



Review of Sustainability Measures and Other Management Controls for Selected Inshore Fishstocks

Final Advice and Recommendations for the Deemed
Value Rates for BNS 3

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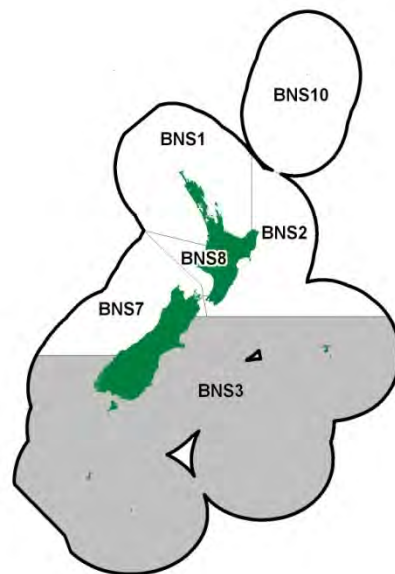
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REVIEW OF DEEMED VALUE RATES FOR BLUENOSE 3 (BNS 3) LANDED IN THE CHATHAM ISLANDS



Executive Summary

1. MPI recommends that you adjust the deemed value rates for bluenose (BNS 3) landed in the Chatham Islands, effective from 1 October 2014.
2. A stock assessment undertaken in 2011 suggested that the biomass of BNS was well below legislatively required target levels. A multiyear rebuild plan was approved. Two years of significant Total Allowable Catch (TAC) reductions were implemented.
3. The BNS 3 Total Allowable Commercial Catch (TACC) has been significantly overcaught for the last two fishing years. By the end of the 2012/13 fishing year reported landings were 43% higher than the TACC for BNS 3. Large deemed value payments (\$790k for 2012/13) have been incurred. To date catch for 2013/14 is at similar levels to at the same time in 2012/13.
4. The overcatch from BNS 3 has been landed to Chatham Islands Licensed Fish Receivers and lower Chatham Island BNS 3 deemed values paid. MPI consider the low deemed value rates for BNS landed to the Chatham Islands are allowing fishers make an economic return by paying the deemed value rather than balancing catch with Annual Catch Entitlement (ACE). The level of overcatch is putting the rebuild of the BNS 3 fishery at risk.
5. MPI received seven submissions in response to an initial position paper (IPP) that proposed increases to deemed value rates for BNS 3 landed in the Chatham Islands. Submissions indicate a range of opinions amongst bluenose quota owners as to what the deemed value rates should be. This has been illustrated by individual submissions both in favour of retaining the status quo and supporting changes.
6. No submissions specifically supported the rates initially proposed by MPI, which provided for alignment with the rest of BNS 3 at 60% in excess of ACE. A number of alternatives were proposed. Following consultation, MPI has revised its initial position

and developed a new preferred option (see Table 1, Option 2) which gives greater recognition to the economics associated with landing fish to the Chatham Islands. The adjusted rates are \$3.00 below the rest of BNS 3 (as recommended in the Te Ohu Kaimoana proposal, Option 3), but align with the rest of BNS 3 at 120% in excess of ACE (as recommended in the Sanford proposal, Option 4). MPI consider this option best reflects the cost issues associated with landing and processing fish on the Chatham Islands while providing greater incentive for fishers to balance catch against ACE.

Table 1: Proposed deemed value rates (per kilo) for bluenose (BNS 3) landed in Chatham Islands

		Interim	Annual (including differential for various thresholds of exceeding ACE entitlement)										
			0-5%	5-10%	10-20%	20-30%	30-40%	40-50%	50-60%	60-80%	80-100%	100%-120%	120%<
Standard rates for rest of BNS 3		\$2.70	\$3.00	\$4.00	\$5.00	\$6.00	\$7.00	\$8.00	\$9.00	\$10.00	\$10.00	\$10.00	\$10.00
Chatham Islands	Option 1 (Status Quo)	\$0.53	\$1.05	\$1.05	\$1.05	\$1.26	\$1.47	\$1.47	\$1.47	\$1.68	\$1.89	\$2.10	\$2.10
	Option 2 (MPI preferred)	\$0.95	\$1.05	\$1.05	\$1.05	\$3.00	\$4.00	\$5.00	\$6.00	\$7.00	\$7.00	\$7.00	\$10.00
	Option 3 (Proposed by TOKM)	\$0.95	\$1.05	\$1.05	\$1.05	\$3.00	\$4.00	\$5.00	\$6.00	\$7.00	\$7.00	\$7.00	\$7.00
	Option 4 (Proposed by Sanford)	\$0.95	\$1.05	\$2.00	\$3.00	\$4.00	\$5.00	\$6.00	\$7.00	\$8.00	\$8.00	\$8.00	\$10.00

- The other key change put forward in options 2, 3, and 4 is to increase the interim deemed value rate to 90% of the annual value. This is intended to encourage regular balancing with ACE. There has been little discussion of this aspect in submissions and it was not mentioned in the submission that informed Option 4.

Context

STATUTORY CONSIDERATIONS

8. Section 10 says you must take into account the following information principles when exercising or performing functions, duties or powers under the Act (such as setting deemed values):
 - a) decisions should be based on the best available information;
 - b) decision makers should take into account any uncertainty in the available information;
 - c) decision makers should be cautious when information is uncertain, unreliable, or inadequate; and
 - d) the absence of, or any uncertainty in, any information should not be used as a reason for postponing or failing to take any measure to achieve the purpose of the Act.
9. Section 75(1) of the Act requires you to set annual and interim deemed value rates for all stocks managed under the QMS. When setting these rates, you are required under section 75(2)(a) to take into account the need to provide an incentive for every commercial fisher to acquire or maintain sufficient ACE each fishing year that is not less than the total catch of the stock taken by that commercial fisher.
10. Section 75(2)(b) specifies the matters that you may have regard to when setting deemed value rates for a stock. These are:
 - the desirability of commercial fishers landing catch for which they do not have ACE;
 - the market value of ACE for the stock;
 - the market value of the stock;
 - the economic benefits obtained by the most efficient commercial fisher, licensed fish receiver, retailer, or any other person from the taking, processing, or sale of fish, aquatic life or seaweed;
 - the extent to which catch of that stock has exceeded or is likely to exceed the TACC for the stock in any year; and
 - any other matters that you consider relevant.
11. Section 75(3) specifies that the annual deemed value rate must be greater than the interim deemed value rate. Furthermore, you may choose to set, under section 75(4), differential deemed value rates for specific stocks. Section 75(5) allows you to set different deemed value rates for fish landed in the Chatham Islands, reflecting the unique marketing conditions of those landings. Section 75(6) requires that you should not have regard to personal circumstances or set separate deemed value rates in individual cases. Under section 75(7) you may vary deemed value rates to take effect at the start of the next fishing year. Before setting deemed value rates, you must consult with stakeholders and tangata whenua that have an interest in the stock, as required by section 75A.

THE DEEMED VALUE FRAMEWORK

12. The requirement for commercial fishers to balance catch with (ACE) is a fundamental principle of the Quota Management System (QMS), contributing to both sustainability and utilisation objectives under the Fisheries Act 1996 (the Act). The deemed value framework (see Appendix 1) is an economic tool that incentivises commercial fishers to balance their catch with ACE, while not discouraging them from landing and reporting catch they are unable to balance with ACE. The intent is to protect the long-term value of stocks and to support kaitiakitanga by encouraging the overall commercial catch for each QMS stock not to exceed the available ACE and/or the TACC.
13. Under the deemed value framework, commercial fishers are charged for every kilogram of fish landed in excess of the ACE that they hold or can obtain by the end of the fishing year¹. In most stocks, deemed values follow a ramped differential deemed values schedule². Under this schedule, fishers face higher deemed value rates the further they exceed their ACE holdings.
14. The level at which annual deemed values are set is directly related to economic variables such as operating costs, ACE prices, transaction costs of acquiring ACE, and landed fish prices. When any of these factors change, so do the incentives created by the deemed values. Accordingly, deemed values are reviewed annually and assessed against economic changes to ensure incentives remain effective.
15. The setting of deemed values is critical for ensuring that the correct incentives are in place. Deemed value rates that are set too low may lead to catches in excess of the TACC, which may have negative implications for sustainability and the long-term value of the resource. Conversely, deemed value rates that are set too high may discourage landing and accurate reporting. These types of behaviour undermine sustainability and utilisation objectives.
16. The effectiveness of these incentives is dependent on individual fishers' compliance with landing and reporting requirements, their responses to the incentives provided, and on the impact of other incentives such as those created by market conditions.
17. When commercial fishers are unable to source enough ACE to cover their catch for a particular stock, the deemed value framework provides the flexibility for fishers to either alter their behaviour and fishing practices to reduce the catch of that stock or to pay the deemed value.
18. The deemed value framework does not address the mismatch between ACE availability of target and bycatch species in cases where TACCs might be set incorrectly. MPI recognises that in such situations, deemed values may create incentives to illegally discard fish.

¹ Interim deemed value rates are charged each month to commercial fishers for every kilogram of fish landed in excess of ACE they hold. If the fisher sources enough ACE to cover his or her catch, the interim rates paid are reimbursed. If the fisher does not source enough ACE by the end of the fishing year, the difference between the interim and annual deemed value rates is charged for all catch in excess of ACE. Therefore, the annual rate applies at the end of the fishing year only.

² Differential deemed value rates, if applicable, are also charged at the end of the fishing year if the fisher harvested well in excess of his or her ACE holdings. The table below outlines the standard differential deemed value rate schedule (standard schedule), applicable to most stocks. Differential rates reflect the increasingly detrimental impact of higher levels of over catch on sustainability and on the long term value of the resource, providing stronger incentives to avoid over catch. For vulnerable or rebuilding stocks, a more stringent differential deemed value schedule (e.g. applying from 5% or 10% over catch) may be more appropriate than the standard schedule.

