

**Te Ohu Kaimoana's Response
to the Review of Sustainability
Measures for the 1 October
2021/2022 fishing year**

Te Ohu
Kaimoana


Contents

Executive Summary	3
This is our response to this year's sustainability review	5
We are Te Ohu Kaimoana	5
We base our advice on Te Hā o Tangaroa kia ora ai tāua	6
Strengthening fisheries management and the Treaty Partnership	7
We seek constructive working relationships	7
Mai te maunga ki te moana	8
Shared fisheries require shared management and shared responsibility	8
The Fisheries Act enables a flexible approach to managing catch	10
Our preferred approach to managing the fish stocks under review	11
Inshore Stocks	12
Rāwaru – blue cod (BCO3)	12
Kumukumu/pūwhaiāu – red gurnard (GUR1)	13
Kumukumu/pūwhaiāu – red gurnard (GUR7)	15
Hāpuku & moeone – hapuku & bass – HPB1 & 2)	16
Pāua – (PAU3A & PAU3B)	17
Makohuarau – school shark (SCH5)	19
Tāmure/kourea – snapper (SNA8)	20
Deepwater stocks	23
Akiwa - black cardinalfish (CDL1)	23
Maka-tikati/tīkati – gemfish (SKI3 & 7)	24
Hoki (HOK1)	25
Rari/hoka/hokarari – ling (LIN5)	27
Highly Migratory Species	28
Southern bluefin tuna (STN1)	28
Deemed Values.....	31
Appendix one	36
The effect of "28N Rights" on the Māori Fisheries Settlement must be addressed	36
The history of 28N Rights	36
Appendix two.....	38
Allocating the TAC and Maintaining Rangatiratanga	38

Executive Summary

1. E te Minita, tēnei te mihi ki a koe i tēnei ahuatanga o te wā. This document provides Te Ohu Kaimoana’s advice for your review of the sustainability measures for October 2021/22.
2. Our role in this review process arises from our responsibility to protect the rights and interests of Iwi/Māori under Te Tiriti o Waitangi and the Fisheries Deed of Settlement¹ in a manner consistent with Te Hā o Tangaroa kia ora ai tāua. Te Hā o Tangaroa kia ora ai tāua translates to the 'breath of Tangaroa sustains us'. It is an expression of the unique and lasting connection Māori have with the environment. It contains the principles we use to analyse and develop modern fisheries policy.
3. Our response is structured as follows:
 1. First, we set out who we are and the reasons for our interest in the October review of the sustainability measures.
 2. Second, we describe *Te Hā o Tangaroa kia ora ai tāua*, the principal foundation of our fisheries management advice.
 3. Third, we outline areas for strengthening fisheries management and our Treaty partnership.
 4. Fourth, we set out our preferred approach to managing the fish stocks under review based on the above.
 5. Fifth, we provide advice in appendices to supplement our positions.
4. A summary table of Te Ohu Kaimoana's positions can be found below.

Fish stock	FNZ's Proposal	Our Position
Rāwaru (BCO3)	↓	↓ We support a decrease to the TAC – Option 2
Kumukumu/pūwhaiāu (GUR1)	↓	↓ We support a decrease to the TAC – Option 2
Kumukumu/pūwhaiāu (GUR7)	↑	↑ We support an increase to the TAC – Option 2
Hāpuku & moeone (HPB1)	↓	↓ We support a decrease to the TAC – Option 3
Hāpuku & moeone (HPB2)	↓	↓ We support a decrease to the TAC – Option 2
Pāua (PAU3A AND PAU3B)	-	- We support setting a TAC for PAU3A and 3B We support the settings of Option 2 for PAU3A and Option 1 for PAU3B
Makohuarau (SCH5)	↓	↓ We support a decrease to the TAC – Option 2
Tāmure/kourea (SNA8)	↑	↑ We support an increase to the TAC – we have proposed an alternative option

¹ Māori Fisheries Deed of Settlement 1992. The Deed is, in part, given effect to by the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and the Māori Fisheries Act 2004.

Back cardinalfish (CDL1)	↓	↓	We support a decrease to the TAC – we have proposed an alternative option
Maka-tikati/tīkati (SK13)	↑	↑	We support an increase to the TAC – Option 3
Maka-tikati/tīkati (SK17)	↑	↑	We support an increase to the TAC – Option 3
Hoki (HOK1)	↓	-	We support no change to the TAC – Option 1
Rari/hoka/hokarari (LIN5)	↑	↑	We support an increase to the TAC – Option 2
Southern bluefin tuna (STN1)	↑	↑	We support an increase to the TAC – we have proposed an alternative option

This is our response to this year's sustainability review

5. This paper contains our response to Fisheries New Zealand's proposals to review sustainability measures and deemed values for the October 2021/22 fishing year. We invite Fisheries New Zealand to discuss the contents of this response with us, kanohi ki te kanohi.
6. We do not intend for our response to conflict with or override any response provided independently by iwi, through their Mandated Iwi Organisations (MIOs) or Asset Holding Companies (AHCs).
7. In developing our response, we sought input from MIOs, iwi AHCs and, collaborated with the Māori owned fishing entities Sealord Group and Moana New Zealand. Our draft advice was also made available to industry Sector Representative Entity groups (SREs), including the Paua Industry Council, Deepwater Group and Fisheries Inshore New Zealand.

We are Te Ohu Kaimoana

8. Te Tiriti o Waitangi (Te Tiriti) guaranteed Māori tino rangatiratanga over our taonga, including fisheries. Tino rangatiratanga is about Māori acting with authority and independence over our affairs. It is practiced by living according to tikanga and mātauranga Māori and striving to ensure that the land and resources (including fisheries) are protected for future generations. This view endures today and is embodied within our framework Te Hā o Tangaroa kia ora ai tāua (the breath of Tangaroa sustains us).
9. The obligations under Te Tiriti and the Māori Fisheries Deed of Settlement (the Fisheries Deed of Settlement) apply to the Crown whether there is an explicit reference to Te Tiriti in governing statute, in this case, the Fisheries Act 1996 (the Fisheries Act). These obligations are also confirmed in the Public Service Act 2020, section 14 (1) "the role of the public service includes supporting the Crown in its relationships with Māori under the Treaty of Waitangi".
10. Te Ohu Kai Moana Trustee Ltd (Te Ohu Kaimoana) was established to protect and enhance Te Tiriti and the Fisheries Deed of Settlement. The Fisheries Deed of Settlement and the Maori Fisheries Act 2004 (the Maori Fisheries Act) that followed it are expressions of the Crown's legal obligation to uphold Te Tiriti, particularly the guarantee that Māori would maintain tino rangatiratanga over our fisheries resources.
11. Our statutory purpose, set out in section 32 of the Maori Fisheries Act is to "advance the interests of iwi, individually and collectively, primarily in the development of fisheries, fishing, and fisheries-related activities, to:
 - a) ultimately benefit the members of iwi and Māori generally,
 - b) further the agreements made in the Fisheries Deed of Settlement,
 - c) assist the Crown to discharge its obligations under the Fisheries Deed of Settlement and the Treaty of Waitangi and,
 - d) contribute to the achievement of an enduring settlement of the claims and grievances referred to in the Fisheries Deed of Settlement."

12. We work on behalf of 58 MIOs² who represent iwi throughout Aotearoa. AHCs hold Māori Fisheries Settlement Assets on behalf of their MIOs. Those assets include Individual Transferable Quota (ITQ) and shares in Aotearoa Fisheries Limited (trading as Moana New Zealand), which owns 50% of Sealord Group Limited.
13. Our role in this review process arises from our responsibility to protect the rights and interests of iwi/Māori under Te Tiriti and in accordance with the Fisheries Deed of Settlement. Māori rights in fisheries are not just a right to harvest but also to use the resource in a way that provides for social, cultural and economic wellbeing now, and for future generations. Te Hā o Tangaroa kia ora ai tāua, the basis for our advice, does not mean that Māori have a right to use fisheries resources to the detriment of other children of Tangaroa: rights are an extension of responsibility.

We base our advice on Te Hā o Tangaroa kia ora ai tāua

14. The reciprocal relationship that Māori have with Tangaroa is underpinned by whakapapa. Protection of this relationship with Tangaroa is an inherent part of our identity as Māori. There are multiple facets to the relationship with Tangaroa, all of which are inherent parts of Māori identity. In a contemporary context, the management and protection of fisheries resources, as a facet of the relationship with Tangaroa, is expressed through the Fisheries Deed of Settlement.
15. Te Hā o Tangaroa kia ora ai tāua is an expression of the unique and lasting connection Māori have with the environment. It contains the principles we use to analyse and develop modern fisheries policy and other policies that may affect the rights of iwi under the Fisheries Deed of Settlement. In essence, Te Hā o Tangaroa kia ora ai tāua highlights the importance of our interdependent relationship with Tangaroa to ensure our mutual health and wellbeing.
16. In accordance with this view, "conservation" is part of "sustainable use", it is carried out to sustainably use resources for the benefit of current and future generations. The Fisheries Act's purpose is "to provide for the utilisation of fisheries resources while ensuring sustainability." The purpose and principles of the Act echo Te Hā o Tangaroa kia ora ai tāua.

The Four Pou

17. The concept of Te Hā o Tangaroa is underpinned by four pou; whakapapa, tiaki, hauhake and kai. The four pou are interconnected and form the approach we take to deliver outcomes for iwi.

Whakapapa – Māori descend from Tangaroa and have a reciprocal relationship with our tipuna.

Whakapapa recognises that when considering policy affecting Tangaroa, we are considering matters that affect our tipuna.

Tiaki – Māori care for Tangaroa, his breath, his rhythm and bounty, for the betterment of Tangaroa and the benefit of humanity.

² MIO as defined in The Maori Fisheries Act 2004: in relation to an iwi, means an organisation recognised by Te Ohu Kai Moana Trustee Limited under section 13 (1) as the representative organisation of that iwi under this Act, and a reference to a mandated iwi organisation includes a reference to a recognised iwi organisation to the extent provided for by section 27.

