

29 September 2003

Dear Stakeholder

REVIEW OF SUSTAINABILITY MEASURES AND OTHER MANAGEMENT CONTROLS FOR THE 2003-04 FISHING YEAR

This letter outlines my final decisions for the review of sustainability measures and other management controls for the 2003-04 fishing year. I have made decisions regarding the management of a number of fishstocks, regulatory proposals, and deemed values. All changes to Total Allowable Catches (TACs) and Total Allowable Commercial Catches (TACCs) are to take effect on 1 October 2003. It is intended that regulatory amendments will come into effect before the end of the year.

I take this opportunity to acknowledge all of the submissions I have received from sector groups as part of this year's review. I appreciate the time taken to prepare and provide submissions.

In reaching my final management decisions for 2003-04, I have carefully considered the available fishery assessment information, advice from MFish and all of the issues and information put forward by sector groups for each of the fishstocks and regulatory proposals identified for review.

I have also given careful regard to the legislative provisions of the Fisheries Act 1996, especially those relating to the purpose of the Act (s 8), the environmental and information principles (ss 9 and 10, respectively), and the setting and amending of sustainability measures (ss 11 and 13).

General Comments

Stakeholders raised few generic issues in submissions.

The format of the advice provided throughout this sustainability round process has improved in comparison to previous years. A major improvement has been the clarity of the advice and an increased focus on fisheries management outcomes. There has also been an obvious improvement in the interaction between MFish and stakeholders. This is evidenced in the submissions that I have received from stakeholders. I consider that this will provide for the better identification and discussion of issues within fisheries and better outcomes for all stakeholders.

Proposals for Regulatory Amendment

The Initial Position Paper contained only one proposal for regulatory change. This was a review of penalties for offences against west coast North Island amateur set net closed area (protection of Maui's dolphins).

In my initial position letter of 11 July 2003, I supported the strongest appropriate measures to be implemented to ensure that the impacts of human activity on the Maui's dolphin population are reduced to zero. Set netting has been shown to be a human activity that poses a threat to the small population of Maui's dolphins, and I have taken a number of steps to address this within the area of the dolphins' current range.

I have decided that the penalties applying to any offences against the west coast North Island amateur set net closed area regulation should be removed from the infringement notice regime, and included in a more serious category of offending. Once the required changes to the regulations have been promulgated, the penalties that will apply will be a maximum fine of \$ 20,000 and the possible forfeiture of gear.

I expect that the regulation changes will be promulgated later this year. The Ministry of Fisheries will ensure that the changes and their date of effect will be widely publicised.

Deemed Values

This is the third year that I have set interim and annual deemed values for QMS fishstocks under the catch balancing regime established by the Fisheries Act 1996. Many of the submissions from stakeholders express concern about the balancing regime in general. The purpose of the Initial Position Paper was to consult on the deemed values rates to apply for the 2003-04 fishing year, not to revisit the policy guidelines nor the catch balancing provisions of the 1996 Act as passed by Parliament. A separate review is to take place later in the year to discuss the policy guidelines.

I have agreed to change the deemed values for 24 fishstocks. The reasons for these changes include, amongst other things, the fishstock concerned being significantly over-caught during the preceding fishing year, or a significant change in market value as measured by the port price since the last review.

As a result of submissions from stakeholders a number of changes have been made to the deemed value rates initially proposed for specific fishstocks. The details of these adjustments are contained in the Final Advice Paper.

I have also decided that differential deemed values will continue to not apply for TRE 2, STA 1 & 2, SCH 2, SPO 2 and SWA 3 & 4. In addition, I have decided to add JDO 7 to this list for the 2003-04 fishing year. The low knowledge by-catch framework was developed in 2002 to review the TACs for stocks where the majority of catch is taken as a by-catch. MFish intends to consider a review of the catch limits for a number of these stocks as part of the April 2004 sustainability round.

The interim and annual deemed values for QMS fishstocks will take effect for all catch taken in excess of ACE in the 2003-04 fishing year. I believe that the interim and annual deemed values are set at a rate that provides an incentive for every commercial fisher to acquire or maintain sufficient ACE that is not less than the total catch of that stock taken by them in the fishing year.