Catch in excess of ACE holdings	0 - 20%	>20%	>40%	>60%	>80%	>100%
Differential deemed value rate as a percentage of the annual deemed value rate	100%	120%	140%	160%	180%	200%

19. Nonetheless, setting of deemed value rates is a separate process from setting TACCs and the adequacy of the TACC is not a matter to be considered when setting deemed value rates.³ Every year MPI identifies and prioritises sustainability concerns and utilisation opportunities or constraints, to address various issues with TACCs, through MPI's annual fisheries planning process.
20. The deemed value rate changes proposed in this paper are aimed at protecting the BNS 3 TACC, regardless of the level at which it is set, by encouraging balancing of catch with ACE while avoiding creating incentives to discard and misreport.

DEEMED VALUE GUIDELINES

21. The practical application of these statutory criteria is developed in the Deemed Value Guidelines (the Guidelines), which are summarised below (see Appendix 1 for full guidelines):
 - deemed value rates should generally be set between the ACE price and the port price;
 - deemed value rates should generally exceed the ACE price by transaction costs;
 - deemed value rates should avoid creating incentives to misreport;
 - deemed value rates for constraining bycatch species may be higher;
 - deemed value rates should generally be set at twice the port price for high value single species fisheries and species subject to international catch limits;
 - deemed value rates for Chatham Island landings may be lower;
 - interim deemed value rates should generally be set at 90% of the annual deemed value rate;
 - differential deemed value rates should generally be set.
22. MPI normally adopts the approach of reviewing deemed value rates of all stocks of a particular species at the same time to ensure consistent and proactive incentives are provided, while taking into account regional differences. This circumstance is beyond the scope of this review.

CURRENT DEEMED VALUE SETTINGS

23. The ability for you to set deemed value rates specific to the Chatham Islands is set out in Section 75(5) of the Act. This ability recognises that the costs of processing on the Chatham Islands can be significantly higher than mainland costs and the need to maintain the viability of the Chatham Island-based fishing infrastructure and industry. There are additional costs involved when dealing with a fresh chilled product like bluenose as there is a significant cost to airfreight finished product from the island.
24. Clause 7 of the Fisheries (Interim and Annual Deemed Values) Notice 2003 (the Notice) provides for specific interim and annual deemed value rates for a number of stocks where these are landed in the Chatham Islands and received by a licensed fish receiver located there. One of those stocks is bluenose (BNS 3).

³ *Pacific Trawling Limited & Independent Fisheries Limited v Minister of Fisheries*, High Court, Napier Registry, 29 August 2008, CIV 2007-441-1016, Priestley J.

25. Deemed value rates applicable to Chatham Islands-based fishers need to be considered on a case by case basis, in light of the relevant economic conditions of each fishery.
26. The current port price across BNS 3 is \$4.82 per kg. The Notice specifies an interim Chatham Islands deemed value rate per kg of \$0.53 and an annual rate of \$1.05 per kg. The standard BNS 3 deemed value rates are \$2.70 per kg (interim) and \$3.00 per kg (annual). The differential paid as the quantity of catch in excess of ACE increases also varies between BNS 3 landed on the Chatham Islands and BNS 3 landed elsewhere. The maximum payable rate for BNS 3 currently landed on the Chatham Islands is \$2.10. The maximum for BNS 3 landed elsewhere is \$10.00.

NEED TO ACT

27. The deemed value framework is designed to incentivise fishers to balance catch against ACE. They are designed to protect the TACC and thereby ensure integrity of the QMS framework. At best they are designed to allow rare and infrequent overcatch of ACE.
28. All bluenose stocks (BNS 1, 2, 3, 7, and 8) are currently considered to be part of one biological population which is the subject of a rebuilding plan. The rebuilding plan is based on a 2011 stock assessment that suggested current abundance was well below legislative target levels. Under the rebuilding plan, catch limits were reduced for all Quota Management Areas in 2011 and again in 2012. The third phase of reductions outlined in the rebuilding plan have been put on hold for the last two fishing years while further work is carried out to update the assessment and status of the fishery.
29. MPI considers that ongoing overcatch of the TACC risks undermining the rebuilding programme for the BNS 3 stock and BNS fishery.
30. Concerns that the lower Chatham Islands deemed value rates make it more economic to target bluenose without obtaining ACE were raised partway through the 2012/13 fishing year. Consultation on options to alter deemed value rates was undertaken, but a decision was deferred to allow for further consultation with parties involved.
31. By the end of the 2012/13 fishing year, reported landings were 43% higher than the TACC for BNS 3. Of this over catch, 72 tonnes of the almost 74 tonnes of catch landed outside of ACE was landed in the Chatham Islands and was attributable to a single company. Deemed values totalling \$793,135.65 were billed.
32. Similar catch patterns are being observed in the current fishing year. To date, catch for the 2013/14 fishing year is similar (slightly lower) than at the same time in 2012/13. As of May 2014, the TACC is already 11% over caught. MPI notes that, this year, landing under deemed values to the Chatham Islands may be proving economically attractive to an increasing number of fishers.

Table 2: Information that informed MPI proposals on deemed value rates

Stock	Catch > TACC 12/13	Catch > Total ACE 12/13	Catch > TACC 13/14 to end May	2014 reported port price/kg ⁴	11/12 ACE price/kg	12/13 deemed value invoices	13/14 interim deemed value invoices to end May
BNS 1				\$6.55	\$1.94	\$28,245.60	\$1,882.80
BNS 2				\$5.55	\$2.36	\$83,055.60	\$66,142.80
BNS 3	43%	43%	11%	\$4.82	\$1.22	\$793,135.65	\$207,964.80
BNS 7	5.6%			\$2.76	\$1.37	\$1,023.30	\$1,071.90
BNS 8				\$6.23	\$1.23	\$10,634.40	\$0.00

⁴ Reported port prices are the average price for green weight fish of each stock reported to be paid to independent fishers by licensed fish receivers (LFRs). These values ignore differences in size, quality and state of fish landed (i.e. fishing method), location of landings, seasonal price variations, deductions that fishers may pay to LFRs from time to time and price differentials for vertically integrated fishing companies. Reported port prices are therefore an indicator of limited reliability. In general, real port prices for average size and quality fish landed in the main ports by independent fishers would tend to be higher than the average prices reported by LFRs.

Consultation

33. Consultation with stakeholders on proposed options occurred during the period 26 May to 25 June 2014. MPI's initial position was to support Option 2 (Table 1). MPI received seven submissions relating to the proposed changes. Submissions were received from:
- Chatham Islands BNS 3 Project Team (Comprising of Ngati Mutunga O Wharerkauri Asset Holding Co Ltd Hokotehi Moriori Trust and Chatham Island Enterprise Trust
(Chatham Island Quota Holdings Ltd and supported by CIFF@44⁰)(BNS3 Project Team)
 - Fisheries Inshore New Zealand
 - Hawkes Bay Seafoods
 - Sanford Limited
 - Southern Inshore Fisheries Management Company Limited
 - Talley's Group Limited
 - Te Ohu Kaimoana
34. The submissions are attached for your information.

Analysis of Options

35. MPI recommends retaining the standard deemed value rates for BNS 3, but making changes to the schedule of rates for BNS 3 landed in the Chatham Islands. Three options (Options 2, 3 & 4) are included for your consideration in addition to a status quo option (Option 1).
36. MPI also recommends that you set an interim deemed value rate in accordance with the deemed value guidelines. The guidelines state that interim deemed value rates should generally be set at 90% of the annual deemed value rates to encourage fishers to balance catch with ACE throughout the year. This proposal has been included in Options 2, 3 & 4 and was supported by TOKM.

		Interim	Annual (including differential for various thresholds of exceeding ACE entitlement)										
			0-5%	5-10%	10-20%	20-30%	30-40%	40-50%	50-60%	60-80%	80-100%	100%-120%	120%<
Standard rates for rest of BNS3		\$2.70	\$3.00	\$4.00	\$5.00	\$6.00	\$7.00	\$8.00	\$9.00	\$10.00	\$10.00	\$10.00	\$10.00
Chatham Islands	Option 1 (Status Quo)	\$0.53	\$1.05	\$1.05	\$1.05	\$1.26	\$1.47	\$1.47	\$1.47	\$1.68	\$1.89	\$2.10	\$2.10
	Option 2 (MPI preferred)	\$0.95	\$1.05	\$1.05	\$1.05	\$3.00	\$4.00	\$5.00	\$6.00	\$7.00	\$7.00	\$7.00	\$10.00
	Option 3	\$0.95	\$1.05	\$1.05	\$1.05	\$3.00	\$4.00	\$5.00	\$6.00	\$7.00	\$7.00	\$7.00	\$7.00
	Option 4	\$0.95	\$1.05	\$2.00	\$3.00	\$4.00	\$5.00	\$6.00	\$7.00	\$8.00	\$8.00	\$8.00	\$10.00

37. Hawkes Bay Seafoods and the BNS 3 Project Team suggest that a deferral of changes to the deemed value rates on the Chatham Island would be consistent with the decision to defer further TACC reductions for bluenose stocks in light of new information suggesting that bluenose was more abundant than predicted.
38. They also submit that the status quo should remain on the basis that there has not been enough time to engage and prove other Island-based initiatives. It is contended that the proposed change to the deemed value is considered ill-timed and undermines the work that the Project Team is currently undertaking. The BNS 3 Quota Management Area covers both Fisheries Management Area 3 (South East) and Fisheries Management Area 4 (Chatham Islands). The BNS 3 Project Team is currently developing proposals to consider splitting the BNS 3 QMA along these boundaries. Should the proposal go ahead a TACC considered appropriate to the BNS 4 area would be set and it is inferred that this would be at a level that would make ACE more available in the area and would reduce the need to make deemed value payments. MPI considers that the potential subdivision of the BNS 3 QMA is outside the scope of this paper.
39. The BNS 3 Project Team also states that as part of the economic development of fishing for the island they have, along with local iwi and imi, supported the introduction of landing a significant proportion of their deepwater ACE on the island for processing and sale. This initiative has provided employment opportunities for local residents and significantly added to the island economy. This has involved the collectively owned ACE of ling in LIN 4 (420 tonnes), school shark in SCH 4 (165 tonnes) and hapuku/bass in HPB 4 (215 tonnes). They consider the lack of availability of BNS 3 ACE to be a significant limiting factor in the development of a long-line fishery. They note that this constraint will be exacerbated by a decision to increase BNS 3 deemed value rates.