We recognise that as descendants of Tangaroa, we have the responsibility to tiaki our tipuna so that Tangaroa may continue to care and provide for us.

Hauhake – Māori have a right and obligation to cultivate Tangaroa, including his bounty, to better Tangaroa and support Tangaroa's circle of life.

This right and obligation of hauhake is underpinned by our tiaki responsibilities to Tangaroa.

Kai – Māori have a right to enjoy our whakapapa relationship with Tangaroa through the wise and sustainable use of the benefits Tangaroa provides to us.

Ultimately our right to kai, to enjoy the benefits of our living relationship with Tangaroa, and its contribution to Māori identity depends on our ability to tiaki Tangaroa.

The outcomes we seek

- Whakapapa connections are recognised and enable Māori tino rangatiratanga and mana motuhake through bottom-up approaches.
- Healthy fisheries maintain and support Māori culture and identity.
- Intergenerational knowledge held by our whanau/hapū/iwi is respected, so that future generations inherit a healthy taiao.
- Our knowledge of fisheries is maintained through the continuation of our relationship with Tangaroa – where to fish, how to fish and how to prepare fish for our people.
- Healthy kai comes from a healthy environment – pollutant free kai supports the health of our people.
- Fisheries are developed in a way that supports an ongoing relationship with Tangaroa.
- Tangaroa provides us kaimoana so we can manaaki our people – sustenance supports livelihoods.
- Tino rangatiratanga of self and body through healthy kaimoana.
- Holistic protection of Tangaroa so that he may provide for all his tamariki.

Strengthening fisheries management and the Treaty Partnership

We seek constructive working relationships

18. The Fisheries Act requires those performing functions under it to act consistently with the Fisheries Deed of Settlement, which recognises the principles of Te Tiriti³. As signatories to this Settlement, it is both Māori and the Crown's responsibility to ensure that this agreement is upheld. Under the Fisheries Deed of Settlement, it is paramount that the Crown and Māori work constructively on fisheries management matters to uphold our respective obligations. The sustainability review is essential because our fisheries management system relies heavily on the various sustainability tools and associated Quota Management System (QMS) levers being set

³ Specifically, section 5 (b) of the Fisheries Act 1996 states "all persons exercising or performing functions, duties, or powers conferred or imposed by or under it" to "act in a manner consistent with the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (TOW(FC)SA)". Once an allocation formula was agreed the TOW(FC)SA was essentially replaced by the Māori Fisheries Act 2004. Together, these acts give effect to the legal aspects arising from the Māori Fisheries Settlement.

to incentivise a stewardship ethic. These needs must be met in order to care for Tangaroa. We consider that a constructive relationship between Te Ohu Kaimoana and Fisheries New Zealand is an essential prerequisite to developing pathways that enable the holistic management of fisheries.

19. We acknowledge Fisheries New Zealand officials for their progression towards a partnership approach. Specifically, the early engagement and ongoing communication through the sustainability round process has been a constructive development. We are confident that a genuine investment in partnership will produce positive benefits for the sustainable utilisation of Aotearoa's fisheries. This will be even more effective if there is engagement at the problem definition stage rather than when proposals are already developed.

Mai te maunga ki te moana

20. There is growing awareness and concern over the impacts that human land-based activities have on our marine ecosystem. The connectivity between the land and sea means that onshore activities have flow-on effects on freshwater and marine environments—negative impacts such as eutrophication and sedimentation affect the ability of Māori to maintain their relationship with Tangaroa. The principles of Te Hā o Tangaroa require a reciprocal relationship with the moana and aquatic life. Degradation of the marine ecosystem directly reduces people's ability to sustain their economic, cultural, and social wellbeing from the marine environment.
21. Te Ohu Kaimoana has serious concerns for the health of the marine environment and the consequential impact on the relationship between Māori and Tangaroa. As Minister of an expanded portfolio incorporating Oceans and Fisheries, we understand that you share these concerns particularly over the impact of land-based activities on the marine environment. We support initiatives that apply solutions to the source of this issue, and welcome opportunities to collaborate with others who also share those concerns. We emphasise that while the Fisheries Act is the appropriate way to manage the effects **of** fishing, other legislative frameworks are required to manage the effects **on** fishing. We also support greater integration between governing agencies, industries, stakeholders, and iwi/Māori so that we may collectively arrest the decline in the quality of the marine environment.

Shared fisheries require shared management and shared responsibility

Improved management of shared fisheries is required

22. Te Ohu Kaimoana has advised successive Ministers on the need to ensure that any allocation of the Total Allowable Catch (TAC) to recreational fishers does not result in the commitments given by the Crown under the Fisheries Deed of Settlement being undermined. Our view is that once an allowance for recreational fishing is set under a TAC, it should not be increased without agreement with iwi/Māori. This is because any reallocation to the recreational sector has the effect of reducing the overall value of the Fisheries Deed of Settlement. However, despite this advice, we see a pattern of allowances being increased as the population grows, more people go recreational fishing, and the technology available to recreational fishers improves.
23. We consider there is a lack of a principled approach to the allocation of the TAC in the advice from Fisheries New Zealand. Instead, the recommendations from Fisheries New Zealand on recreational allowances seem to be based on the best estimate of the current catch, and in some disturbing situations even higher than the

catch. This approach is increasingly becoming a problem for the management of shared fisheries. Recreational fishing effort and catch in some fisheries has significantly increased, and there is no sign of it decreasing. The current approach to manage this increase in catch is to recommend that a greater proportion of the TAC be allocated to the recreational sector. We do not consider a fisheries management system that provides increased utilisation to the recreational sector with no visible upper limit as sustainable. Further, we see this approach as being contradictory to the agreement reached under the Fisheries Deed of Settlement.

24. The QMS provides incentives for sustainable fisheries practices by providing Annual Catch Entitlement (ACE) directly linked to the Total Allowable Commercial Catch (TACC). This means the TACC directly limits the amounts of fish that can be commercially caught. However, in contrast, the recreational sector in the same fishery will not be affected by a change in the allowance. The management controls for recreational fishing sits with daily limits, minimum legal size etc. The disconnect between the management settings and management controls for recreational fishing is a long-standing issue for fisheries management. It reflects poorly on the way our fisheries are administered.
25. We support the review of the sustainability measures to be expanded to include adjustments to the recreational management controls for all stocks undergoing a TAC review at that time. This would include daily catch limits, accumulation limits, size limits or area closures. We note that elements of this approach are in play for the current review of HPB1 and HPB2, and we see this as progress.

The lack of a principled approach to allocating the TAC detracts from our fisheries management system

26. Without a clear framework for managing shared fisheries, we have encountered delays in sustainability review timeliness. Delays in reviews can have unnecessary negative economic impacts on commercial sectors because of deemed value settings and consequential changes in fishing operations to avoid certain catch. Deferring or delaying a review seems to be a common response in the face of different perspectives over how a stock should be allocated. Accordingly, there has been no consistent approach to the allocation of the TAC. This, in turn, generates uncertainty for rights holders and interested parties alike. Effective shared fisheries management needs to work towards reducing this divide and putting the fishery first. To achieve this fisheries management decision making should be less politicised and more principle based.
27. We have long held a view that a full review of how the recreational sector is managed is critical, including implementing better processes for monitoring catch. This would help increase our overall understanding of the quantity of fish being taken and the kinds of strategies needed to manage our fisheries. Implementing better processes to manage recreational fishing would greatly benefit local communities that can rely on, and regularly partake in, recreational fishing activities.

Amateur Charter Vessels are creating increasing pressure on fisheries

28. Amateur Charter Vessels are commercial tourism operators that catch fish under the recreational regulations and generate a profit from this activity. Charter trips are a popular attraction for New Zealanders and international tourists alike. Increasingly, we hear concerns about the Amateur Charter fleet regarding effort, localised depletion, and lack of monitoring/management. These concerns come from commercial fishers, kaitiaki and subsistence recreational fishers. We support further attention being given to the regulatory

regime that Amateur Charter Vessels are subject to so that this sector can better contribute to fisheries management and to the sustainability of our fisheries.

The Fisheries Act enables a flexible approach to managing catch

29. It is often assumed that adjusting TACs (and TACCs) is the best way to respond to stock assessments that show a stock has declined. We note that the Fisheries Act 1996 provides a range of sustainability measures to address these situations and enable rangatiratanga⁴.

Collective action better achieves the purpose of the Fisheries Act

30. We would like to see Fisheries New Zealand do more to encourage collective action when looking to manage fisheries. Where quota owners are incentivised to act collectively, the evidence suggests they will adopt strategies to promote the management of stocks at levels above the requirements of section 13⁵ of the Act.

31. Te Ohu Kaimoana has published an international review of Aotearoa's fisheries management systems' effectiveness in achieving conservation objectives. This study has concluded that top-down approaches are inconsistent with modern incentive-based systems. In contrast, the most effective fishery/ecological management systems are bottom-up and stakeholder developed.⁶

32. Fisheries Plans approved under s11A of the Fisheries Act are a key tool available to support collective action. Fisheries Plans provide the framework for a more customised and cooperative approach to the sustainable management of our fisheries as they enable fine-scale management of fisheries resources. Importantly, to be effective, they should be developed by the parties who can be held accountable for their commitments.

33. Where led by iwi, Fisheries Plans provide an appropriate framework for iwi to exercise rangatiratanga in managing their relationship with Tangaroa. For instance, they could provide:

- a. An opportunity for iwi to work more closely with their hapū to identify local fisheries management problems and solutions that affect customary non-commercial and commercial fishing,
- b. Specify the objectives for management and associated services required to manage the fishery, which iwi and other quota owners could purchase directly, rather than through cost recovered services provided by the Crown.

Section 11 of the Fisheries Act provides a multitude of options for ensuring sustainability.

34. In recent years there has been an increasing trend for quota owners to become actively involved in fisheries management. This reflects the strong stewardship ethic that comes with owning Individual Transferable

⁴ Section 11 (3) of the Fisheries Act 1996 sets out a range of options that are available to the Minister to ensure sustainability.