The interim and annual deemed value rates for 2003-04 are contained in an appendix to the deemed values section in the Final Advice Paper. They will be set by a *Gazette* notice to take effect from 1 October 2003. A letter will also be sent out to quota holders notifying them of the interim and annual deemed value rates for the 2003-04 fishing year.

Adaptive Management Programme

General Comments

The adaptive management programme fulfils an important role in developing fisheries and as a means of improving information about the fisheries managed under the AMP. It is important that industry and the Ministry continue to work to ensure the success of the AMP as a robust and viable management tool. To that end I support the need for the AMP to address issues relating to the management of the stock as a whole and not just retain an emphasis on obtaining information to support retention of a TACC. I also emphasise the need for fishers to maintain logbooks where that is a requirement of the AMP, and adhere to the codes of practice, catch spreading arrangements and other such arrangements that form part of the AMP.

While I note the disappointment raised by some members of the industry considering the lack of new AMPs in this sustainability round process, MFish will be consulting on a number of new AMP proposals within the 2004 April sustainability round. A new timetable for considering new stocks within the AMP encourages improved dialogue between participants and MFish throughout the year, rather than simply relying on consultation within the sustainability measures process. Requiring proponents to work with MFish prior to formal consultation in the sustainability round process will better allow outstanding issues to be resolved and therefore provide for better fisheries management outcomes.

Reviews of AMP stocks

The annual and full review of AMP stocks only identified two stocks for further management action. These stocks were stargazer (STA 7) and orange roughy (ORH 1). Other stocks within the AMP are considered to be meeting the requirements of the AMP. I acknowledge the efforts made by those concerned to achieve this outcome and encourage quota holders to continue to work together to ensure the success of the AMP programme.

In addition, a new proposal for TAR 1 to enter the AMP was consulted upon.

My views on the STA 7 and ORH 1 AMPs and the proposal to manage TAR 1 within the AMP are detailed below.

Stargazer (STA 7)

The 2003 Fishery Assessment Plenary reviewed the STA 7 AMP after a decision rule relating to a decrease in the biomass index (as sampled by trawl surveys) was triggered. The consensus of the Plenary was that the stock probably remains above the level that can support the MSY. In my letter of 11 July I considered that the MFish approach, to make some changes to the timeframe for the provision of stock assessment and research services for the fishery, was appropriate. Submissions generally agreed and MFish will progress these initiatives.

Orange Roughy (ORH 1)

There have been several shortcomings in the ORH 1 AMP during its first season. These shortcomings include the lack of progress in meeting the stated performance criteria, and that the AMP objectives might not be achieved. I am particularly concerned that the catch limit for the Mercury-Colville box was significantly exceeded in the 2001-02 fishing year, despite assurances that this would not occur.

As a part of the review of this AMP, I asked the ORH 1 Exploratory Fishing Company (EFC) to demonstrate that near term management and compliance measures had been undertaken to resolve and rectify the problems that emerged in the 2001-02 fishing year.

The ORH 1 EFC have documented actions taken to address catch over-runs, observer coverage, and timely completion of the exploratory trawl survey in 2002-03. I note that AMP performance levels cannot be verified until after the completion of the 2002-03 fishing year.

The ORH 1 EFC has also taken steps to improve the underlying governance of the organisation and thereby improve the effectiveness of the voluntary compliance agreements underlying the AMP. The undertaking to develop a memorandum of understanding (MoU) binding ORH 1 fishers to comply with the AMP fishery is a positive step, although the memorandum has yet to be completed. Without a binding agreement there is a possibility that the AMP could fail to meet the applicable criteria in future fishing years.

I consider that future management of the ORH 1 fishery under the detailed measures established in the AMP is analogous to the responsibilities inherent in a fisheries plan, and would expect the ORH 1 EFC to establish robust and enforceable measures to ensure compliance with AMP provisions. I feel that management measures are lacking in the current ORH 1 AMP, and consider this to be a significant weakness in the Company's ability to achieve the objective of the plan.