40. The remaining five submissions signal support for changes and express the view that it is critical that all parts of the bluenose fishery demonstrate discipline in restraining catch and ensuring the ongoing recovery of this fishery. Talley's Group Limited notes that it has reliable information suggesting that other operators are contemplating landing BNS 3 to the Chatham Islands from 1 October 2014 in order to economically benefit from the discounted deemed value rate. Talley's also considers that fishers can change behaviours to reduce the level of bycatch of bluenose if given the correct incentives. While there is a range of support for change, there is not clear agreement about the specific rates to be set.
41. No submissions specifically supported MPI's initial preferred option which features increased ramping at and above 20% in excess of ACE, aligning with the standard BNS 3 rates at 60%.
42. Option 3 has been put forward by TOKM. While similar to the initial Option 2 in proposing increases at and above 20% in excess of ACE, the rates proposed are lower, fixed at \$3.00 below the standard for BNS 3. This is proposed to better acknowledge the costs of processing on the Chatham Islands and address risks of misreporting. This option provides a more moderate approach to discouraging catch in excess of the TACC. MPI's revised Option 2 adopts the same rates as Option 3 for catch up to 120% in excess of ACE, and then increases the rate.
43. Option 4 is based on suggestions from Sanford Limited to provide a difference of \$2.00 between Chatham Islands and the rest of BNS 3 up until 120% in excess of ACE. This means the rates proposed are higher than the initial Option 2 between 5- 60%, but provides a lower rate up until 120%, suggesting it is at this level that the greatest discouragement is needed.
44. Talley's Group Limited and Southern Inshore Fisheries Management Company Limited submit that lower rates should not be provided for landing BNS 3 to the Chatham Islands. Talley's states that the ability to land to the island and attract discounted deemed values creates an unhealthy incentive for others to take advantage of these conditions. MPI has not included this as an option given it ignores the real cost differentials associated with landing fish to the Chatham Islands and would therefore place Chatham Islands operations at a disadvantage compared to mainland processors.

MPI ANALYSIS

45. The deemed value framework is intended to allow for rare and infrequent over catch of ACE. The deemed values should be set at a level to remove the majority of financial benefit associated with landing catch without ACE without encouraging misreporting.
46. The Act enables you to recognise the particular economic characteristics associated with Chatham Island fisheries by setting a different deemed value rate for fish landed to the Chatham Islands. This provision recognises that there are different costs (most particularly linked to the costs of transport of product to markets) associated with Chatham Islands fisheries products. Bluenose is a high value product if it can be landed fresh to market. Improved transport from the Chatham Islands and direct market links may have created increased opportunity for economic return to be gained from landing fish to the islands for processing and exporting as fresh product.
47. The over catch of the BNS 3 TACC is attributable to fish landed to the Chatham Islands. The majority of over catch has come from one company, however, anecdotal

information from submitters suggests that other fishers may begin landing BNS to the Chatham Islands to take advantage of the current deemed value regime. This suggests that the deemed value regime may not be operating to incentivise landing of catch against ACE and that fishers may be able to extract economic return from landing product there and paying deemed values.

48. MPI acknowledges that bluenose is taken in association with the long-line fishery on the Chatham Islands and that fishers may have some difficulty avoiding bluenose when targeting other associated species. Equally, it is possible that some level of targeting of bluenose may be occurring with the lower deemed values providing opportunity to extract benefit from high value fresh product despite the transport costs involved in getting this product to market. The economic implications of the development of a long line fishery for the Chatham Islands are a matter that MPI will discuss in more detail with the BNS 3 Project Team. However, this does not override the need to ensure that the rebuild of BNS 3 is not compromised in the short term.
49. Overall, MPI supports adjusting the existing deemed value rates because:
 - i. The existing level of over catch is well beyond what could reasonably be considered rare and infrequent;
 - ii. BNS 3 is part of the wider bluenose rebuilding plan and over catch at the current level could put the rebuilding plan at risk;
 - iii. The existing deemed value rates are not effectively encouraging fishers to balance catch against ACE.
50. If you accept that adjustments should be made to the deemed value rates for BNS 3, the second matter is to decide what those rates should be. MPI has no definitive information on the different costs associated with bluenose landed to the Chatham Islands relative to other bluenose fisheries. Te Ohu Kaimoana has provided some information on relative costs in its submission, but MPI is unable to verify this information.

Conclusion

51. MPI does not support complete removal of the different rates between the Chatham Islands and elsewhere. There is a difference in costs associated with landing catch to the Chatham Islands and the Act provides you the opportunity to recognise this cost differential. Removing the difference entirely would penalise the fishing operations on the Chatham Islands relative to other fishers of BNS 3 and would arguably be contrary to the intent of s 75(5) of the Act which seeks, in part, to incentivise the development of fishing activities on the Chatham Islands. All of the proposed options, other than the status quo, propose significant changes to the deemed value rates. Differences between the options relate to the rate of increase in the deemed value for different levels of over catch and the maximum deemed value.
52. MPI supports Option 2, as revised in this final advice following consultation. MPI's preferred option (see Table 1, Option 2) proposes adjusted rates that are \$3.00 below the rest of BNS 3 for over catch greater than 20% of ACE (as recommended in the Te Ohu Kaimoana proposal, Option 3), but that align with the rest of BNS 3 at 120% in excess of ACE (as recommended in the Sanford proposal, Option 4). These proposed rates are designed to ramp deemed values upwards for increasing over catch to the point where fishers are paying the same for bluenose landed to the Chatham Islands as elsewhere if they over catch ACE by 120%.
53. This is a significant change that will impact immediately on Chatham Island fishers and those landing BNS to the Chatham Islands. However, MPI considers that Option 2 provides the best balance between protecting the BNS 3 TACC, regardless of the level at which it is set, by encouraging balancing of catch with ACE, and avoiding creating incentives to discard and misreport bluenose catch. The revised option places greater weight on the economics of landing fish on the Chatham Islands, as outlined in a number of submissions, by lowering the DV that would be paid up until 120% above the level of ACE. MPI consider fishers should face higher DV rates above 120% in order to prevent significant levels of overcatch.
54. MPI notes that under all options, monitoring will continue and you could look to review the deemed values again should catch not be adequately constrained within the TACC.

RECOMMENDATIONS

55. MPI recommends that you either:

Option 1 (*Status quo*)

Agreed/ Not Agreed

Agree to the deemed value schedule for BNS3 landed to the Chatham Islands as specified in Option 1.

OR

Option 2 (*MPI's preferred option*)

Agreed/ Not Agreed

Agree to the deemed value schedule for BNS3 landed to the Chatham Islands as specified in Option 2.

OR

Option 3 (*Te Ohu Kaimoana's proposed option*)

Agreed/ Not Agreed

Agree to the deemed value schedule for BNS3 landed to the Chatham Islands as specified in Option 3.

OR

Option 4 (*Sanford proposed option*)

Agreed/ Not Agreed

Agree to the deemed value schedule for BNS3 landed to the Chatham Islands as specified in Option 4.

Scott Gallacher
Deputy Director-General
Regulation and Assurance
for Director-General

Hon Nathan Guy
Minister for Primary Industries

/ / 2014

Appendix 1: Deemed Value Guidelines

SUMMARY

Goal	<i>To set deemed value rates that create an effective incentive for individual commercial fishers to balance catch with Annual Catch Entitlement and for the overall catch to remain at or below the total available Annual Catch Entitlement in any one year.⁵</i>
Performance Measures	<ul style="list-style-type: none">• The number of stocks over-caught and the level of over-catch per stock per fishing year.• The percentage of catch for each stock for which catch is not balanced with Annual Catch Entitlement (ACE).• The ratio of the total deemed value payments to the value of quota (at a general and stock level) – the target in relation to this indicator is less than 0.1% of the value of quota in any fishing year.
Principle 1	<p>Deemed value rates must generally be set between the ACE price and the landed price:</p> <ul style="list-style-type: none">• when deemed value rates are below the ACE price: increase deemed value rates to a level above the ACE price and below landed price to provide an incentive to balance catch with ACE; and• when deemed value rates are above the landed price: decrease deemed value rates to a level between ACE price and landed price to provide an incentive not to discard illegally.
Principle 2	<p>Deemed value rates must generally exceed the ACE price by transactions costs.</p> <p>Deemed value rates must be generally set at least at the greater of:</p> <ul style="list-style-type: none">• 20% above the 90th percentile ACE price; or• \$0.10 per kg above the 90th percentile ACE price.
Principle 3	Deemed value rates must avoid creating incentives to misreport.
Principle 4	Deemed value rates for constraining bycatch species may be higher.

⁵ For the majority of stocks, the total available Annual Catch Entitlement (ACE) may exceed the Total Allowable Commercial Catch (TACC) in any one year due to under-fishing entitlements, where 10% of the un-fished ACE from one year is carried forward to the following year. Furthermore, for some stocks, in-season increases to the catch limit generate additional ACE in a particular year while the TACC remains unchanged. This is why the goal is for landed catch to remain within the total available ACE rather than within the TACC.

Principle 5 Deemed value rates must generally be set at twice the landed price for high value single species fisheries and species subject to international catch limits.

Principle 6 Deemed value rates for Chatham Island landings may be lower.

Principle 7 Interim deemed value rates must generally be set at 90% of the annual deemed value rate.