⁵ Where a catch limit for a stock managed under the Quota Management System is decreased to the most appropriate sustainability measure, section 13 sets out the specific requirements for determining the TAC.

⁶ See Libecap, G, Arbuckle, M, and Lindley, C. An analysis of the impact on Māori Property Rights in Fisheries of Marine Protected Areas and Fishing Outside the Quota Management System. The link to the report can be [found here](#), as can a seminar discussing the findings of the study can be [viewed here](#).

Quota (ITQ) or ACE leading to collective action. We see s11 of the Fisheries Act as supporting this level of action, which is most obviously evidenced by the provision for Fisheries Plans to be approved under s11A. However, we also see the provisions of s11 as supporting collective action that is not set out in a Fisheries Plan.

35. By way of example, the shelving of ACE is a viable way of reducing commercial catch. The Minister can take such shelving arrangements into account following section 11 (1) (a) of the Fisheries Act. If the Minister is satisfied that the arrangements will adequately mitigate risk to sustainability, there is no legislative obligation to choose from the list of statutory sustainability measures set out in section 11 (3) of the Fisheries Act. In such cases, the Minister would not be directed to section 13 or section 14 to vary a TAC.
36. We support a greater focus being placed on the provisions of s11. We consider that bottom-up approaches would help enable fine-scale management and enhance the potential for iwi/Māori to fulfil their tiaki and hauhake responsibilities.

Our preferred approach to managing the fish stocks under review

37. We see a general improvement in the Sustainability Review consultation document. The inclusion of considerations of habitats of particular significance to fisheries management and the associated deemed value settings sets the scene for a more holistic approach. This better recognises the interconnected nature of our fisheries management settings and has the potential to reduce the historical reliance on TAC settings.
38. In our response, we have only commented on deemed value settings if the current settings are no longer aligned with the guidance provided by the Deemed Values Working Group.

Inshore Stocks

Rāwaru – blue cod (BCO3)

Our view

- We support Option two.
- We do not support the proposed changes to deemed values.

Proposed Options

Option	TAC	TACC	Allowances		
			Customary Māori	Recreational	All other mortality caused by fishing
Current settings (<i>status quo</i>)	-	162.732	-	-	-
Option 1 (<i>Set a TAC & allowances</i>)	277.732	162.732	20	83	12
Option 2	243 ↓	130 ↓ (32.732 t)	20	83	10 ↓

Our approach

We support setting a customary allowance

39. We support the advice provided by Ngāi Tahu to set a customary allowance of 20 tonnes. The proposed customary allowance allows for tiaki of this taonga to take place under the guidance of Ngāi Tahu Tangata Tiaki.

We support decreasing the TAC with ongoing monitoring

40. The stock status in relation to the management target and the extent of overfishing is unknown. However, there are concerns that there is local depletion occurring. Due to this uncertainty, we support a reduction to the TAC at this time. The upcoming stock assessment has the potential to further inform the management of this fishery.

41. The most recent information from the 2017/18 National Panel Survey estimates recreational catch to be 99 tonnes with an additional five tonnes from s111⁷ take. The recreational allowance proposed in the consultation document is less than this estimate. There has been a recent reduction in the daily limit and an increase in minimum legal size. Both measures are expected to reduce recreational catch. We support further and more precise monitoring to better estimate the actual reduction that will have been achieved, especially in the areas where localized depletion is occurring.

42. Potting surveys are generally undertaken every four years and are primarily designed to monitor the recreational fishery. The results to date show a general decline in relative abundance across all areas surveyed

⁷ Section 111 of the Fisheries Act 1996 enables commercial fishers to take a recreational catch for their own consumption.⁸ We recommend the minimum legal size for BCO3 be set at 35cm.

in BCO3 (up to 50% in some areas). When considering the potting survey results, we stress the need for ongoing review and monitoring of the recreational catch to ensure the sustainability of this taonga⁸.

43. The other sources of fishing-related mortality allowance are proposed to be set at 5% of the total TACC and recreational allowance. This reflects the uncertainty of survival of blue cod being returned to sea. We endorse this approach.

Deemed values should be set to incentivise accurate reporting

44. Deemed values should be set between the ACE price of \$3.71 and the market value of fish (which is approximated by the port price of \$7.36). If there is a sustainability concern, setting deemed values closer to market price is more appropriate. We do not support the proposed ramping of the BCO3 deemed values.

Kumukumu/pūwhaiāu – red gurnard (GUR1)

GUR1 – Our view

- We support an alternative option for the GUR1 TAC (Option four).
- Our Option four is the same as the proposed Option two with a reduction in the recreational allowance (and hence a lower TAC).
- This approach strikes the right balance of our tiaki and hauhake responsibilities in order to continue our whakapapa relationship with this tamariki of Tangaroa.

	TAC	TACC	Customary	Recreational	OSFM
Option 4 (t)	1300	1100	40	83	77

Proposed Options

Option	TAC	TACC	Allowances		
			Customary Māori	Recreational	All other mortality caused by fishing
Current settings	N/A	2,288	N/A	N/A	N/A
Option 1	2,328	2,045 ↓ (243 t)	40	100	143
Option 2	1,317	1,100 ↓ (1,188 t)	40	100	77
Option 3	996	800 ↓ (1,488 t)	40	100	56

Our approach

The setting of the customary allowance is reasonable

45. When adjusting and allocating the TAC, the Minister has a constitutional and legal obligation to ensure the integrity of The Fisheries Deed of Settlement is maintained. In our view s 21 of the Fisheries Act requires the Minister, when allocating the TAC to give priority to the customary allowance for stocks that iwi and hapū require to meet their customary non-commercial needs. We note that the consultation paper includes an option for a reasonable customary allowance of 40 tonnes for GUR1. There is at least one Pātaka Kai (Te

⁸ We recommend the minimum legal size for BCO3 be set at 35cm.

Kupenga) operating within the GUR1 QMA. It is essential that current and future Pātaka Kai are provided for within the proposed customary allowance settings.

The TACC should ensure sustainability

46. The most recent stock assessment in 2017 was able to assess each of the three major GUR1 fisheries, which include the west-coast sub stock (GUR1W), the East Northland and Hauraki sub-stock (GUR1E) and the Bay of Plenty sub-stock (GUR1BP). The assessment showed that the western sub-stock was faring better than the two eastern stocks. Although this assessment did not indicate any sustainability concerns with current catch levels, it still concluded that if the full TACC were to be caught, the risk to sustainability would be unknown.

47. The commercial catch limit has been consistently under caught, and landings appear to be declining despite suggestions of increased targeting, but reasons for this are unknown. A plausible explanation could be that the reduction in catch is a consequence of fishers actively avoiding snapper (and therefore catching less gurnard). Nonetheless, we support a reduction in the TACC as a first step in addressing concerns.

Recreational allowances for fisheries with sustainability concerns

48. Recreational allowances should be set at or below the best estimate of catch, especially when there are sustainability concerns. We do not see the rationale for 'rounding up' the estimated recreational catch to 100 tonnes as a fair and principled approach. The most recent National Panel Survey estimates recreational catch to be 86 tonnes (± 13). We view a rounding approach to be contradictory to building good, shared fisheries management systems. We would prefer to see the recreational allowance set at the best estimate of catch (or 'rounded down' to reflect a more precautionary approach) that leaves more of Tangaroa's tamariki and mokopuna in his care. Importantly, follow up action by way of adjustments to daily limits would be needed to give effect to any reduction in allowance.

The interdependence of GUR1 and SNA8

49. SNA8 is also being reviewed, with proposals looking to increase the TAC. Approximately 80-90% of the red gurnard catch is taken as part of the FMA9 mixed trawl fishery, including snapper, trevally, and John dory. The SNA8 stock assessment has identified that operators fishing in FMA9 mixed trawl have modified their gear and trawl speeds to reduce their focus on snapper. This is primarily due to a lack of SNA8 ACE availability.

50. An increase of SNA8 ACE availability may reduce some of the GUR1 target catch. However, there is the potential that it may lead to more GUR1 catch overall. Detecting changes in relative catch mix for the inshore trawl fishery will be necessary as part of actively monitoring the fishery status.

Other mortality caused by fishing allowance should be consistent for FMA9 mixed trawl fisheries

51. In 2018, the Minister indicated a desire for the allowance for other mortality caused by fishing to be set at 10% of the TACC for all inshore fish stocks taken by the method of bottom trawl, unless there was evidence to suggest otherwise. The proposed option sets the allowance for other mortality caused by fishing at 7% of the TACC. The rationale provided for the lower allowance includes enhanced monitoring on the west coast of the North Island fishery - which provides greater confidence in the catch and effort reported for the FMA9 fishery. In addition, more selective fishing methods are also used: bottom longlining and Danish seining that are less likely to cause incidental mortality. This rationale supports the allowance for other sources of fishing

mortality being set at the proposed level. However, we note an inconsistency with SNA8, the proposed allowance for other sources of mortality is 9–10% of the TACC, despite this SNA8 being subject to these same factors.

28N rights will have the effect of reducing settlement holdings when the TACC is increased

52. We recognise that the preferential allocation (known as 28N) rights associated with GUR1 will not be activated due to the TACC decrease. We do, however, note that decreasing the TACC could lead to greater abundance in the fishery, and therefore the TACC can be expected to increase at some point in the future. Appendix one sets out our narrative on 28N rights.

Kumukumu/pūwhaiāu – red gurnard (GUR7)

GUR7 – Our view

- We support Option two.

Proposed Options

Option	TAC	TACC	Allowances		
			Customary Māori	Recreational	All other mortality caused by fishing
Option 1 (<i>Status quo</i>)	1 294.65	1 180	15	38	61.65
Option 2	1 422 ↑ (127 t)	1 298 ↑ (118 t)	17 ↑ (2 t)	42 ↑ (4 t)	65 ↑ (3.35 t)

Our approach

Sustainable utilisation opportunity for GUR7

53. The continued increase in biomass with the current settings will mean that the GUR7 catch will be unnecessarily constrained. Accordingly, we support Option two to better provide for utilisation. The abundance of gurnard in GUR7 appears to reflect a healthy fishery which can support people's livelihoods and wellbeing.