On the basis of submissions received by the ORH 1 EFC indicating progress towards resolving existing problems, I have decided to continue the ORH 1 AMP for the 2003-04 season. However, I will direct MFish to review this AMP as part of the April 2004 sustainability round in order to assess performance against the AMP's objectives, and to ascertain completion and acceptance of a monitoring and compliance memorandum of understanding by all ORH 1 quota holders. In the event this review reveals that there have been recurring failures to meet research objectives, area and feature catch limits, observer coverage, or reporting requirements in the 2002-03 fishing year, or that a MoU has not been put into place, I intend to withdraw ORH 1 from the AMP and reduce the TACC to 800 tonnes and regulate a catch limit for the Mercury-Colville Box.

Tarakihi (TAR 1) AMP proposal

In my preliminary views letter of 11 July 2003, I was concerned about the potential I saw for the proposed TACC increase under the TAR 1 AMP to affect the interests of non-commercial tarakihi fishers. The AMP proposal at that time did not provide me with details of how those possible effects would be mitigated. I also noted that, as a minimum, I expected any increase in commercial catch under the AMP to be taken from areas of lesser importance to the non-commercial sector, and I identified the northern west coast as such an area.

I am encouraged by the progress that the AMP proponents have made in engaging with recreational representatives, and detailing the catch spreading arrangements they propose. However, I remain concerned about the potential effects on non-commercial interests in the fishery. The views of recreational representatives and the proponents about the spatial separation of commercial and recreational fishing for tarakihi, and the proposed measures to address the potential adverse effects of a substantial increase in commercial catch remain divided. I regret that the proponents did not obtain the level of stakeholder agreement that I wanted. I considered that the proposal had merit if a commitment was made to taking additional catch from an area of lesser importance to non-commercial fishers. I think that it is important for the AMP process to allow such measures to be explored, if shared fisheries are to be considered. However, the AMP proponents have chosen not to consider such a commitment, and I have decided to decline the AMP proposal.

Considering the AMP proposal provided an opportunity for me to review the sustainability and other management controls that apply to the tarakihi fishery in TAR 1. The allowances I made for Maori customary non-commercial fishing and recreational fishing, for the first time last year (2002), were based on the 1996 estimate of recreational catch. The current interpretation of the results of the 1996 and 1999-2000 surveys of recreational catches is that, while results from both surveys are uncertain, the 1996 estimate is probably low, and the more recent estimate is likely to be high. The approach now taken in some other fisheries has been to take the average between the two estimates as the best approximation of the actual catch level that was taken from the stock during the period between 1996 and 1999-2000. Accordingly, I have updated the non-commercial allowances (and the TAC) for TAR 1 to reflect the current information about what levels of catch had been taken from the TAR 1 stock over the past decade or so, without giving rise to sustainability concerns. I note that the amendment to the non-commercial allowances is not to provide for increased catch, but to reflect the current interpretation of the best estimate of past catch.

To give effect to the above decisions, I have set a TAC for TAR 1 of 1958 tonnes. Within that TAC, I have set an allowance of 70 tonnes for Maori customary non-commercial fishing, an allowance of 470 tonnes for recreational fishing, and an allowance of 20 tonnes for all other mortality to the stock caused by fishing. I have decided to retain the TACC at 1398 tonnes.

Fishstocks for Review

Bluenose (BNS 3)

The statutory provision to allow fishers two years to adjust their fishing practices following the removal of bycatch trades will expire on 30 September 2003. The provision allowed an additional 250 tonnes of bluenose to be landed to the Chatham Islands each year, for two years. The 250 tonnes was allowed for under the TAC as other sources of fishing-related mortality.

I have therefore decided to remove the 250 tonnes allowance for other sources of fishing-related mortality. The TAC for BNS 3 will be adjusted from 1211 tonnes to 961 tonnes for the 2003-04 fishing year. No change will be made to the current TACC of 925 tonnes, or the allowances of 18 tonnes for customary Maori and 18 tonnes for recreational fishers.

Hoki (HOK 1)

Concerns have been raised in the hoki fishery, based on the 2003 stock assessment and fishers' observations on catch rates as the 2002-03 season has progressed. The stock assessment indicates that the western population of this fishery is in decline following several years of poor recruitment. Although there does not appear to be an imminent sustainability threat to the western stock, continued fishing at current catch levels is likely to deplete it further in the absence of improved stock recruitment to this population. On balance, the eastern stock has experienced above average recruitment in recent years, and it is unlikely that continued fishing at current catch levels will deplete this stock.