Principle 8 Differential deemed value rates must generally be set:

- Standard differential deemed value rate schedule for most stocks

Catch in excess of ACE holdings	Differential deemed value rate as a percentage of the annual deemed value rate
0–20%	100%
> 20%	120%
> 40%	140%
> 60%	160%
> 80%	180%
> 100%	200%

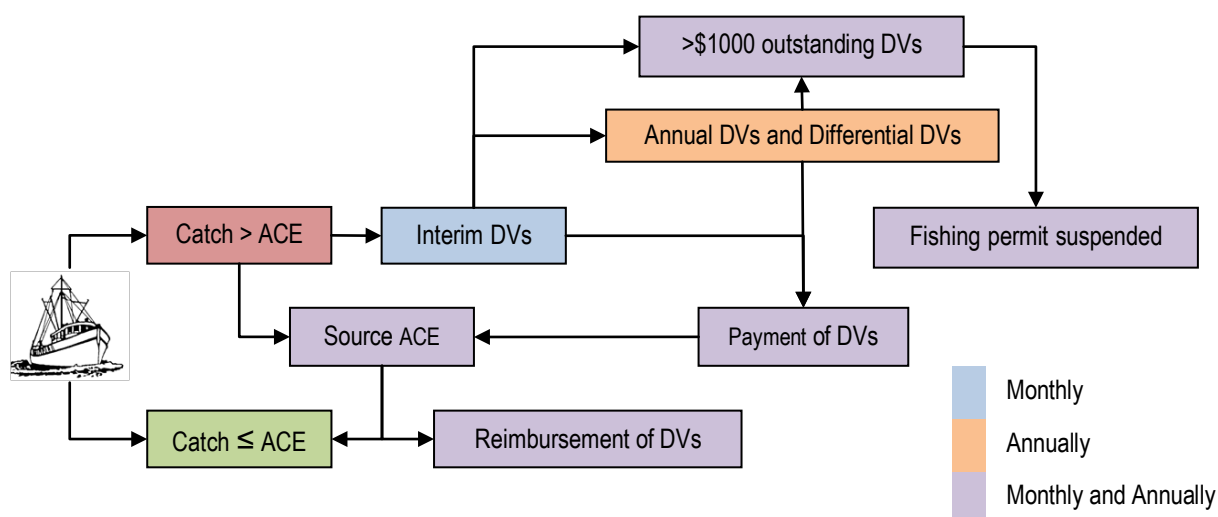
- Differential deemed value rate schedule for low value, low TACC stocks

Catch in excess of ACE holdings	Differential deemed value rate as a percentage of the annual deemed value rate
0–100%	100%
>100%	150%
>200%	200%

- Stringent differential deemed value rate schedules for highly vulnerable stocks or rebuilding stocks.

The deemed value framework and the role of these Guidelines

Sustainability objectives are achieved when deemed value rates encourage fishers to balance catch with available ACE and in doing so, seek to constrain harvesting to the Total Allowable Commercial Catch (TACC), or, where applicable, the total available ACE. Catches in excess of TACCs/total available ACE may affect the sustainability of stocks and may undermine the long-term value of the resource and kaitiakitanga. The deemed value framework is illustrated in the figure below.⁶



The *Deemed Value Guidelines* set out an operational policy to inform the advice that the Ministry for Primary Industries (MPI) provides to the Minister for Primary Industries (the Minister) on setting deemed value rates.

⁶ Interim deemed value rates are charged each month to fishers for every kilogram of fish landed in excess of their ACE holdings. If the fisher sources enough ACE to cover his or her catch by the end of the fishing year, the interim rates paid are reimbursed. If the fisher does not source enough ACE by the end of the fishing year, the difference between the interim and annual deemed value rates is charged for all catch in excess of ACE; the annual rate applies at the end of the fishing year. Differential deemed value rates, if applicable, are also charged at the end of the fishing year if the fisher harvested well in excess of his or her ACE holdings. For example, differential deemed value rates are charged for catch more than 20% in excess of ACE, when the standard differential deemed value rate schedule applies. Differential rates reflect the increasingly detrimental impact of higher levels of over-catch on sustainability and utilisation objectives.

The legal context

Section 75 of the Fisheries Act 1996 (the Act), provides the statutory framework for setting deemed values. That section requires the Minister to set deemed value rates for QMS stocks and sets out the matters the Minister must consider when doing so.

Within the statutory framework, the Minister has considerable discretion when setting deemed value rates. The *Guidelines* are a statement of how MPI will use the criteria in the statute to develop its advice to the Minister on deemed value rates. The *Guidelines* do not bind the Minister. When making decisions on deemed value rates, the Minister uses the statutory criteria in making decisions and can act within the bounds of the statute, notwithstanding the *Guidelines*.

Under section 75(2)(a), the Minister must consider whether deemed value rates are set at levels that provide an incentive to balance catch with ACE. Once the Minister has considered the issues that arise as mandatory considerations, she/he may also consider the discretionary criteria under section 75(2)(b):

- a) the desirability of commercial fishers landing catch for which they do not have ACE;
- b) the market value of ACE for the stock;
- c) the market value of the stock;
- d) the economic benefits obtained by the most efficient commercial fisher, licensed fish receiver, retailer, or any other person from the taking, processing, or sale of fish, aquatic life or seaweed;
- e) the extent to which catch of that stock has exceeded or is likely to exceed the TACC for the stock in any year; and
- f) any other matters that the Minister considers relevant.

GOAL AND MEASURES OF PERFORMANCE

Goal

The goal of the *Guidelines* is to outline principles to *set deemed value rates that create an effective incentive for individual fishers to balance catch with Annual Catch Entitlement and for the overall catch to remain at or below the total Annual Catch Entitlement available in any one year.*⁷

Measuring Performance

In light of this goal, the performance of the deemed value framework will be measured using the following indicators:

- the number of stocks over-caught and the level of over-catch per stock per fishing year;
- the percentage of catch for each stock for which catch is not balanced with ACE; and

⁷ For the majority of stocks, the total available ACE may exceed the TACC in any one year due to under-fishing entitlements, where 10% of the un-fished ACE from one year is carried forward to the following year. Furthermore, for some stocks, in-season increases to the catch limit generate additional ACE in a particular year while the TACC remains unchanged. This is why the goal is for landed catch to remain within the total available ACE rather than within the TACC.

- the ratio of the total deemed value payments to the value of quota (at a general and stock level) – the target in relation to this indicator is less than 0.1% of the value of quota in any fishing year.

MPI will also use these performance indicators where applicable, in addition to other relevant information such as landed price changes, to identify stocks for which a deemed value rate review may be necessary. Which stocks to review deemed value rates for will be determined in discussion with tangata whenua, industry representatives and other stakeholders within the fisheries planning processes for inshore, deepwater and highly migratory species fisheries.

PRINCIPLES FOR SETTING DEEMED VALUE RATES

Deemed values are economic tools. They provide economic incentives and disincentives which are directly related to other economic variables such as operating costs, ACE prices, transaction costs of acquiring ACE, and landed fish prices. When any of these factors change the incentives created by deemed values also change. Accordingly, deemed value rate changes will generally be small, relatively frequent adjustments consistent with economic changes rather than significant occasional changes. The effectiveness of deemed values is dependent on individual commercial fishers' compliance with landing and reporting requirements, their responses to the incentives provided and on the impact of other incentives such as those created by market conditions.

MPI will use the following principles to assess stocks for which to review deemed value rates and to guide the development of its advice to the Minister on deemed value rates. These principles recognise the various economic incentives that commercial fishers face and give effect to the Minister's obligations under section 75 of the Act.

Principle 1: Deemed value rates must generally be set between the ACE price and the landed price

A deemed value rate above the ACE price and below landed price generally provides the correct incentives. The following actions will create the correct incentives for commercial fishers to acquire ACE to cover their catch:

- when deemed value rates are below the ACE price: increase deemed value rates to a level above the ACE price and below landed price to provide an incentive to balance catch with ACE; and
- when deemed value rates are above the landed price: decrease deemed value rates to a level between ACE price and landed price to provide an incentive not to discard illegally.

Because ACE for some stocks is traded infrequently, the available information on ACE price may be inadequate. When there is evidence of intentional fishing on deemed values, MPI will assume that the fisher could not acquire ACE at less than the deemed value rate and that the price of ACE should be assumed to be above the deemed value rate. MPI will generally recommend increases in the deemed value rate in this circumstance.

In certain circumstances (including some described below) it may be appropriate to depart from this principle. MPI will outline this to the Minister on a case-by-case basis.

Principle 2: Deemed value rates must generally exceed the ACE price by transaction costs

If ACE price is close to the deemed value rate there may be an incentive for fishers to pay the deemed value instead of acquiring ACE to balance their catch to avoid the transaction costs involved in making an ACE trade (for example, transfer registration fee, time, brokerage fees).

ACE prices vary as other economic factors, such as the price of fish, exchange rates, and fuel prices, vary. Deemed value rates should generally be set at least 20 percent above the 90th percentile ACE price. This is to ensure that the ACE price used is representative of the majority of market trades and that the difference between the deemed value rate and the ACE price is sufficient to create an effective incentive. This reference point should be used for setting deemed value rates for most stocks.

However, for relatively low value species (for example, where the ACE price is less than \$0.15 per kilogram) 20 percent above the ACE price will not cover transaction costs for most trades. A second reference point that is a minimum amount per kilogram above the ACE price should be used. It is assumed that total transaction costs are approximately \$100.00 per ACE transaction and that fishers would source ACE instead of paying deemed values for landings greater than 1 tonne. Therefore, the transaction cost would be \$0.10 per kg, if the \$100.00 transaction costs are spread over 1 tonne.

Therefore, deemed value rates should be generally set at least at the greater of:

- 20 percent above the 90th percentile ACE price; or
- \$0.10 per kg above the 90th percentile ACE price.

In certain circumstances it may be appropriate to depart from this principle. MPI will outline this to the Minister on a case-by-case basis.

Principle 3: Deemed value rates must avoid creating incentives to misreport

When two adjacent Quota Management Areas (QMAs) for the same species have substantially different deemed value rates, there may be an incentive to misreport the QMA in which the fish was taken in order to benefit from a lower deemed value rate. The impact of differences in deemed value rates across QMAs are important considerations. For most species, prices across adjacent QMAs are likely to be similar, because arbitrage in markets will result in movements of fish to equalise prices. Because the upper bound on deemed value rates in most circumstances is landed price, the upper bound for adjacent QMAs will often be similar. Thus, setting the same or very similar deemed value rates across different QMAs is often likely to be feasible.

There are reasons to consider more uniform deemed value rates across QMAs, but these reasons must be weighed against other considerations on a case-by-case basis. There are regional differences in the prices of some species and these differences must also be considered when setting deemed value rates.