Customary allowances should be provided for through engagement

54. We recognise that the level of the proposed customary allowance is arbitrary and based on the assumption that customary catch has increased with abundance. We consider that Fisheries New Zealand should base the allowance on its engagement with iwi and kaitiaki.

Management measures necessary to constrain increasing recreational catch

55. We recognise that recreational catch can be expected to increase as abundance increases; however, gurnard fisheries are thought to exhibit high recruitment pulses. Recreational interests were provided for when the fishery was deemed to be at target in the review in 2020. Any more to increase the recreational allowance beyond this impacts te tino rangatiratanga (set out in Appendix 3). To avoid these impacts, we support management measures that constrain recreational catch to the allowance that is set.

Hāpuku & moeone – hapuku & bass – (HPB1 & 2)

Our view

- We support Option three for HPB1.
- We support Option two for HPB2.
- We support additional measures being implemented by commercial and recreational operators to address specific sustainability concerns for these fisheries.

Proposed Options

HPB 1							
Option	TAC	TACC	Allowances			Recreational Measures	
			Customary Māori	Other mortality	Recreational	Daily Limits	Additional regulations
Current settings	N/A	480.8	N/A	N/A	N/A	5 per person	Included in the combined daily limit of 5 with kingfish with a maximum of 3 kingfish
Option 1	379	280 ↓ (200.8 t)	10	14	75	3 per person	Remain in the combined daily limit of 5 with kingfish, but include a maximum of 3 hāpuku/bass
Option 2	289	210 ↓ (270.8 t)	10	11	58	2 per person	Remove from the combined daily limit of 5 with kingfish and: -Introduce daily limit of 2 hāpuku/bass -Introduce accumulation limit of 3
Option 3	215	140 ↓ (340.8 t)	10	7	58		
HPB 2							
Option	TAC	TACC	Allowances			Recreational Measures	
			Customary Māori	Other mortality	Recreational	Daily Limits	Additional regulations
Current settings	N/A	266.2	N/A	N/A	N/A	5 per person	Included in the combined daily limit of 5 with kingfish with a maximum of 3 kingfish
Option 1	233	160 ↓ (106.2 t)	10	8	55	3 per person	Remain in the combined daily limit of 5 with kingfish, but include a maximum of 3 hāpuku/bass
Option 2	174	120 ↓ (146.2 t)	10	6	38	2 per person	Remove from the combined daily limit of 5 with kingfish and: -Introduce daily limit of 2 hāpuku/bass -Introduce accumulation limit of 3
Option 3	132	80 ↓ (186.2 t)	10	4	38		

Our approach

A reduction in catch is needed to ensure the sustainability of these fisheries for future generations

56. There is currently no robust assessment for these stocks, but there have been ongoing concerns about their health. We support a significant reduction in catch as a first step in addressing these concerns. We base this on our obligation to tiaki our tupuna so that future generations can benefit from a healthy fishery.
57. We support Option three for HPB1 and Option two for HPB2, which reflects the differences in these two fisheries. In HPB1, hāpuku returns a lower price than bass in and therefore effort is focussed more so on bass. There is less fishing effort in HPB2 and hāpuku is a predominant target. Therefore, there is less pressure on

this fishery. We consider that a reduction of 25% catch, under Option two, would be sufficient to address sustainability concerns of the TACC in HPB2.

Appropriate management controls are required in order to ensure the integrity of the TAC

58. We agree that the recreational catch for both HPB1 and HPB2 needs to be reduced, along with the TACC. As already noted in this response, we are concerned over the lack of a link between a reduction in the recreational allowance, and a new management measure that would affect that allowance. We support all sectors sharing the responsibility to rebuild and maintain fisheries and therefore support the changes to recreational limits under Option three for HPB1 and Option two for HPB2.

We support fishers addressing management concerns through targeted measures

59. We acknowledge that a TAC reduction may not address some of the specific concerns for these fisheries. In particular, it will not address the risk of localised depletion. Multi-stakeholder meetings have been held to discuss options for managing these effects. From these meetings, commitment to exploring options for protecting specific features have been discussed as well as support for a range of additional measures to manage recreational catch. We support effective stakeholder-led initiatives that promote tiaki and hauhake responsibilities.

Localised depletion inhibits customary access

60. Concerns raised by kaitiaki about the inability to access hāpuku and moeone in shallow depth fishing grounds suggestions further management action is required. The ability for Māori identity to be maintained through customary practice is already being undermined with the current state of the fishery.

The ability to monitor and assess these fisheries is lacking

61. Despite targeted efforts, we are unable to assess the health of these fisheries. The change to reporting requirements that splits hāpuku and bass will assist our understanding in the future, but management action is required now. Further work needs to be done to identify an innovative approach to monitoring fisheries that exhibit high site fidelity and low productivity.

28N rights reduce settlement holdings when TACCs are increased

62. We recognise that the preferential allocation (28N) rights associated with both HPB1 and 2 will not be discharged due to the TACC decrease. We do, however, note that decreasing the TACC and additional measures to tiaki these fisheries is intended to result in a rebuild of the fisheries. Hence, at some future date, we can anticipate a TACC increase when the fishery has rebuilt. Please see appendix one for our narrative on 28N rights.

Pāua – (PAU3A & PAU3B)

Our view

- We support setting a TAC for PAU3A and PAU3B.
- We support Option two for PAU3A.
- We support Option one for PAU3B, with a customary allowance that reflects pre-earthquake customary non-commercial utilisation.

Proposed Options

PAU3A Kaikōura:

Option	TAC	TACC	Allowances		
			Customary Māori	Recreational	All other mortality caused by fishing
Option 1	40.5	23	7.5	5	5
Option 2	24.5	12	7.5	2.5	2.5

PAU3B Canterbury:

Option	TAC	TACC	Allowances		
			Customary Māori	Recreational	All other mortality caused by fishing
Option 1	80	46	15	9	10

Our approach

Recognising community leadership

63. The 2016 Kaikōura earthquake had devastating effects on pāua habitat, negatively impacting the abundance of pāua along the coastline. The restoration of pāua habitat and the subsequent increasing abundance of pāua is attributed to the community's collective effort, including Te Korowai o te Tai o Marokura, the Papatipu Runanga, Kaikōura Marine Guardians and PauaMAC3. The community has shown leadership through many initiatives, including the pāua hatchery, the pāua school program, translocation of pāua, and habitat restoration of kelp beds. As noted in the Kaikōura community hui in 2020, the initiatives mentioned were opportunities to give "Tangaroa a helping hand" while passing on local knowledge to the next generation. This is an example of what can be achieved when communities play an active role in fisheries management, and Fisheries New Zealand provides leadership through supporting these initiatives.

Cohesive approach required across fisheries management initiatives in PAU3A and PAU3B

64. The PAU3 Fisheries Plan (developed by PauaMAC3) approved by the Minister in April 2021, sets out the overarching management framework for PAU3A and PAU3B, which the setting of the TAC is required as a result of the subdivision approved by the Minister of Oceans and Fisheries (as a result of the PAU3 Fisheries Plan). Te Ohu Kaimoana supports the Fisheries Plan and the subdivision because it was endorsed by iwi and enables fine-scale management; therefore, we support setting a TAC for each of the subdivided areas (PAU3A and PAU3B).

65. In parallel to this consultation, the Minister of Ocean and Fisheries is consulting on the reopening of the Kaikōura marine area to pāua fishing. A key concern from the community is recreational fishing and its effect on the area if management measures are not established. The Kaikōura Marine Guardians proposed a suite of management measures for recreational pāua fishing, including a reduced bag limit and an increased minimum legal size. This must be top of mind when setting a TAC for PAU3A.

Precautionary approach supported

66. We support Option two for PAU3A and Option one of PAU3B, which provides a more precautionary approach. If the status of the fishery in PAU3A and PAU3B is subsequently assessed above target level (based on evidence, science and mātauranga), then Fisheries New Zealand can initiate a further review of the TAC to determine the appropriate response.
67. There is a numerical error in the consultation document for PAU3B. Paua Industry Council’s submission provides the technical rationale on the calculations for the customary allowance. Both an allowance of 15 and 7.5 tonnes allows for the customary harvest of pāua under the guidance of Ngāi Tahu Tangata Tiaki. Due to the error in the consultation document, it is appropriate that Fisheries New Zealand engage directly with Ngāi Tahu to set an appropriate customary allowance.

Makohuarau – school shark (SCH5)

Our view

- We support Option two for SCH5.
- We support retention of the current deemed values.

Proposed options

Option	TAC	TACC	Allowances		
			Customary Māori	Recreational	All other mortality caused by fishing
Option 1 (<i>Status quo</i>)	794	743	7	7	37
Option 2	558 ↓ (236 t)	520 ↓ (223 t)	7	5 ↓ (2 t)	26 ↓ (11 t)

Our approach

We support a decrease in order to tiaki and hauhake this fishery

68. The best available information suggests that overfishing is likely to be occurring in SCH5, and the stock is unlikely to be at, or above the reference level set out in the Fisheries Act. Some fishers have raised concern that greater effort is now required to catch their ACE. For these reasons, we support a decrease in the TAC and TACC set out in Option two. We acknowledge that this proposed decrease to the TACC for SCH5 would have a substantial economic impact on fishers and the community that rely on the catch of SCH5.

Tāmure/kourea – snapper (SNA8)

Our view

- We note that all options propose a 400% increase in the recreational allowance.
- We support an alternative option for the SNA8 TAC (Option five).
- Our Option five is the same as the proposed Option three with a reduction in the allowance for other sources of fishing-related mortality (and hence a lower TAC).
- We support Option two for the setting of deemed values in SNA8.