Submissions from stakeholders indicate widespread concern over the status of western stocks, and encourage measures to monitor and avoid juvenile hoki catch. Of particular importance to current management is the impact an increase in fishing effort on the Chatham Rise might have on juveniles ultimately destined for the western population.

Following receipt of MFish's final advice paper on the HOK 1 fishery, I have received additional late submissions from the Hoki Fishery Management Company (HFMC) and other commercial fishers that reveal a change in position of some quota holders relative to that expressed in earlier submissions. I have read and understand the positions put forth in these late submissions, and have considered these together with advice from MFish.

In a supplementary submission, the Hoki Fishery Management Company (HFMC), asserting to represent a majority (80+%) of quota owners, provided support for a 20,000 tonne decrease in the HOK 1 TACC as a measure to lower future risk to the overall HOK 1 fishery. This position reverses the HFMC's earlier support for retaining the TACC at 200,000 tonnes. The HFMC also expresses intentions to reduce harvest pressure on juvenile hoki stocks in the next fishing year through a variety of initiatives. The HFMC also notes that a reduction in the hoki TACC will eliminate under catch rights that could be carried forward, thereby removing an additional harvest pressure on fishstocks.

I am advised that some fishers have indicated that hoki catch rates during the spawning season have been below expectations. I also note that industry is not united behind the late change in position on the part of the HFMC. Some quota holders continue to endorse the original HFMC recommendation of a 200,000 tonne TACC on the grounds that the underlying stock assessment has not changed since the May 2003 Plenary report. These fishers further contest the right of the HFMC to represent a consensus agreement for change in the industry position on the preferred TACC.

I have decided to reduce the HOK 1 TACC from 200,000 tonnes to 180,000 tonnes for the 2003-04 season as put forth in option two of the Final Advice paper. Within this 180,000 tonne TACC, I ask that industry voluntarily agree to limit catch from the western stock to 110,000 tonnes (61.1%), with the remaining 70,000 tonnes (39.9%) to come from the eastern stock. This results in a 20,000 tonne reduction in catch from the HOK 1W stock relative to the 2002-03 season, while maintaining harvest on the HOK 1E stock at the same level as in 2002-03.

The reduction in TACC will entail lower utilisation of the hoki fishery, with potential adverse economic impacts on fishers, related businesses and communities. Essentially my decision is a precautionary step that will lower the risk to the western stock, which is at its lowest biomass level ever. My decision is made more compelling with majority support from quota holders to reduce the TACC at this time. In the event recruitment to western stocks does not improve over the next two years, further reductions in western catch and/or the HOK 1 TACC will become necessary.

It is my expectation that a new assessment of the hoki fishery will be undertaken in 2004 to evaluate the status of western and eastern populations stocks.

OEO 4

Oreo is managed under the QMS as a multi-species stock including smooth, black and spiky oreo. Assessments completed in 2003 in OEO 4 indicated that the current smooth oreo stock size is above the level that would support the MSY. However, it is unknown if the recent catch of black oreo will allow the stock to move towards a size that will support maximum sustainable yield for this species. This poses some uncertainty in managing both smooth and black oreo stocks under a single TAC.

In light of the positive stock assessment for smooth oreo, plus stakeholder submissions, I have decided to increase the OEO 4 TAC/TACC to 7,000 tonnes for the 2003-04 fishing season. I have weighed the option to establish an 800 tonne catch limit for black oreo as a precautionary measure given the uncertainties of the stock. However, there is no evidence to support a specific catch limit to address sustainability concerns for black oreo stocks. The catch proportion of black oreo has remained relatively stable in recent years, and it has a lower value relative to smooth oreo.

A 7,000 tonne TACC is expected to result in harvest of smooth and black oreo consistent with recent trends in the catch split between these two species without the need for an explicit catch limit. An appropriate level of annual black oreo catch may become apparent as more information becomes available through future stock assessments or an industry fishery plan.