For the avoidance of doubt, in the case of the Kermadec Fishery Management Area (FMA10), deemed value rates should be set at the highest annual deemed value rate applicable in the Auckland and Central Fishery Management Areas (FMA1 or FMA2) for the relevant species.

Likewise, for very similar yet different species, it may be appropriate to consider setting the same or very similar deemed value rates to avoid creating any incentives for species misreporting.

Principle 4: Deemed value rates for constraining bycatch species may be higher

An important exception to Principle 1 occurs in some cases when a relatively low value species is taken as bycatch in a multi-species fishery. In such cases, the catch of that bycatch species may constrain the ability to catch the target species.

In this case, the bycatch species is said to have a “shadow value” greater than landed price, reflecting its value in allowing greater catches of target species in the overall fisheries complex. When the shadow value is high, the deemed value rate that will encourage catch to remain within the total available ACE/TACC may exceed the landed price.

When the ACE price and the deemed value rate are above the landed price, incentives to illegally discard are created. This may be an inevitable result of providing appropriate incentives under section 75(2)(a) for fishers to acquire ACE to cover their catches. It may be necessary to rely on compliance and enforcement tools to prevent illegal discarding when this occurs. The application of this principle will be considered on a case-by-case basis.

Principle 5: Deemed value rates must generally be set at twice the landed price for high value single species fisheries and for species subject to international catch limits

The appropriate incentive for high value single species fisheries (that is, with no or minimal bycatch) is to provide a very strong incentive to catch only the amount for which fishers have ACE. This has been accomplished by setting the annual deemed value rate at approximately twice the landed price. This principle has also been applied to southern bluefin tuna, which is subject to an international catch allocation.

Under such a deemed value rate, a fisher would suffer a large loss on any catches in excess of ACE. By setting the deemed value rate at twice the landed price, it is very unlikely that any incentive would arise to land catch in excess of ACE, even if landed prices increase significantly during a fishing year. This is consistent with section 75(2)(a) as it provides a strong disincentive against catches in excess of ACE. In addition to southern bluefin tuna, this setting has been applied to all rock lobster stocks, to all paua stocks and to all deepwater clam stocks. The application of this principle to other stocks needs to be considered on a case-by-case basis.

Principle 6: Deemed value rates for Chatham Island landings may be lower

Under section 75(5), the Minister may set deemed value rates for Chatham Islands-based commercial fishers for fish landed to a licensed fish receiver in the Chatham Islands that are different from deemed value rates applicable to fish from the same stock landed elsewhere. The price for fish landed in the Chatham Islands is generally lower than the price for the same species landed elsewhere because of the higher cost of transporting fish to markets. Therefore, there may be reasons to set different deemed value rates for the Chatham Islands.

For many stocks, the deemed value rates for the Chatham Islands has been set at about 50 percent of the deemed value rate applicable elsewhere in the same QMA. No strict procedures are appropriate. Instead deemed value rates applicable to Chatham Islands-based fishers need to be considered on a case by case basis, in light of the relevant economic conditions of each fishery.

Principle 7: Interim deemed value rates must generally be set at 90% of the annual deemed value rate

Interim deemed value rates should usually be set at 90 percent of the annual rate. If the interim deemed value is below the ACE price, fishers have an incentive to delay acquiring ACE. The result can be to delay the balancing of catch until the end of the fishing year. This may lead to a race for ACE and insufficient ACE to cover all catch and thereby potentially contribute to the TACC/total available ACE being exceeded.

There may be stock-specific reasons to set interim deemed value rates at some percentage other than 90 percent of the annual rate in some cases. These will be considered when appropriate.

Principle 8: Differential deemed value rates must generally be set

Differential deemed value rates reflect the increasingly detrimental impact of higher levels of over-catch on sustainability and utilisation objectives. Therefore, differential deemed value rates should generally apply to all stocks, although exceptions to this principle will be considered on a case by case basis. In developing its advice, MPI will propose to use differential deemed value rates flexibly to achieve the management goals for different fisheries.

Different differential deemed value rate settings are appropriate for different fisheries. This will be considered on a case by case basis, but for most stocks MPI will advise the Minister to set differential deemed value rates according to the following schedules:

Standard differential deemed value rate schedule for most stocks

For most stocks, MPI will recommend the use of a standard differential deemed value rate schedule (standard schedule), as set out in Table 1.

Table 1: Standard differential deemed value rate schedule

Catch in excess of ACE holdings	Differential deemed value rate as a percentage of the annual deemed value rate
0 - 20 %	100 %
> 20 %	120 %
> 40 %	140 %
> 60 %	160 %
> 80 %	180 %
> 100 %	200 %

Differential deemed value rates for low value, low TACC stocks

The QMS provides for a number of stocks for which targeted fishing does not occur and low TACCs are set to account for occasional, small unintended bycatch. The standard differential deemed value schedule is not appropriate for these stocks. However, deliberate over-catching of these stocks on deemed values is not appropriate either.

The general principle for these stocks is unchanged: differential deemed values should reflect a qualitative assessment of the sustainability risk of over-catching. Higher levels of over-catch may be less of a concern for these stocks than similar levels of over-catch for larger and more

valuable stocks. The low TACC and relatively high variability mean that high levels of over-catch will frequently occur as a matter of chance. As a starting point, MPI will consider recommending the following differential deemed value structure for these stocks:

Table 2: Differential deemed value rate schedule for low value, low TACC stocks

Catch in excess of ACE holdings	Differential deemed value rate as a percentage of the annual deemed value rate
0-100%	100%
>100%	150%
>200%	200%

MPI may recommend alternative schedules for low value, low TACC stocks in some circumstances.

Stringent differential deemed value rate schedules for highly vulnerable or rebuilding stocks

Stringent differential deemed value rate schedules are applied to some stocks where utilisation and sustainability objectives are best met by providing very strong incentives for catch to not exceed ACE. This may be the case when the TACC is set very close to the sustainable limit or for highly vulnerable or rebuilding stocks. The exact structure of the schedule will be tailored to the stock in question. For example, the first differential step may reflect an assessment of how much a fisher acting with ordinary care might exceed his or her ACE holdings in their last tow of the season.

APPENDIX 2: SUBMISSIONS

- Chatham Islands BNS 3 Project Team (Comprising of Ngati Mutunga O Wharerkauri Asset Holding Co Ltd Hokotehi Moriori Trust and Chatham Island Enterprise Trust (Chatham Island Quota Holdings Ltd and supported by CIFF@440)(BNS3PT)
- Fisheries Inshore New Zealand (FINZ)
- Hawkes Bay Seafoods (HBS)
- Sanford Limited (Sanford)
- Southern Inshore Fisheries Management Company Limited (SIFMC)
- Talley's Group Limited (TGL)
- Te Ohu Kaimoana (TOKM)

CHATHAM ISLANDS BNS3 PROJECT TEAM

Date: 25 June 2014

Re: Review of Deemed Value Rates for Bluenose 3 Landed in the Chatham Islands – MPI Discussion Paper No: 2014/16 – May 2014

- Introduction**
- 1 This submission on the above review is made by a Project Team that has been established to resolve issues associated with the Chatham Islands component of the bluenose 3 fishery (BNS3). The project is funded by the Chatham Islands Enterprise Trust, the Hokotehi Moriori Trust and Ngati Mutunga o Wharekauri Asset Holding Company Limited (a wholly owned subsidiary of Ngati Mutunga o Wharekauri Iwi Trust).
- 2 Importantly, and of essence to this submission, the Project Team was established following the Minister of Primary Industries' decisions on sustainability measures and other management controls for 1 October 2013, specifically in relation to the Chatham Islands component of the BNS3 fishery.
- 3 The Minister noted then (i.e. September 2013) that there had been over-catch in BNS3 during the 2012-13 fishing-year. This led the Minister to write *"I am cautious about making amendments to the special provisions relating to the Chatham Islands which were carefully developed to reflect the unique economics associated with the Island fishery to benefit Chatham Island fishers"*. The impetus for the BNS3 Project Team being established is found in the following challenge that was issued by the Minister as part of his decisions in September 2013¹: ***"I believe there is opportunity for industry on the Islands to resolve this issue"*** ... (emphasis added).
- 4 The Project Team asserts that on one hand the Minister is looking for the Chatham Islands itself to look at the management of the BNS3 fishery yet, on the other hand, MPI has pre-empted the Project Team's deliberations. On that basis, the Project Team believes the proposals, to increase deemed value rates for bluenose landed in the Chatham Islands, are ill-timed and undermine the Project's work. In short, why ask the Chatham Islands to work to resolve issues associated with its BNS3 fishery and then attempt to radically overhaul a component of the fisheries management? In effect, MPI has undermined the Project Team's work with its review of deemed values for bluenose landed in the Chatham Islands.

¹ In relation to the BNS3 fishery.

**General
Comments**

5 The Project Team has developed a project plan and has approved funding for the project. The scope of the project is not just limited to reviewing deemed value rates but encompasses all elements of the fisheries management including, potentially, the creation of a separate bluenose quota management area for the Chatham Islands. (While the Chatham Islands had island-specific quota management areas created for several fin-fish stocks when the quota management system was introduced in 1986, bluenose was not one of those stocks.)

6 The Project Team notes that on the recommendation of the Minister (for Primary Industries) the Governor-General may alter a quota management area. This course of action requires 75% agreement by those who own quota shares for the stock in question. However, under s 25B of the *Fisheries Act 1996*, this level of agreement is not required if the Minister has approved a plan that provides for certain matters. Such matters include:

- i) the boundaries of the proposed quota management area
- ii) the species that comprise the stock or stocks after the alteration
- iii) the manner in which quota shares are to apportioned after the alteration.

7 The Fisheries Act imposes other requirements before recommending the alteration of a quota management area under this section of the Act (s 25B). For the purpose of this submission, however, the Project Team is considering all elements of how the fishery is managed; i.e. not just looking at altering the quota management area.

8 While the Project Team acknowledges MPI's view that the setting of deemed value rates is a separate process from setting TACCs, the team asserts that the two processes are intrinsically linked.