	TAC	TACC	Customary	Recreational	OSFM
Option 5 (t)	3740	2275	100	1205	160

Proposed options

Option	TAC	TACC	Allowances		
			Customary Māori	Recreational	All other mortality caused by fishing
Current settings	1,785	1,300	43	312	130
Option 1	3,065 ↑ (1280 t)	1,600 ↑ (300 t)	100 ↑ (57 t)	1,205 ↑ (893 t)	160 ↑ (30 t)
Option 2	3,437 ↑ (1652 t)	1,950 ↑ (650 t)	100 ↑ (57 t)	1,205 ↑ (893 t)	182 ↑ (52 t)
Option 3	3,794 ↑ (2009 t)	2,275 ↑ (975 t)	100 ↑ (57 t)	1,205 ↑ (893 t)	214 ↑ (84 t)
Option 4	4,152 ↑ (2367 t)	2,600 ↑ (1300 t)	100 ↑ (57 t)	1,205 ↑ (893 t)	247 ↑ (117 t)

Our approach

Estimates of current and future state enable increased utilisation

69. The current and future predicted state of the SNA8 fishery provides a significant utilisation opportunity. Under all options, the SNA8 biomass is predicted to remain above 50% in five years. This level of biomass enables greater utilisation for all sectors while ensuring sustainability. The rebuild of this fishery has generated significant abundance, and we support ongoing hauhake and tiaki of this fishery.

Providing for customary use

70. We support the consideration of an option that provides for increased customary use in line with the aspirations of kaitiaki to increase the use of Pātaka kai in their rohe.

Responsive management is required for rebuilding fisheries

71. The last review of SNA8 was 16 years ago; the lack of responsive management to changes in the fishery during this time means that we are now dealing with consequential issues throughout West Coast North Island fisheries. The decrease in management settings from 2004 was necessary to rebuild this fishery; however, as the biomass has increased, the management settings have become increasingly inappropriate for the stock. This has created cumulative operational issues. The increasing abundance of snapper relative to ACE availability has unnecessarily constrained many fisheries in this area and created inhibiting economic symptoms. The consequential issues include:

- ACE price significantly exceeding the market price of fish (because it is driven by the deemed value settings) – negative economic returns from catching and landing snapper.
- CPUE skewed due to fishers actively avoiding snapper– affects the quality of information available to support the management of the fishery,
- Inability to access other fisheries because of the difficulties with avoiding snapper catch.

These issues are symptoms of inappropriate constraints on utilisation driven by current management settings. This has come about due to the inattention given to this fishery. The pressures on the commercial sector have become more acute under an increasingly inappropriate TACC backed up by ramped deemed values. The current deemed values setting in this fishery are not consistent with the guidance provided by the Deemed Value Working Group. This highlights the need to actively manage a rebuilding fishery rather than adopt a set and forget approach. We support another review of the settings in this fishery within five years.

Increased availability of SNA8 ACE will support fishers to transition away from areas/methods that risk capture of Māui dolphins

72. The abundant SNA8 fishery provides an opportunity to assist fishers as they transition their operations to further reduce risk to Māui dolphins. Te Ohu Kaimoana have engaged with the transition programme working alongside industry and Fisheries New Zealand. It remains clear that a significant barrier to enabling a successful long-term transition is the availability of affordable SNA8 ACE. Currently, fishers in the transition programme have been provided SNA8 ACE under a special permit for the current year. This arrangement is not a long-term solution. Providing a substantive increase to the TACC has the potential to improve the wellbeing of these fishing communities as there will be additional ACE available for purchase.

Significant increase required to support all fishers and fisheries on the West Coast

73. The current settings for SNA8 are inhibiting the sustainable use of fisheries resources. Given that we can ensure sustainability because of the confidence in the stock assessment, we support increasing the TACC to at least 2275 tonnes. We note that a TACC under Option four is also sustainable and would provide for even greater utilisation.

Recreational allowance set when fishery was depleted

74. We recognise that the recreational allowance was set when the fishery was depleted. The TAC for SNA8 was set in 2004 when the fishery was estimated to be 9% of the original spawning biomass. This depleted state occurred prior to the introduction of the QMS (1986) and the signing of the Fisheries Deed of Settlement (1992). As the fishery has recovered under QMS management, so has the recreational catch been allowed to increase well beyond the set allowance. This means the integrity of the TAC has been undermined for an extended period. The recovery of the fishery now provides an opportunity to revisit the allowances under an increased TAC. We note that all of the options being presented provide for the recreational allowance to increase to the level of predicted catch based on catch estimates and biomass increase. If this is to be the case, we consider that the future management regime focuses on ensuring the integrity of the TAC under the new settings.

28N rights affect the proportional share of quota holders

75. There are 932.4 tonnes of preferential allocation (28N) rights, of which two quota owners effectively hold 96%. The result is that most quota owners will see a reduction in quota (as a proportion of the TACC) while providing a substantive proportionate increase to the two owners. Our view is that any reduction of the Settlement

quota as a proportion of the TACC would breach the Fisheries Deed of Settlement. Hence if the 28N rights are to be applied, it will need to be done in a way that does not result in a diminishment of Settlement rights. Te Ohu Kaimoana will work with the Crown and the parties who hold 28N rights to find a solution that is consistent with the Fisheries Deed of Settlement.

Lowering the allowance for other sources of mortality caused by fishing

76. In 2018, the Minister indicated a desire for all the allowances for other mortality caused by fishing to be set at 10% of their respective TACC for all inshore fish stocks taken by trawl, unless there was evidence to suggest otherwise. The proposed option sets the allowance for other mortality caused by fishing to 9-10% of the TACC, placing weight on the uncertainty of unreported catch. We note that this is inconsistent with the rationale provided for GUR1, which suggests 7% due to enhanced monitoring on the west coast North Island, meaning greater confidence in the catch and effort reported for the western sub-stock. We consider that the allowance for other sources of fishing-related mortality should be consistent for FMA9 mixed trawl fisheries, given the factors outlined above. Hence, we support an alternative option; Option five, that achieves this consistency.

We support a change to the SNA8 deemed value rates

77. We are supportive of adjusting the deemed values for SNA8 in line with Option two proposed in the consultation document as an interim measure until we have more information on how the SNA8 TACC increase will affect the economics of this fishery. The current deemed value rates in SNA8 are having unnecessary economic impacts on fishers. The high payment of deemed values is indicative of a need to increase the TACC due to an increase in SNA8 abundance. Therefore, setting a suitable TACC is the first step to ensure appropriate management in the SNA8 fishery.
78. Secondly deemed values need to be set 'about right' to incentivise accurate reporting, as the information available to set deemed values appropriately is imperfect. Once a TACC is enacted, there will be an increase in availability of SNA8 ACE and the impact this will have on ACE and market price needs to be considered as these are the prices at which deemed values should be set between. If there is concern of a particular party overfishing the TACC and abusing the deemed values setting, section 77 of the Fisheries Act 1996 can be used to address this.
79. We support a further review of the deemed values in SNA8 within the next two years. This will enable more precise setting once the impacts of a TACC increase on the ACE price and market value can be determined. Ongoing review of the deemed values setting in SNA8 is essential to ensure the fishery management settings are appropriate. As a TACC increase will trigger more snapper on the market across Aotearoa, the ACE price and market value of snapper are likely to experience downward pressure. These values should be monitored across all snapper fisheries to indicate if further deemed value reviews are necessary.

Deepwater stocks

Akiwa - black cardinalfish (CDL1)

Our view

- We support setting a TAC for CDL1 that enables for increased utilisation in order to ensure sustainability.
- We support an alternative option for the CDL1 TAC (Option four).
- We do not support the proposed changes to the deemed values.

	TAC	TACC	Customary	Recreational	OSFM
Option 4 (t)	420	400	0	0	20

Proposed Options

Option	TAC	TACC	Allowances		
			Customary Māori	Recreational	All other mortality caused by fishing
Option 1 (Status quo)	1320	1200	0	0	120
Option 2	176 ↓ (1144 t)	160 ↓ (1040 t)	0	0	16 ↓ (104 t)
Option 3	44 ↓ (1276 t)	40 ↓ (1160 t)	0	0	4 ↓ (116 t)

Our approach

We support setting a TAC that allows for fisheries development

80. There is substantial headroom between the TACC and current commercial catch of CDL1. As there is an intention to develop the ORH fishery in the CDL1 QMA, the future development of such a fishery would require sufficient CDL1 ACE to be caught alongside ORH. Therefore, the current headroom that is available between the TACC and CDL1 catch will be necessary.
81. Between 2018-2020, there was an increased number of ORH and CDL targeted tows within CDL1. Despite this, CDL catch did not increase in proportion. On this basis, we agree that there is a case for the TACC to be reduced. However, we recommend that it only be reduced to a level which would allow for sustainable development of the ORH fishery.
82. We support deemed values being set between ACE and the market price of fish. The current deemed values rate already do this. It may be appropriate to set the deemed rates values closer to the market price if there is an indication that catch is not being balanced with ACE.

Maka-tikati/tīkati – gemfish (SKI3 & 7)

Our view

- We support Option three for both SKI3 & 7.
- We do not support the proposed changes to the deemed values.

Proposed Options for the TAC

Stock	Option	TAC	TACC	Allowances		
				Customary Māori	Recreational	Other mortality caused by fishing
SKI 3	Option 1 (<i>Status quo</i>)	606	599	1	0	6
	Option 2	727↑ (121 t)	719↑ (120 t)	1	0	7 ↑ (1 t)
	Option 3	848↑ (242 t)	839↑ (240 t)	1	0	8↑ (2 t)
SKI 7	Option 1 (<i>Status quo</i>)	606	599	1	0	6
	Option 2	727↑ (121 t)	719↑ (120 t)	1	0	7↑ (1 t)
	Option 3	848↑ (242 t)	839↑ (240 t)	1	0	8↑ (2 t)

Proposed Options for Deemed Values

	Status quo	100%	200%	220%	240%	260%	280%	300%
		SKI 7	\$0.44	\$0.49	\$0.72	\$0.86	\$1.01	\$1.15
	Option 1 ↑	100%	120%	140%	160%	180	200%	
		SKI 7	\$0.65	\$0.72	\$0.86	\$1.01	\$1.15	\$1.30

Our approach

We support a sustainable utilisation opportunity

83. The best available information suggests a utilisation opportunity for SKI3 and SKI7 due to an increase in stock abundance. In 2019, the TACC for both SKI3 & 7 was increased by the then Minister of Fisheries; however, the abundance of gemfish has continued to increase, and as a consequence the catch is still exceeding the TACC.