Industry has committed to the development of a fishery plan for oreo with the longer-term objective of implementing separate species management for black and smooth oreo fisheries throughout all quota management areas. I encourage industry's development of a fishery plan as means of addressing management of the oreo mixed stock fishery.

PAU 5D

The 2002 stock assessment for PAU 5D indicated that the catch level at that time was not sustainable and would likely cause the PAU 5D stock to decrease further in the next five years. The biomass was less than the size that would support the MSY and, at 2002 catch levels, both the recruited biomass and spawning biomass were expected to decline further by 2007.

Therefore, a staged reduction of the Total Allowable Catch (TAC), over two years, was begun. A TAC of 159 tonnes was set for the 2002-03 fishing year and I signalled that this was the first stage of a phased reduction in TAC.

For the 2003-04 fishing year, I have decided that the second phase of reductions continue. The TAC will be reduced from 159 to 134 tonnes and the TACC from 114 to 89 tonnes. The

allowances will remain unchanged at 3 tonnes for customary interests, 22 tonnes for recreational interests and 20 tonnes for other sources of fishing-related mortality.

At a TAC of 134 tonnes, the probabilities of recruited and spawning biomass in PAU 5D increasing by 2007 are 77.5% and 68.2%, respectively. There is a strong chance that the decline in the stocks will be halted and the potential for a rebuild of the stock to a level that will support the MSY will be optimised.

The submissions that I received concerning PAU 5D indicated a general acceptance amongst stakeholders that PAU 5D stocks have declined. However, there are differing views on the measures and timeframes required to halt the decline in the stocks and to begin a rebuild.

Within a TAC fishers are able to manage local depletion and serial depletion, possibly within the context of a fisheries plan. I encourage stakeholders to work together to ensure harvest practices maintain the sustainability of the fishery.

One submission raised an alternative TAC option consisting of a complete closure of the PAU 5D fishery for several years, followed by setting a TAC of 45 tonnes. Closure of the PAU 5D fishery would undoubtedly have serious social, cultural, and economic effects. Given that the stock assessment model predicts a 70% probability of recovery by 2007 at a TAC of 134 tonnes, I consider that there is insufficient justification for a total closure.

I have decided that allowances for customary and recreational fishers, and for other sources of fishing-related mortality, should remain at current levels. Recreational paua catch in PAU 5D has probably remained stable over recent years and a significant proportion of the recreational harvest is taken from the non-commercial areas. Because of the biology of paua, and the size and location of most of the non-commercial areas, it is likely that most of the non-commercial areas contain discrete populations of paua. Alterations to the daily bag limits in these areas would probably not contribute significantly, in the short-medium term, to the rebuild of PAU 5D outside of these areas.

Accurate stock assessment for paua is difficult. However, I am satisfied that all of the concerns raised in submissions regarding the stock assessment were considered and taken into account in the stock assessment model to the best degree possible given current scientific knowledge. The NIWA paua stock assessment model has now been used to assess PAU 5B, PAU 7, and PAU 5D stocks, over a period of five years, and is the best information available.

Formal results from the New Zealand Paua Management Company special permit survey will not be available until the survey is completed in 2004. There is no new information, to date, as a result of this survey, to suggest a significant change to the stock assessment, or that changes to the proposed management options, are required.

A new stock assessment in 2005 is anticipated. Delaying the proposed sustainability measures may mean that a greater reduction in TACC is required in the future to ensure a halt in the decline and to provide for a rebuild of the PAU 5D stocks. I believe it is important to continue the process of rebuild now.

PAU 7

This is the third consecutive year that I have reviewed the PAU 7 fishery. Over the past two years I have implemented a 30% reduction of the TACC. This step was implemented to assist with

achieving two outcomes. First, to halt the decline of the spawning biomass in order to ensure the sustainability of the stock. Secondly, to improve the availability of the recruited biomass, which is the paua that is above the minimum legal size and hence is available for harvest. This management action reduced the TACC from 267.48 tonnes to 187.24 tonnes over the two-year period.

The updated stock assessment suggests that under current levels there are signs that the spawning biomass, at least, may have stabilised and is set to increase in size. However the probability of stock recovery is less than ideal and the current situation is complicated by the very low probability that the recruited biomass will increase in the near term.