9 In the case of BNS3 there is insufficient ACE to cover current catch. Catch rates, for several years, strongly indicate that the abundance of bluenose around the Chatham Islands has been underestimated.

10 Rather than attack the 'problem' through increasing deemed value rates, the Project Team asks what stock assessment has been carried out or is planned to assess whether the current TACC is too high, too low or just right? Certainly there has been a rebuild plan for all bluenose stocks, but the Minister just last year acknowledged that *"new information suggests that stocks may be more abundant than previously predicted and I consider it important to get more information to better understand what is happening with the bluenose fisheries"*. Consequently he delayed further reductions. In doing so, he wrote *"the*

delay does provide time for the information to be properly considered by the Science Working Group and the stock assessment to be updated. This will help inform future decisions about bluenose catch limits".

11 While waiting for this information and in order to inform the work of the Project Team, the Team is prepared to fund a rapid CPUE analysis on BNS3 data MPI holds on catch effort related to statistical areas that encompass the Chatham Islands (49 – 52). Again, this demonstrates the importance the Project Team is giving to finding solutions to the issues associated with the management of the Chatham Islands component of the BNS3 fishery.

12 Given the suggestion of increased abundance, the Project Team asserts that there is no immediate sustainability crisis. However, there will be an immediate economic impact if the deemed value rates are increased. On this basis alone the Project Team argues that any decision to increase deemed value rates must be deferred.

13 Furthermore, if, as the Minister says, it's important to get more information, where is it and why isn't the information being applied holistically rather than, to quote the Minister, undermining the intent of the special provisions that were carefully developed to reflect the unique economics associated with the Island fishery to benefit Chatham Island fishers? And, as noted in paragraph 11, the Chatham Islands is being proactive in its willingness to fund targeted CPUE analysis on BNS3 catch effort associated with statistical areas 49 – 52.

14 A further important consideration is the pending treaty negotiations with Hokotehi Moriori and Ngati Mutunga o Wharekauri. While the Project Team acknowledges that the 1992 fisheries settlement was 'full and final', there is an argument around over-riding equity and fairness around BNS3 not only to imi and iwi but also to the wider Chatham Islands. In terms of bluenose and the allocation of quota, the Chatham Islands should have been given an equitable share of a species that is found in all four statistical areas that encompass the Chathams. And so the management of bluenose and the creation of a quota management area that recognises this local abundance may well be part of these negotiations. Anything that undermines this conversation should be avoided.

15 Again, the current proposals undermine the special provisions relating to the Chatham Islands that were developed to reflect the unique economics for the benefit of Chatham Islands fishers. The Project Team points out that these include imi and iwi fishers.

Summary

16 The BNS3 Chatham Islands Project Team has been established at the behest of the Minister. The Minister has acknowledged that bluenose stocks may be more abundant than previously thought and, in September 2013, was seeking more information to better understand what is happening to the fishery. Yet, it would appear that rather than use this information and while the BNS3 Project Team is taking a holistic approach to the management of the BNS3 fishery, MPI has chosen to focus on one element of the fishery's management. Furthermore, MPI has ignored the Minister's recent comments that he is cautious about making amendments to the special provisions relating to the Chatham Islands.

17 Finally, when setting deemed value rates, the Minister may have regard to several specific matters but he is not precluded from considering "*any other matters that the Minister considers relevant*" ... s 75(2)(b)(vi) of the Fisheries Act. The BNS3 Project Team is of the view that its work in reviewing the bluenose fishery, as suggested by the Minister, is a matter that the Minister should consider as being relevant. And, therefore, should delay any decision that affects the management of the BNS3 fishery until such time as the Project Team has completed its work and the Science Working Group has considered the new information that, in September 2013, was just to hand.

Remedy Sought

18 The BNS3 Project Team requires time to deliberate and fully consider all information related to the BNS3 fishery. This includes what will become available as a result of the stock assessment process and the CPUE catch effort analysis the Team is prepared to fund, before it recommends any particular course of action.

19 The Project Team, therefore, seeks a 'stay in proceedings' and that the proposed increases in deemed value rates for bluenose landed in the Chatham Islands be halted until the Project Team has completed its work, as mooted by the Minister, to resolve issues associated with the BNS3 fishery.

Submission Ends

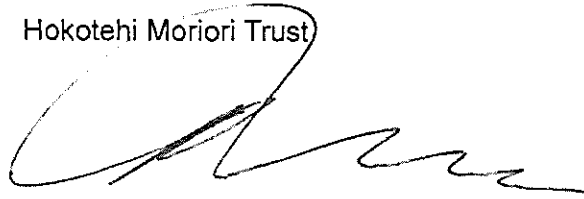
Hagfish

Management measures relating to the introduction of the common Hagfish into the QMS on 1 October 2014

The Project Team has also taken the opportunity to consider the above-titled Initial Position Paper. The Team, representing the Chatham Islands Enterprise Trust, the Hokotehi Moriori Trust and Ngati Mutunga o Wharekauri, and the above supporting parties, support the introduction of common hagfish into the quota management system. The introduction, however, on the basis of a separate quota management area for the Chatham Islands and an introductory TAC of 112 t (a TACC of 100t). The parties also endorse adding common hagfish to Schedule 6 of the *Fisheries Act 1996*, whereby the species can be returned to the sea if likely to survive.

Signed for
and on
behalf of:

Hokotehi Moriori Trust



Ngati Mutunga o Wharekauri Asset Holding Company Limited

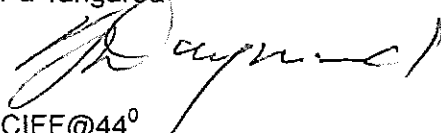


Chatham Islands Enterprise Trust

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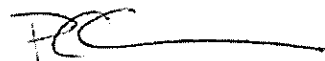
Submission
supported
by:

Pa Tangaroa



CIFF@44⁰

A.R. Blough



FISHERIES INSHORE NEW ZEALAND'S SUBMISSION ON DEEMED VALUES APPLYING TO THE BLUENOSE 3 FISHSTOCK

Introduction

1. This submission has been developed by Fisheries Inshore New Zealand (FINZ) on behalf of its bluenose (BNS) quota owners, particularly BNS3, but also members that hold BNS quota in all other Quota Management Areas (QMAs) and their supporting industry organisations.
2. It responds to the Ministry for Primary Industries (MPI) paper 2014/16 that addresses deemed values (DVs) for BNS3 from 1 October 2014.
3. FINZ appreciates that MPI is again considering this issue and is proposing changed DVs for BNS3 where that fishstock is landed into the Chatham Islands. FINZ notes that MPI has provided sufficient time for all of industry to provide its views and appreciates the opportunity to do so.

Who are we?

4. FINZ is the Sector Representative Entity (SRE) for inshore finfish, pelagic and tuna fisheries of New Zealand. It was formed in November 2012 as part of the restructuring of industry organisations. It currently has 150 members with more than 120 quota owners (representing more than 77% of quota-shares by value and volume) and 30 fishers, and its membership continues to increase. Twenty seven of its quota owner members own BNS3 quota.
5. FINZ role is to deal with national issues on behalf of the sector and to work directly with and behalf of its quota owners, fishers and affiliated Commercial Stakeholder Organisations (CSOs). As part of that, it will also works collaboratively with other industry organisations and SREs, Seafood New Zealand, Ministry for Primary Industries (MPI) and Department of Conservation. Its key outputs are the development of, and agreement to, appropriate policy frameworks, processes and tools to assist the sector to more effectively manage inshore, pelagic and tuna fishstocks, to minimise their interactions with the associated ecosystems and work positively with other fishers and users of marine space where we carry out our harvesting activities.
6. Responsibility for the implementing these policies, processes and tools falls naturally on quota owners, fishers and CSOs who collectively choose the best ways to deal with particular issues in their region. CSOs will generally deal with all matters pertaining to fishstocks in their region. FINZ has the mandate to support this work where requested but does not have the ability to take on this work except where the fishery is managed as a single stock across the country. In that instance FINZ must work with all the relevant quota owners, fishers and CSOs in developing appropriate measures and submissions.

Bluenose Fisheries

7. Bluenose is assessed as if it is a single stock across New Zealand. MPI recommends consistent decisions to ensure sustainability of the stock though these must still be applied at an individual QMA level. The 'single stock, managed consistently' provides FINZ with the responsibility to respond to the IPP on behalf of industry. FINZ primary responsibility to its members and other BNS quota owners is to ensure that, through the combination of measures (TACC and the application of deemed values for the various stocks), the fishery is sustainable and the level of utilisation is able to be maximised without comprising that sustainability.
8. As MPI is aware, in 2012-13 FINZ (on behalf of BNS quota owners) undertook additional CPUE analysis that showed that across all QMAs, the CPUE was increasing suggesting the BNS fishery

was in better heart than the 2011 analysis suggested. It also demonstrated that continuing the TACC in 2013-14 at the same overall TACC across all QMAs (of 1,100 tonnes) would not compromise the recovery of the BNS fishery. As part of its submission on maintaining the TACCs industry through FINZ undertook to carry out further analysis in 2013-14 on CPUE and begin sampling of catch (that could over time better demonstrate whether it is one BNS fishery or several that are for reasons not currently understood displaying the same response). Industry also committed to develop, through a Management Strategy Evaluation, more robust rules for the management of the fishery/ies that better ensure sustainability.

9. The Minister agreed to maintain the TACCs for 2013-14 at the 2012-13 levels and FINZ has, on behalf of all BNS quota owners and fishers, contracted Trident to ensure that the work is undertaken. The updated CPUE analysis was brought to the Inshore Stock Assessment Working Group this year and it concluded that the work was sound and that the increased CPUE was sustained suggesting the fishery is continuing to recover. This has meant that the TACCs for 2014-15 can also continue at the same levels as 2013-14.
10. FINZ has contracted Trident to coordinate and arrange suitable sampling of the catch across all QMAs and methods to ensure comprehensive representative sampling. Trident has been working with fishers and LFRs to train personnel in the techniques and processes and it is expected this will be complete so that sampling in the 2014-15 year will be comprehensive.
11. In addition, Trident will be working with quota owners and fishers and MPI to gain agreement through the MPE analysis to suitable management rules and associated monitoring to better manage the fishery. This is due to be concluded this calendar year.