Unavoidable gemfish catch has generated high deemed value payments

84. Gemfish is caught predominantly as a non-target species in mid and bottom water trawls. Its increasing abundance relative to ACE availability inhibits the utilization of other stocks it is associated with. In the 2019/20 fishing year, deemed value payments for SKI7 alone were above \$388,000, as gemfish catch was unavoidable in both the squid and hoki fisheries.

85. Gemfish is considered a low to medium knowledge stock, but based on the best available information, it appears that the current catch is sustainable. Hence there is a strong case for the respective TACCs to be increased. The proposed Option three for SKI3 would cover catch from the previous 2019/20 fishing year. However, SKI3 catch this year is substantially greater than previous years, and the proposed Option three

TACC increase will not cover this year's catch. For SKI7, catch and effort is generally higher in the winter months, so we cannot accurately assess how catch will balance against the proposed TACC increase under Option three. However, early projections indicate that SKI7 catch will also exceed the proposed increase in Option three in the current year.

86. We acknowledge and support the views provided by Sealord Group Limited in their submission. Their analysis indicates that catches for both stocks will exceed the proposed options meaning that gemfish ACE will continue to restrict fisheries operations. Gemfish is a non-target catch in important fisheries, and so we support Sealord's proposal for an adaptive management approach to enable better utilisation of fisheries resources.

Deemed values are not intended to defend the TACC

87. We support the deemed value rate to remain at status quo for SKI7. We believe the deemed value should be closer to the ACE price than the market price of fish (approximated by the port price) where there is no sustainability concern. Deemed values are not designed to be a mechanism for ensuring the commercial catch does not exceed the TACC; rather, they should primarily be set to encourage catch to be balanced by ACE.

Hoki (HOK1)

Our view

- We support Option one.

Proposed Options

Option	TAC	TACC	Non-regulatory catch split arrangement		Allowances		
			Western stock limit	Eastern stock limit	Customary Māori	Recreational	All other mortality caused by fishing
Option 1 (Status quo)	116,190	115,000	55,000	60,000	20	20	1,150
Option 2 (Modified status quo)	116,190	115,000	50,000 ↓ (5,000)	65,000 ↑ (5,000)	20	20	1,150
Option 3 (West ↓ 5,000)	111,140 ↓ (5,050)	110,000 ↓ (5,000)	50,000 ↓ (5,000)	60,000	20	20	1,100 ↓ (50)
Option 4 (West ↓ 10,000, East ↑ 5,000)	111,140 ↓ (5,050)	110,000 ↓ (5,000)	45,000 ↓ (10,000)	65,000 ↑ (5,000)	20	20	1,100 ↓ (50)
Option 5 (West ↓ 10,000)	106,090 ↓ (10,100)	105,000 ↓ (10,000)	45,000 ↓ (10,000)	60,000	20	20	1,050 ↓ (100)

Our approach

Iwi have significant interests in the hoki fishery

88. Hoki are a taonga for iwi/Māori who hold significant rights and interests in the hoki fishery, collectively owning or having ownership interest in 44% of the hoki quota. Iwi hoki quota holders have come together and worked with Te Ohu Kaimoana to agree on the most appropriate settings within this fishery. That view has informed

the wider industry agreement that is currently in place. This gives us confidence that responsibilities to tiaki and hauhake this fishery are being upheld.

Quota holders and industry are effectively managing the sustainability of HOK1

89. The commercial sector's current management arrangements for HOK1 reflect the high level of scrutiny they give to this fishery. It involves a package of catch level agreements, protection of juvenile and spawning hoki that go well beyond what is put in place by the Crown. Te Ohu Kaimoana continues to carry the MIO voice into these negotiations, and we consider that the package in place is in line with MIO expectations. However, notwithstanding our comfort with existing industry arrangements, the statutory settings in this fishery are being reviewed. This means that resources are consequently being redirected to this issue even though the quota owning interests in this fishery are actively taking action to manage the harvest well within statutory limits. In doing so they are developing a range of measures that extend beyond the blunt TAC/TACC tools. As noted earlier in this response (refer to paragraph 35-37) these actions must be taken into account under section 11 (1) (a) before deciding to vary the TAC.
90. Te Ohu Kaimoana has met frequently with iwi quota holders to collectively assess the best approach to hoki management. Te Ohu Kaimoana also met with non-iwi HOK1 quota owners where there is general support for Option one, maintaining the status quo.

The status of hoki

91. HOK1 is managed as two individual stocks: an Eastern and a Western stock, due to biological characteristics. However, preliminary results of a genetic study funded through Seafood Innovation Limited does not support the two-stock assumption. While our understanding of this is evolving, this stock split will be managed through an agreement between Fisheries New Zealand and quota holders. Each stock is intended to be managed to a target range of 35-50% of what the unfished mature biomass has been estimated to be.
92. The best available information indicates that the eastern stock is towards the upper limit of this range (48%), whereas the Western stock is predicted to be at the lower end (35%). Under the single stock assumption model, the predicted unfished mature biomass for HOK1 is 40%, and is projected to increase at current catch rates. Taking the best scientific information into consideration and noting the industries proven ability to effectively manage this fishery, HOK1 does not require a reduction to the TACC.
93. Te Ohu Kaimoana considers that Fisheries New Zealand should work more collaboratively with industry and iwi hoki quota holders and support bottom-up management approaches. This ensures the full buy-in from the sector. This narrative is continuously ignored in the initial position papers that are subject to consultation. There is an opportunity to empower collective leadership from the bottom up. In our view, supporting the industry with Option one would be an opportunity to demonstrate this and would pose no risk to ensuring sustainability.

Rari/hoka/hokarari – Ling (LIN5)

Our view

- We support Option 2.

Proposed Options

Option	TAC	TACC	Allowances		
			Customary Māori	Recreational	All other mortality caused by fishing
Option 1 (<i>Status quo</i>)	4,834	4,735	1	1	97
Option 2	5,314↑ (480 t)	5,208↑ (473 t)	1	1	104↑ (7 t)
Option 3	5,798↑ (964 t)	5,682↑ (947 t)	1	1	114↑ (17 t)

Our approach

There is a sustainable utilisation opportunity in LIN5

94. A stock assessment was undertaken this year; it estimated the stock status of LIN5 and LIN6 (which are considered to form one biological stock) to be between 63% and 80% of unfished biomass. The stock assessment also projected that under the current catch, LIN5 would remain above the reference level required by the Act in five years. This indicates there is an opportunity for increased utilisation of the fishery.

Localised depletion a potential risk

95. The options in the consultation document do not threaten the sustainability of the LIN5 and LIN6 stock. However, there is the potential for localised depletion within LIN5 as more catch is taken from one part of the biological stock. Therefore, we support the more conservative increase set out in Option two.

Highly Migratory Species

Southern bluefin tuna (STN1)

Our view

- We support a reset of the TAC to better recognise the status of customary (non-commercial) rights in this fishery.
- We consider Option one to be the only Te Tiriti and Fisheries Deed of Settlement compliant option that has been put forward in the consultation document.

Table 3: Summary of current and proposed catch settings for STN 1 from 1 October 2021. Figures are all in tonnes.

Option	TAC	TACC	Allowances		
			Customary Māori	Recreational	All other mortality caused by fishing
Status Quo	1,088	1,046	2	20	20
Option 1	1,102 ↑ (14 t)	1060 ↑ (14 t)	2	20	20
Option 2	1,102 ↑ (14 t)	1,046	2	34 ↑ (14 t)	20

Our approach

Southern bluefin tuna are a taonga species

96. The migratory nature of Southern bluefin tuna within Te Moana-nui-a-Kiwa guided our tohunga on their journey to Aotearoa through observation of their migratory patterns and provided a valuable food source during early Polynesian voyages. There are accounts within Tainui that Southern bluefin tuna was known as Te Ika Matua (the Great fish) and considered kaitiaki. For these reasons, we view Southern bluefin tuna as taonga, which bonds us to our whakapapa in the Pacific.

A significant role in CCSBT

97. For the first time in October 2020, Te Ohu Kaimoana was accepted onto the New Zealand delegation to partake in the 27th Meeting of the CCSBT (via Zoom). Our role was as an "Observer" on the New Zealand delegation and the Crown officials participated in the multilateral negotiations. It is important that iwi have a direct say in the policy and negotiations that impact their rights in fisheries at an international and domestic level and to be well resourced to do so. However, even in the absence of an iwi voice, it is not open to the Crown to negotiate away iwi interests unilaterally or constrain the exercise of rangatiratanga in fisheries without explicit and considered engagement and agreement with iwi. Though we are involved in discussions with Officials within the delegation, we continue to advocate for a more significant role as the agent of MIOs to carry the voice of iwi into these critical international discussions.

Our previous advice on the management of southern bluefin tuna

98. We refer Fisheries New Zealand to our previous responses⁹, as a background to our position on the current review of the TAC. Those responses identified several management decisions that have been made in recent years that have had the effect of reducing the TACC proportion of the international allocation. It also outlines background on our position for the domestic setting of the TAC.

An approach to the setting of the customary (non-commercial) allowance

99. Aotearoa has previously been allocated 1088 tonnes of Southern bluefin tuna from the Commission for the Conservation of Southern Bluefin Tuna (CCSBT). Despite customary non-commercial catch not being considered in this international allocation, Aotearoa has set a TAC at 1088 including the customary allowance (other nations do not manage their international allocation this way). This is something we have advised against in previous responses. We consider that there are significant implications that arise from treating the customary allowance this way. We also consider determining a customary allowance in an international context without conferring with iwi to be inconsistent with both Te Tiriti and the Fisheries Deed of Settlement.

100. Unless there is more information on total customary non-commercial catch for all members of CCSBT and formal agreement within CCSBT on adjusting the attribution policy to account for customary non-commercial catch, we do not consider it appropriate that the customary non-commercial allowance should sit within an international allocation determined by CCSBT. We consider that the customary allowance should be added to the CCSBT allocation to make up the TAC. The current review provides an opportunity to do this and also to, reconsider what allowance is appropriate for customary non-commercial fishing. This should be determined by iwi and kaitiaki. The TACC as well as the allowances for recreational and other sources of mortality should continue to be derived from the national allocation.