The Ministry's Initial Position Paper proposed three TACC options to manage the fishery in the upcoming fishing year. Option one represented the status quo but provided an explicit opportunity for industry to actively participate in managing the fishery and further improve the probability of an increase in both the spawning and recruited stock. Options two and three reduced the TACC to 153.66 tonnes and 148.66 tonnes, respectively as a means of managing the risk of stock decline through a statutory output control. Under each option, the non-commercial allowances of 33 tonnes were maintained.

I initially signalled that while I did not have a preferred option, I recognised that the biological and management characteristics of the PAU 7 fishery provided some flexibility in the way and rate sustainable utilisation is achieved. But I also highlighted that I considered the risk of stock decline to be too great to allow a 'sit back and see' approach without an assurance that the stock would be actively managed within the upcoming fishing year. In that light, I noted that option one was only viable providing well-organised industry interests were able to assure me that they would be capable of implementing additional management measures to improve the chances of stock recovery.

I acknowledge the unified response from the paua industry to the opportunity to become further involved in the sustainable management of the fishery. It is with that in mind that I have decided to adopt option one and retain the TACC at 187.24 tonnes. I consider the steps set out in the industry submissions, and the assurance inherent in the MOU, to provide a viable means of further mitigating the risk of stock decline in the short term.

I am able to give credibility to the ability of industry to actively manage the stock because of the growing management capacity within the PAU 7 fishery. Collaborative arrangements within the commercial sector are essential if an effective long-term management strategy for the fishery is to emerge. The developing maturity within the industry is also evident in the setting of longer-term management priorities for the fishery.

The management steps set out in the industry submissions require all PAU 7 quota owners retaining 15% (i.e. 28 tonnes) of ACE at the start of the 2003–04 fishing year. Real-time CPUE data is to be supplied to industry through an agreement with MFish and FishServe to enable monitoring of the performance of the fishery. The retained ACE will only be released for fishing if monthly CPUE remains above agreed thresholds. Both the CPUE methodology and associated thresholds are to be established by MFish and industry scientists working collaboratively. If no scientifically robust trigger is developed, I expect the ACE to remain unfished.

Other positive steps signalled in the industry submission include using real-time CPUE information to assist fishers in spreading fishing effort away from heavily fished areas and a proposed timed-swim survey next summer to provide additional information on the state of the fishery.

MFish will monitor industry's success with implementing the management actions set out in their submissions. If any expected action is not implemented, I note the fishery can be reviewed during the following sustainability round to determine whether the risk of stock decline is being appropriately managed.

I am pleased that industry has agreed to retain the voluntary closed area between Paturau River and Anatori River to improve recreational access to local paua beds on the west coast of the South Island.

Lastly, I wish to congratulate industry on the recent commencement of the paua reseeded programme for the Marlborough Sounds using locally sourced broodstock. Enhancement of paua stocks is practiced elsewhere in the world and provides a potential means of supplementing wild stock management initiatives. I look forward to receiving ongoing reports on the outcome of this programme.

Spiny Dogfish (SPD) Commercial Catch Limits

My initial view was to support the setting of commercial catch limits (CCLs) for SPD 3 and SPD 5 & 6 pending consideration of their entry into the QMS. While there was no information to indicate sustainability issues in SPD 3 and SPD 5 & 6, I considered that CCLs were needed to maintain catch at recent levels because of the paucity of information on sustainability and their possible susceptibility to overfishing.

However, following consultation and further consideration of the issue, I am now of the view that there is no immediate need to set CCLs for SPD 3 and SPD 5 & 6 for the 2003–04 fishing year. There is no evidence to suggest an immediate sustainability concern for SPD 3 and SPD 5 & 6; catch is likely to have been higher than reported levels for some years, catches to date this year are lower than the same period last year, and market demand has been weakening for spiny dogfish. Further, research should be available later this year to assess the status of spiny dogfish stocks.

I consider it more appropriate to consider the medium to long-term requirement for active management of SPD 3 and SPD 5 & 6 fisheries as part of the process to introduce spiny dogfish into the QMS. I shortly expect to decide on whether or not spiny dogfish will be introduced into the QMS.

Yours sincerely

Hon Pete Hodgson
Minister of Fisheries