Deemed value for fish landed into Chatham Islands

12. At present the fishery is managed through the different QMAs but as if it is one stock. For the fishery to recover within a suitable timeframe, all BNS fishstocks are subject to a rebuilding regime. It is critical that the actual catch for all BNS fishstocks in each QMA remains within the limits set by the Minister (or within a close tolerance) to ensure these stocks recover within acceptable timeframes. It will not be enough for industry to live within the TACC for only half the QMAs; industry must work together to ensure that all QMAs operate within the agreed limits. The key tools are the TACC limits and the deemed values (DVs) imposed on fishers where they catch in excess of the ACE they hold.
13. DVs are an important tool that assists utilisation and sustainability of fishstocks. DVs must be set at an appropriate level that allows utilisation but, where necessary, constrains effort where fishers catch in excess of ACE without being set so high as to provide perverse incentives. Setting DVs for a fishery is therefore an art and not a science. This is made more difficult in a recovering fishery where abundance increases. This increase will not occur uniformly across all QMAs or even across sub-regions in a QMA.
14. The record shows that for all BNS QMAs except BNS3, the overall catch has been within the TACC limits even though these have been progressively reduced. It was highlighted in looking at the TACCs in 2013 that catch in BNS3 was exceeded to such an extent that the catch in 2012-13 was at almost the same level of 2011-12 – ie the overall take was not measurably less than the previous year even though the TACC was cut by 31%.
15. The significant BNS3 over-catch was caught by those with little ACE landing substantial catches into an LFR on the Chatham Islands. This highlighted that in doing so, those landing fish into the Chathams without ACE are subject to a more advantageous DV regime compared with

elsewhere in BNS3 or other BNS QMAs. The current settings allow for a profit to be made despite the deemed value, creating an incorrect incentive.

16. There are reasons for this historical difference in DV rates. It is usual to set DV rates to apply to each Quota Management Area (QMA) for a stock. In the case of catches landed to a Chatham Island LFR, the DVs for fishstocks whose QMA includes the islands have historically been set at lower levels than the DVs applying elsewhere in the QMA. The Chatham Island DVs have generally been set at 50% of the normal rate but have been set at higher percentages if there have been perceived issues of fishers taking advantage of the lower DV rate. BNS3 is one such stock that to date has had lower DV rates.
17. While FINZ can understand this differential, this margin cannot be so great as to prevent an effective curtailing of effort. It is critical that all parts of the BNS fishery demonstrate discipline in restraining catch and ensuring the fishery recovers to target levels.
18. MPI proposed to change the Chatham Islands DV regime in 2013/14 but the Minister decided that participants did not have adequate time to respond to the proposed change. The Minister challenged the island to develop its own solutions and FINZ is aware that island participants are actively looking for solutions. However, the catch evidence to date shows that there is already substantial over-catch against ACE held by some participants in the year to date.
19. DVs are set at a number of levels: interim, annual and then at higher ramped differential rates to limit excessive catch.
20. For other BNS fishstocks the current DVs are:

Fishstock	BNS1	BNS2	BNS7	BNS8
Interim	\$3.60	\$3.60	\$2.70	\$3.60
Annual value	\$4.00	\$4.00	\$3.00	\$4.00
Ramped rate	\$10.00	\$10.00	\$10.00	\$10.00

21. For BNS3 the current DVs are:

BNS3	Chatham Islands	Elsewhere in BNS3 QMA
Interim value	\$0.53	\$2.70
Annual value	\$1.05	\$3.00
Ramped rate	\$2.10 when 100% greater than ACE	\$10 when 60% greater than ACE

22. It appears that when the BNS DVs were reviewed in 2011 for all BNS fishstocks to take into account the need to protect the decreased TACCs, the DV rates for BNS3 landed to the Chatham Islands LFRs were not adjusted and remained at their previous low levels.

Proposal

23. MPI propose to adjust the DVs for BNS3 being landed into the Chatham Islands as set out in the table below. It shows the DV for BNS3 elsewhere in the BNS3 QMA, the DV for BNS3 landed into the Chatham Islands at present and the DVs proposed by MPI.

BNS 3	Interim	100-105%	105-110%	110-120%	120-130%	130-140%	140-150%	150-160%	>160%	>180%	>200%
BNS3 Elsewhere	\$2.70	\$3.00	\$4.00	\$5.00	\$6.00	\$7.00	\$8.00	\$9.00	\$10.00	\$10.00	\$10.00
BNS3 Chathams 2013-14	\$0.53	\$1.05	\$1.05	\$1.05	\$1.26	\$1.26	\$1.47	\$1.47	\$1.68	\$1.89	\$2.10
MPI BNS3 Chathams Proposed 2014-15	\$0.95	\$1.05	\$1.05	\$1.05	\$2.00	\$4.00	\$5.00	\$6.00	\$10.00	\$10.00	\$10.00

Comment

24. MPI notes in its paper that Section 75(1) of the Act requires the Minister to set deemed value rates for all stocks managed under the QMS. Section 75(2)(a) requires the Minister, when setting deemed value rates, to take into account the need to provide an incentive for every commercial fisher to acquire or maintain ACE that is not less than the fisher's total catch of each stock taken.

25. Section 75(2)(b) allows the Minister, when setting deemed value rates, to have regard to:

- the desirability of commercial fishers landing catch for which they do not have ACE
- the market value of ACE
- the market value of the stock
- the economic benefits obtained by the most efficient fisher, licensed fish receiver, retailer or any other person from the taking, processing or sale of the fish or associated with the fish
- the extent to which the catch of that stock has exceeded or is likely to exceed the TACC for the stock in any year; and
- any other matters that the Minister considers relevant

26. Section 75(5) allows the Minister to set an interim and annual deemed value for fish landed to a licensed fish receiver (LFR) on the Chatham Islands that is different to the interim and deemed values for that fishstock landed to a LFR elsewhere.

27. The practical application of these statutory criteria is set out in the guidelines MPI uses, which are summarised below:

- deemed value rates must generally be set between the ACE price and the port price
- deemed value rates must generally exceed the ACE price by transaction costs
- deemed value rates must avoid creating incentives to misreport
- deemed value rates for constraining bycatch species may be higher
- deemed value rates must generally be set at twice the port price for high value single species fisheries and species subject to international catch limits
- deemed value rates for Chatham Island landings may be lower
- interim deemed value rates must generally be set at 90% of the annual deemed value rate; and
- differential deemed value rates must generally be set

28. The current DV settings for BNS being landed into an LFR based on the Chatham Islands are not restraining catch to within (or close to) the TACC of the BNS3 fishery.

29. Analysis of the fishery shows that the CPUE across all methods in the Chathams fishery is increasing – see pages 4, 7 and 34-38 that deal particularly with the Chatham zone in the attached report to the Inshore Stock Assessment Working Group. MPI acknowledges that all

fishers it has spoken to that have been fishing in the Chatham's zone this year report that there is increasing abundance of bluenose. Consequently, further effort must be expended to avoid bluenose by-catch through changing the location of fishing and altering gear configuration.

30. DVs need to be set at a level that encourages fishers to buy ACE and record catch (not discard). It is unusual to have different DVs within the same QMA but the Fisheries Act, the Ministry's guidelines and practice allow for a differential for fish landed in the Chatham Islands from elsewhere. There also needs to be sensible consistency between the different QMAs (fishstocks) of the same species when it is managed as if it were one stock.

Deemed Value Framework

31. As set out above, both s 75 of the Fisheries Act and the Ministry's deemed value guidelines specify a range of factors that may be taken into account when setting DV rates. It is clear from the Act that the primary purpose of DVs is to provide an incentive for fishers to cover their catch with ACE; this is a mandatory consideration when the Minister sets DVs. However, the range of non-mandatory considerations also specified indicates that complexities occur that require careful consideration when setting appropriate DVs.
32. The BNS3 fishery is a good example of these subtleties. This is not the only such case and FINZ would welcome the opportunity to work with MPI in other fisheries where a more automated approach to setting DVs may, or is shown to, not result in the best fisheries management outcome.
33. FINZ requests that before 1 October 2014, a small group of fisheries managers from across industry and MPI be convened to consider the overall DV regime and within that the setting of DV rates in specific fisheries. That group would desirably include both deepwater and inshore interests.

BNS3 Deemed Values

34. It is clear that the current DV settings for BNS being landed into the Chatham Islands are not providing sufficient restraint to appropriately manage the fishery to its target catch. It appears from the ongoing catch of BNS3 this year, well in excess of ACE, that the current regime still allows fishing in excess of ACE to remain cash positive at current DV rates. This ongoing behaviour, and the knowledge that it is legally supported, may create an unhealthy incentive for those that are currently fishing within their ACE holdings or legitimately landing BNS by-catch, to take advantage of the prevailing conditions. This is an undesirable outcome, and if allowed to continue, will affect the ongoing recovery of the BNS3 fishery and the broader BNS fishery (based on a single stock approach). FINZ considers the capacity to land catch over the current TACC, and profit in doing so, must not be able to compromise the positive efforts of many quota owners and fishers across the country in this shared resource. Changes must be made to curtail effort well in excess of ACE.
35. FINZ recognises the importance of fisheries to the Chatham Islands and the Island's desire to establish a more sustainable economic and social base by having a larger role in the value chain of those fisheries. Any measures implemented should not undermine that objective (quite the reverse, sustainable economics are gained from sustainable resources, not short term profit taking). The Chatham Islands Enterprise Trust (CIE) is a member of FINZ and FINZ has and will continue to share the analysis it undertakes on BNS with all its members. We intend to meet and work with Chatham Island interests including the CIE on better management of this fishery and others of interest to the Chatham Islands.