101. Of the two options presented in the consultation document only option one approximates compliance with Te Tiriti and the Fisheries Deed of Settlement. Option one is closest to recognising and respecting the rangatiratanga of iwi over this traditional fishery. This would have the effect of retaining the existing recreational allowance and ensuring the benefits of the regional rebuild would flow through to the TACC, consistent with the expectations that flow from the Fisheries Deed of Settlement.

Managing the recreational allowance

102. On 1 June 2019, the Minister introduced a bag limit of one Southern bluefin tuna per person per day. While this was a step in the right direction, this has proved to be ineffective at constraining the total recreational catch because of increasing recreational fishing effort, with the latest 2020 estimate for recreational catch being 48.9 tonnes (28.9 tonnes over the current allowance of 20 tonnes). The recreational access to this fishery is the result of the additional yield made available from the international rebuild and influenced by increased availability due to recent decreases in commercial targeting because of Covid-19 impacted export markets.

103. Option two offends against the rangatiratanga of iwi over this fishery and when carefully considered, is also contrary to international and domestic policy (namely the United Nations Law of the Sea, the CCSBT principles

⁹ Fisheries New Zealand Review of Sustainability Measures for 1 October 2018 – Te Ohu Kaimoana's response: <https://teohu.maori.nz/wp-content/uploads/2018/08/FINAL-Response-to-FNZ-IPPs.pdf>

and the Fisheries Act). Option two rewards uncontrolled or poor fishing practices through the adoption of an attribution policy that accounts for unmanaged and uncontrolled increases in recreational and other types of fishing related mortality. A decision to retain the allocation to recreational at 20 tonnes will have no material effect on the sustainability of the fishery. The only reason to adopt such a change would be to meet political commitments made at CCSBT to review the New Zealand allowance declared under the attribution policy. New Zealand's proper response should be to enforce the existing allowance, not reward any expansion of effort that serves to undermine the integrity of the TAC.

104. We consider that providing an international catch allocation to a sector that is over-catching its allowance is irresponsible and risks New Zealand's reputation within CCSBT. Our view is that more active management is needed to ensure that an allowance to the recreational sector reflects the Crown's obligations under the Fisheries Deed of Settlement. Subsequently, steps must be taken to ensure the sector does not exceed the allowance. We note that as part of the Minister's decision in 2018 to increase the recreational allowance (from 8 tonnes to 20 tonnes) and to introduce a bag and/or boat limit for the 2019 fishing year, that he was 'interested in exploring more robust recreational management measures in the near future to ensure New Zealand complies with its international obligation to manage within its national allocation'¹⁰. We are unsure why Fisheries New Zealand has not followed up on The Minister's direction¹¹ Until such measures¹² are put in place, we consider any additional allocation from CCSBT should go to the TACC as there is a robust management system in place to ensure catch is managed within the TACC.

Endorsement of other sources of mortality caused by fishing

105. The current allowance for other mortality caused by fishing is set at 20 tonnes to account for limited and occasional reports of incidental catches in trawl and troll fisheries as well as discarding and loss in the longline fishery. Noting that Southern bluefin tuna is listed in Schedule 6 of the Fisheries Act, we accept the evidence on incidental mortality rate, particularly from the observed longline data, presented in the November 2020 Plenary report¹³ for Southern bluefin tuna. We endorse the existing allowance that has been set for other sources of mortality as the best estimate based on best available information. However, we do encourage further analysis of this allowance due to a growing concern from longline fishers of the significant impact of shark and orca damage before fish are landed.

¹⁰ Minister of Fisheries decision on 2018 sustainability rounds: <https://www.mpi.govt.nz/dmsdocument/30846-2018-October-sustainability-round-decision-letter-signed>

¹¹ In another situation we are aware of Fisheries New Zealand following up on Ministerial direction to review the MLS in CRA3, despite being aware of MIO's hesitation with their approach. We see this is an example of inconsistency in approach to following Ministerial directions.

¹² We support suggested measures listed in Fisheries Inshore New Zealand's response on the 2021 sustainability rounds.

¹³ November Plenary Report 2020: <https://www.mpi.govt.nz/dmsdocument/43321>

Deemed Values

106. Our fisheries management system contains a variety of management settings that can be adjusted to achieve the desired results for a fishery. It is important to note that the components of the system are interrelated, and therefore altering one component in isolation may be fraught. In our view, an analysis of all management settings should be conducted before generating options for changing a particular component.

The deemed value system is designed to provide incentives to balance catch against ACE

107. In the report from the Deemed Values Working Group¹⁴, it was recommended that the statement of purpose for the deemed values regime needed review and recommended that it be revised as follows:

'The primary purpose of the deemed values regime is to provide incentives for individual fishers to acquire or maintain sufficient ACE to cover catch taken in the year, while:

- i) Allowing flexibility in the timing of balancing; and*
- ii) Promoting efficiency; and*
- iii) Encouraging accurate catch reporting'.*

108. Deemed values are not a mechanism for enforcing hard TACCs. Our view is that increased deemed value payments signal the need for a management response, rather than a doubling down of regulatory action.

Payment of deemed values can indicate there is a fisheries management issue to be addressed

109. Deemed values can be used as a tool to identify problems that need to be addressed in a fishery and should not be set arbitrarily. There are many potential causes for catches being greater than the TACC - all of which generate different responses:

- The TACC is too low – the optimum response is to increase the TACC,
- Deliberate over catch by one or two parties – respond by setting an overfishing threshold,
- The deemed value is too low – respond by increasing the deemed value and,
- A recruitment pulse with a consequential (perhaps temporary) increase in biomass – ensure the incentive to balance catch with ACE is maintained while not creating a disincentive to report.

110. We acknowledge that the information available to set deemed values appropriately is imperfect. The key inputs of the market price of fish and the ACE price are all confounded by how quota ownership is structured. Hence the setting of deemed values becomes a pragmatic exercise. It needs to balance incentivising catching with the available ACE and accurately reporting all catch, irrespective of what can be balanced with ACE.

Deemed values should be set between ACE and market price

111. The deemed value for a particular stock can be set at or scaled up to a level that removes any profit after harvesting costs are deducted. These conditions create an incentive for fishers to cover their catch with ACE. If they are unable to do so, then there is no disincentive to report the catch and land it. This approach is consistent with the Fisheries Act and the Fisheries Deed of Settlement. It has the real potential to increase

¹⁴ <https://www.mpi.govt.nz/dmsdocument/40253-deemed-values-working-group-final-report>

the quality of information available to support decision-making if it is administered that way. There is a balance to be struck between incentives to fish with ACE and accurate reporting of catch.

112. Discouraging catch in excess of ACE holdings is achieved by ensuring deemed values are set above the ACE price. The requirement to ensure that the deemed value system does not encourage the discarding of fish at sea is achieved by ensuring the deemed value rate does not exceed the stock's market value (see figure 1).

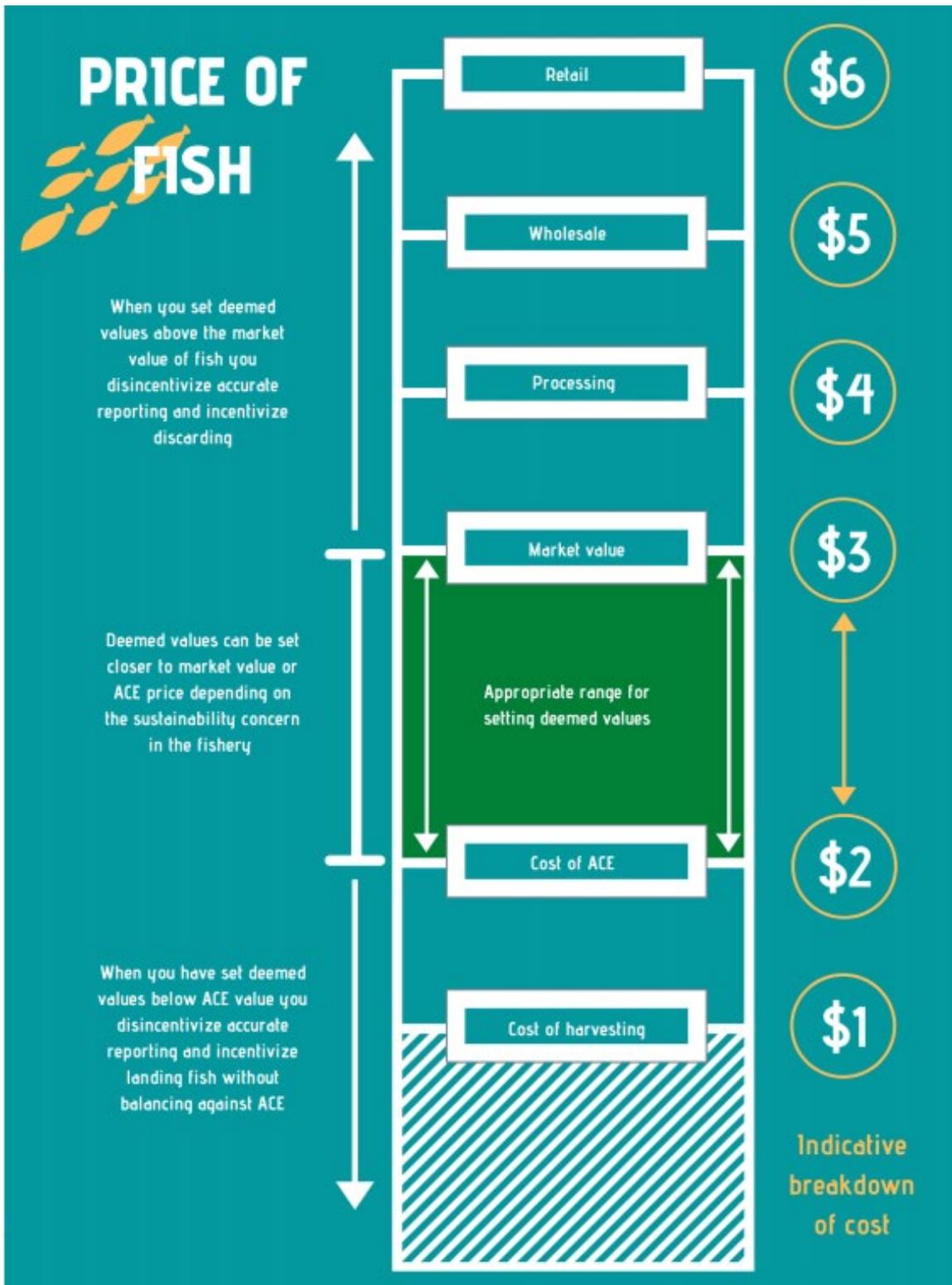


Figure 1: A value chain depicting the breakdown of the price of fish. The different steps in the value chain help to inform a range which deemed values should be set between.

