	Com'											
	Only	34	9	14	2	9	41	32	78%			
SFE20-23	equal					404	457	53	12%	336	-20%	
option1	Com' Only					396	457	61	13%	336	-18%	
SFE20-23	equal					352	457	105	23%	336	-5%	
option2	Com' Only					337	457	120	26%	336	0%	
LFE20-23	equal					126	193	67	35%	125	-1%	
option1	Com' Only					116	193	77	40%	125	7%	
LFE20-23	equal					96	193	97	50%	125	23%	
option2	Com' Only					81	193	112	58%	125	35%	

Ministry of Fisheries
cc: Tracey.steel@fish.govt.nz

Sustainability Measures for 2007/08 - Initial Position Papers

Independent Fisheries Ltd hereby makes the following submission on three key matters released for consultation.

SQU1T

Please note the following points:

- An in season TACC increase was sought by some quota owners for the 2006/07 squid season but the DWG had no mandate to pursue this request. Despite another extraordinary abundance of squid in this current year the main reason for not pursuing an in season TACC increase was due to the very poor economic returns.
- The seabird mitigation measures employed by vessels in the squid fishery have significantly reduced the impact of squid trawling on the seabird population.
- There is no sustainability concern with the squid TACC being increased. There is approximately 50,000 GWT of squid jig quota each year unable to be utilised by the jig method as squid jiggers cannot be enticed to the New Zealand EEZ.
- The process of applying for an in season increase is an administrative burden to both industry and the Ministry. We believe this provision should remain in addition to the TACC increase.
- An increase in the SQU1T TACC will give increased flexibility to operators and possibly provide more protection to sealions in SQU6T. The increased availability of SQU1T ACE means that vessels only need to access SQU6T when catch rates are worthwhile and vessels should interact less with sealions in SQU6T.
- Finfish bycatch (particularly SWA4) could increase with a SQU1T TACC increase. IFL submit that these TACC's are set too low.
- The fishing industry and New Zealand will benefit from a SQU1T TACC increase as the product is exported.
- IFL's initial position was to support option 3 being a TACC increase of 30%. At the DWG meeting on 23rd July 2007, IFL received an undertaking from shareholders to discuss and consider an amalgamation of SQU1J

and SQU1T quota shares. This would essentially allow squid (in areas outside SQU6T) to be taken by any method. The DWG propose to discuss this matter in the near future and hopefully have an agreed position for implementation in October 2008. We would appreciate an indication of the Ministry's position if industry agreement can be reached.

If an industry position cannot be reached on this matter, we believe this permanent TACC increase must be proposed again for the 2008/09 fishing year.

HOKI

IFL support the implementation of Option 1 being the status quota of 100,000 tonne TACC. Please note the following points:

- This option is sustainable and within the range of current Ministry proposed options.
- TACC reductions have not been effective in managing the hoki fishery. We have had quota reductions since the 1990's when the hoki TACC was 250,000 tonnes. Quota reductions have therefore not been an effective management tool for rebuilding this fishery. IFL believe the Deepwater Stakeholder Group can achieve a rebuild of the hoki TACC if retained at 100,000 tonnes.
- IFL believe and have submitted through the Deep Water Stakeholder Group (DWG) other management mechanisms to manage the fishery and eventually increase the TACC. (See below).
- A 20% TACC reduction will cause significant economic hardship and has the potential to cause social hardship, as quota owners may need to restructure their "at sea" capability and their onshore value added facilities.
- Input controls in the form of closed fishing areas are in our opinion necessary to rebuild the hoki fishery.
- The summary of IFL's hoki management strategy is as follows:
 - a) Retain the TACC at 100,000 GWT.
 - b) Close larger areas of QMA3 to the targeting of hoki where high concentrations of juveniles reside. These are areas in addition to those in the current DWG operational procedures.
 - c) Where vessels target fish in these areas for species other than hoki, then they must carry Ministry or Independent Observers, until an adequate catch profile is obtained.

- d) Where juvenile hoki is caught outside these "closed areas" then the vessel must move in accordance with the current 'move on" rule DWG operations procedure.
 - e) DWG carry out more mesh selectivity and trawl net design to see if improved size selection and fish survival is possible using different gear and techniques.
 - f) Close the WC South Island and Cook Strait to the targeting of hoki for a 3-week period commencing on 23 July to 14 August each year. Same rule applies as in (c) above for non-hoki targeting fishing.
- Under this regime we believe that sufficient protection will be provided to the fishstock and that no east/west apportioning of quota is required.
 - The strategies (b) to (f) inclusive would be implemented by the DWG via operational procedures.
 - The eastern stock protection we have outlined is considered necessary, as this stock is considered to be the "feeder" of the western stock.

IFL note that the Ministry's document states "None of the management options will delivery a full rebuild of HOKI in the short term - this will only be achieved through improved stock recruitment in future years".

IFL agree and advise that the management strategy we have proposed has a greater chance of rebuilding the fishery than a TACC reduction.

The option we support has the lowest economic and social risk to the fishing industry.