113. Fisheries New Zealand is specifically reviewing the deemed values for the following stocks:

- Alfonsino (BYX2)
- Blue cod (BCO7)
- Bluenose (BNS2)
- Gemfish (SKI1)
- Gemfish (SKI2)
- Kingfish (KIN8)

Proposed options for deemed values:

		Current				Proposed			
Species	Stock	Interim \$/kg	Annual \$/kg	Annual at maximum excess \$/kg	Differential	Interim \$/kg	Annual \$/kg	Annual at maximum excess \$/kg	Differential
Alfonsino	BYX 2	1.98	2.20	4.40	Special	2.16	2.40	4.80	Special
Blue cod	BCO 7	1.21	1.34	2.68	Standard	4.05	4.50	8.25	Special
Bluenose	BNS 2	3.60	4.00	11.00	Special	4.05	4.50	11.50	Special
Gemfish	SKI 1	1.58	1.75	3.50	Standard	1.35	1.50	3.00	Standard
Gemfish	SKI 2	1.35	1.50	3.00	Standard	0.90	1.00	2.70	Special
Kingfish	KIN 8	8.00	8.90	17.80	Special	4.00	4.45	8.90	Standard

Our approach

Deemed values should be set correctly to incentivise accurate reporting

114. We support deemed values being primarily used as a utilisation tool, and therefore they should not usually be set higher than the market value of fish. The deemed values should be set close to the ACE price in situations where TACC is over caught, and there are no sustainability concerns. If there are sustainability concerns in the fishery, it is reasonable to set the deemed values at the higher end of the scale within the bounds of the market value of fish and the ACE price.

We do not support ramping of deemed values

115. We do not support the ramping up of deemed values proposed in the special annual differential rates. The proposed differential rates exceed the most recent port price and are therefore likely to be above the market price of fish.

Stock specific commentary

Alfonsino BXY2 and Blue nose BNS2

116. BXY2 and BNS2 are caught together. There are sustainability concerns in BNS2, whereas BXY2 is consistently overcaught, which would signal that a TACC review would be appropriate. Given this contrast between stocks, a joint approach to these two stocks should be considered.

117. Section 77 of the Fisheries Act 1996 allows the Minister to constrain parties who are significantly over catching their entitlement. If these circumstances are present in these fisheries, the Fisheries Act should be used to hold the responsible party accountable.

Blue cod BC07:

118. The consultation document rationale for BC07 is to align the deemed values rates with BC03. This would disincentivise the landing in a different QMA to pay less deemed values. As the port price (used as a proxy for the market price) is similar in BC03 and BC07¹⁵, aligning the deemed value rates is appropriate.

Gemfish SKI1 and SKI2:**Deemed values are a diagnostic tool that could help to inform the setting of a TAC and TACC**

119. Both SKI1 and SKI2 deemed values were reviewed last year. Payments of deemed values in both these fisheries indicate that a TACC review is required rather than annual deemed value adjustments. We note that the issue of 28N rights for SKI2 in the paragraph below.

We oppose measures that have the potential to reduce settlement quota as a proportion of the TACC while acknowledging there is a utilisation opportunity present in SKI2

120. If 28N rights are given effect in SKI2 through a TACC increase, Māori settlement quota will be diminished. As a result, Te Ohu Kaimoana has taken legal action to protect the integrity of the Fisheries Deed of Settlement. However, in the lead up to the Court considering the legitimacy over how the Crown intended to give effect to the TACC increase, it is clear that there is sustainably available SKI2 catch over the current TACC. We can see that the deemed value regime needs to be adjusted to reflect the absence of a risk to sustainability. Our view is that this means deemed values should be set close to the price of ACE.

Kingfish KIN8

121. There are differing market prices between kingfish caught inshore and landed fresh, and kingfish caught in deep water and landed frozen. This needs to be taken into consideration when setting the deemed value rates. We support reducing the deemed values and continued monitoring to see if further adjustments are required.

¹⁵ Port price obtained from FishServe is \$7.36 in BC03 and \$6.93 in BC07.

Appendix one

The effect of "28N Rights" on the Māori Fisheries Settlement must be addressed

1. The existence of 28N rights is a dilemma because it creates a contradiction within the Act. 28N rights hinder sustainable TACC increases as they undermine the Fisheries Deed of Settlement. We argue that the application of 28N rights is inconsistent with the Fisheries Deed of Settlement.
2. For the 32 fish stocks that currently have outstanding 28N rights, any increase in the TACC will effectively reduce the proportion of quota shares iwi received through the Fisheries Deed of Settlement. To date, iwi quota shares valued at approximately \$14 million have been reallocated to 28N rights holders after a TACC increase.
3. In the 2018 and 2019 decision letters for the review of sustainability measures, the (then) Minister of Fisheries expressed intent to resolve the 28N rights issue. We have been actively involved in developing solutions to the 28N rights issue. We've provided options to Fisheries New Zealand and the previous Minister on how to achieve this.
4. We look forward to an agreement being reached that removes this obstacle to appropriately implementing the Act. In the meantime, the issues associated with 28N rights need to be addressed each time a stock with latent 28N rights is reviewed as part of the sustainability round. In each case, we request that remedial steps prevent a proportionate reduction in settlement quota.
5. In situations where fisheries management decisions would result in dilution of settlement quota as a proportion of the total shares, Te Ohu Kaimoana is obliged to legally challenge the decision as a matter of principle. There are currently proceedings before the Court concerning PAU5B and SK12.
6. This year's sustainability review includes SNAB, GUR1 and HPB1 & 2, all of which have associated 28N rights.

The history of 28N Rights

1. When the Quota Management System (QMS) was first introduced in 1986, the quota was in tonnes, not shares – each quota owner owned a particular tonnage for the fishery they were involved in. Any changes from year to year were to be made through the marketplace. Participants in each fishery were allocated quota from catch histories; however, for many fisheries, the amount allocated by this system exceeded what was deemed to be the sustainable limit for the fishery at the time. That meant future effort needed to be reduced for a number of stocks. To do this, the Government offered the industry two options:
 - industry sell (some of) the quota back to the Government through a tendered 'buy-back' scheme where quota owners nominated the price for an amount and Government accepted those starting from the lowest price; or;

- some of the quota from each owner was 'put on hold'. This quota formed 28N rights, and quota owners could not fish that quota until the fish stock recovered sufficiently to allow additional tonnage to be made available. In that circumstance, holders of 28N rights had the first right to receive a proportion of the additional tonnage equal to what they had 'put on hold'. If the amount of additional tonnage exceeded 28N rights, the Government could then sell it to the market.
2. In 1989 however, the Government was faced with what would have been considerable liabilities to buy quota from the industry for a number of fish stocks whose TACC required a reduction. Therefore, the Government, through legislation, changed quota from being individual tonnages to being proportional shares. The introduction of proportional quota shares was a vast improvement for fisheries management in Aotearoa and created better incentives for each commercial participant to promote long-term sustainability.
 3. However, changing the QMS to a proportional share system also changed how 28N rights were delivered to those rights holders. The legislation requires that whenever there is an increase to the TACC for a fishery with 28N rights, a TACC increase is applied first to 28N rights holders until all 28N rights are satisfied. In the QMS, the only way a TACC increase can be achieved is by transferring shares from other quota owners (both normal quota and settlement quota) to 28N rights holders. These shares are transferred to 28N rights holders.

Appendix two

Allocating the TAC and Maintaining Rangatiratanga

1. When negotiating the terms of the Fisheries Deed of Settlement, the Crown recognised its duty is to develop policies to provide protection and scope for the exercise of rangatiratanga in respect of traditional fisheries¹⁶. Consequently, the Minister must ensure the integrity of Māori fishing rights is maintained when adjusting and allocating the TAC. This means acknowledging two things:
 - Continual reallocation of the TAC to the recreational sector has the effect of reducing the value that iwi can generate from settlement quota
 - The continual increase of the recreational portion of the TAC decreases the ability for Māori to exercise rangatiratanga over their fisheries
2. The following approach could be taken to allocating the TAC in a way that doesn't undermine the rangatiratanga of Māori,
 - The customary allowance is based on customary needs and is managed through kaitiaki; a TAC should allow for the catch as determined by kaitiaki.
 - In the absence of an agreement between mandated bodies, the recreational allowance should not be increased above the level it was first set by the Minister when a TAC was set, for any particular stock.
 - If the recreational allowance was set when the stock size was below the level that can support MSY, there would be a case to consider increasing the initial allowance if this was done with MIO involvement.
 - If to ensure sustainability, the TAC, TACC and the recreational allowance are reduced, the allowance can be increased back to its initial level when the stock rebuilds.
 - Otherwise, all increases to a TAC should be allocated to the TACC after providing for customary non-commercial fishing and other fisheries-related sources of mortality.
3. In our view, this approach should be adopted as the default. As the Minister, you should only consider variations on this approach if all interests agree on an alternative approach.

¹⁶ Her Majesty the Queen and Māori, Deed of Settlement, Preamble, page 3, paragraph K, signed by negotiators on 23.09.1992