36. Although not reflected in s 75(5) of the Fisheries Act, FINZ understands that reduced DVs were originally intended to apply only to Chatham Island residents who also land fish to an LFR based on the Islands. FINZ considers it unlikely that Parliament intended lower DVs to be used in the manner observed in the previous two years.
37. There are mixed views from BNS quota owners on what set of DVs should be placed on BNS landed into the Chatham Islands. Some are of the view that the current rates should remain in place until further analysis demonstrates the current state of the fishery. Others consider that the differential between BNS3 landed at the Chatham's and elsewhere in the QMA should be removed and the mainland BNS3 rates should apply to all BNS3 irrespective of where it is landed. Others agree that change is required but consider that a margin should still exist for BNS landed on to the Chatham's compared with elsewhere in the QMA but not at the levels currently set. Others still, consider that maintaining the differential DV is important to account for relatively small amounts of genuine and unavoidable by-catch they have landed on the Islands. Other members are of the view that the BNS3 QMA should be subdivided such that the area surrounding the Chatham Islands is treated as a separate management area with a specific TAC and DV rates.
38. Notwithstanding the differences in opinion among bluenose quota owners on what DV rates should apply to BNS landed into the Chatham Islands, there is strong agreement on many aspects:
- All understand that in mixed fisheries there is generally inevitable by-catch and that this will likely be more of a problem in a recovering fishery. Further effort is therefore required to alter the location of fishing and gear configuration to reduce this by-catch
 - All agree ensuring sustainability is the bottom line
 - All agree they want effective measures to achieve this while allowing maximum utilisation within that constraint
 - All agree that DVs are important instrument but should be set at a level that assists to achieve the sustainability outcome without being un-necessarily punitive

Conclusion

39. FINZ members remain committed to ensuring that all fisheries they participate in remain sustainable over the long term. Further, FINZ notes the primary purpose of DVs, as reflected in the mandatory consideration in s 75(2), is to provide an incentive for every commercial fisher to acquire or maintain sufficient ACE to cover catch.
40. FINZ considers that the commitment to date from BNS quota owners to fund additional analysis, catch sampling and Management Strategy Evaluation undertaken by FINZ, has provided the Minister with continued confidence that these measures are sufficient to continue the rebuild of the BNS fishery within a suitable timeframe. BNS quota owners will consider what future research should be undertaken to support the management of this fishery.
41. FINZ intends to continue with its sampling programme and ongoing analysis on BNS. It will work with MPI and the Chatham Island's interests on this along with the broader set of quota owners. FINZ expects MPI will continue to review the effectiveness of the BNS DV regime and make suitable adjustments to ensure sustainability while maximising utilisation. FINZ therefore expects that the regime will again be considered once the rebuild of the BNS fishery is achieved.

Contact

42. Please contact Jeremy Helson 021 2728 727 or Jeremy@inshore.co.nz if there are any queries on any aspect of the submission.



SUBMISSION: Review of Deemed Value Rates for BNS3 landed in the Chatham Islands for October 2014

It is our view that the status quo be maintained for the fishing season 1 October 2014 – September 2015.

We understand that a specific Chatham Island Project Team has been established to resolve issues associated with the Chatham Island component of the Bluenose 3 fishery (BNS3). Any attempt to move away from the status quo, by imposing the deemed values as outlined by MPI will effectively scuttle the work being carried out by this team.

BNS3 is a complex matter, that a blunt instrument, such as the deemed value regime put forward by MPI, is incapable of addressing.

Put simply, the deemed value regime outlined by MPI, does not deal with the following issues:

- 1) the Bluenose fishery in and around the Chatham Islands
- 2) the availability of fishing stocks such as HPB4, SCH4, LIN4, TRU4, RIB4, etc, yet the absence of BNS4
- 3) the problem of by-catching bluenose when targeting other area 4 species
- 4) the unique circumstances of the Chatham Islands, such as economy, geography, freight etc
- 5) the economic impact on the Chatham Islands and its industry and employment
- 6) the anomaly created by not having BNS4
- 7) the economic impact on legitimate fishers who by-catch BNS3, in some instances rendering their operations uneconomic
- 8) the impact on BNS3 ace prices as a result of differential deemed values (in particular one operator owning almost 40% of the TACC)

In our view, we consider that the MPI submission is flawed, because it does not deal with the above issues.

We also consider it to be fundamentally flawed, because it assumes that it's proposed deemed value regime will automatically stop BNS3 over catch.
Such an assumption does not recognize a vital component of any fishery – BY-CATCH.

All participants want to see a rebuild of the Bluenose industry. It is our view that this could possibly be achieved, by shelving or reducing the BNS3 TACC to allow for the creation of a BNS4 fishery. As the stock rebuilds, rather than increase the BNS3 TACC, the increments could go towards a BNS4 fishery. This would effectively create two independent fisheries. As scientific data and research comes to hand, a new TACC can be set for BNS3 and BNS4.

Any future TACC increases can be dealt with independently. For this to happen, the Chatham Island Project Team, need to have the opportunity to carry out their work, without interference. It would be a travesty and a missed opportunity after 30 years of anomaly, mistake and injustice to come so close to 'fixing this up', only to fall short.

Accordingly we reiterate that the status quo should be maintained for BNS3 deemed values for BNS3 landed in the Chatham Islands for 1 October 2014 – 30 September 2015.

It seems ironic that the industry responsible for reduction of the BNS3 TACC from its previous level of 925 m/t to 171 m/t, now want the Chatham Islands to carry the burden of their past actions.

The result of which is double jeopardy for the Chatham Islands, missing out due to historic injustices of allocation of the past, and being precluded from addressing these injustices in the future.

This is not fair and equitable.

Yours faithfully



A G D'Esposito
DIRECTOR
HAWKES BAY SEAFOODS LTD
NAPIER



**2014 Review of Sustainability
measures and management controls for fish stocks**
SANFORD LIMITED SUBMISSION

30 June 2014

Sanford Limited (**Sanford**) welcomes this opportunity to comment on the Ministry's Review of Sustainability measures and management controls for fish stocks.

Sanford is a large and long established fishing company and New Zealand's largest quota owner. Where possible Sanford has developed its position in consultation with others. Thank you for the extension provided, which has given us an opportunity to align our submission with others in the industry.

Sanford is committed to sustainably providing innovative, quality seafood and marine products.

Hoki (HOK 1)

Sanford supports the TAC remaining at status quo, Option 1.

Hoki 1 has had four catch increases over the last five years, while we have no concerns about the sustainability of this fishery we believe that a conservative longer approach to TAC setting is warranted. There is no conclusive evidence to suggest that the fishery can sustain an increased level of catch and we advocate for a slower, more cautious approach.

Orange Roughy

Sanford supports the Deepwater Group's submission across all ORH stocks.

Bluenose (BNS 3)

Sanford supports instating a \$2.00 differential on Chatham Island landed fish up to a 120% over catch. Catches landed in excess of 120% over catch should incur the same deemed value charge as fish landed on Mainland New Zealand. Sanford is committed to the BNS 3 rebuild plan and believes that all fishers have a role to play. Every fisher has the option to move-on. Sanford is a member of Fisheries Inshore New Zealand who we understand are still working towards gaining a consensus view on BNS 3 deemed value. We remain open to this discussion and signal our willingness to relook at the issue.

Hagfish (HAG – All) please refer to our separate submission that was lodged on this stock.

This submission was prepared by Ali Undorf-Lay, Industry Liaison Manager at Sanford on behalf of **Volker Kuntzsch**, Chief Executive Officer, and **Greg Johansson**, General Manager Operations. All can be contacted on (09 379 4720).



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SUBMISSION ON

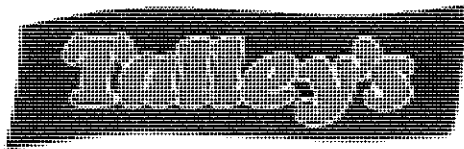
Review of Deemed Value Rates for Bluenose 3 (BNS3) Landed in the Chatham Islands for 1 October 2014

1. Thank you for this opportunity to submit on the Ministry for Primary Industry's (MPI) consultation for the Review of deemed value rates for bluenose (BNS3) landed in the Chatham Islands for 1 October 2014.
2. Southern Inshore Fisheries (SIF) represents 104 fishstocks with an approximate total of 35,500 metric tonnes of quota shares held by shareholders and associated levy payers.
3. SIF is an affiliated CSO to Fisheries Inshore New Zealand (FINZ) and has worked closely with them in respect of the overall BNS management regime.
4. The sustainability of the bluenose stocks in New Zealand has been under consideration in recent years and SIF are pleased to have worked with FINZ and MPI to maintain the TACC's at current levels. We are committed to monitoring these stocks and will continue to work to ensure that we can harvest at sustainable levels.
5. SIF have submitted previously on the need to maintain the TACC's for BNS stocks at the current level and appreciate that MPI are not considering any further reductions for this coming year. However, all of this commitment and management will be in vain if we do not do something and close the loophole that allows fishermen to currently land BNS at significantly reduced deemed values on the Chatham Islands.
6. The rules relating to the setting of deemed values in the Chatham Islands provide a "concession only applying to resident fishermen landing fish into licenced fish receivers located on the Chatham Islands." This concession is not consistent with the approach that we have to deemed value setting in New Zealand and whilst we

appreciate the original intent, it is being abused and needs to be reviewed.

7. It is common knowledge within Industry circles that over the past couple of years some unscrupulous operators have been taking advantage of the lower deemed values that the Chatham Island concession allows. Whilst not illegal they have continued to land significant quantities of Bluenose against a limited amount of ACE upon the premise that are 'residents' of the Chatham Islands. They are NOT residents and the continued abuse of the system in this respect goes against the spirit of the quota management system, impacts hugely upon existing BNS property right owners and the fishery they seek to protect and undermines the extensive work that has gone into securing a strong international focus on New Zealand seafood sustainability and productivity.
8. This practice cannot continue and is certainly not condoned. Operators should not be allowed to fish on deemed value and certainly not in a fishery that is rebuilding and showing a positive trend in abundance. These rogue operators are putting the long-term viability and productivity of this fishery at risk for all quota owners, fishers and the NZ economy.
9. The IPP recognizes that 'the lower Chatham Island DV rates make it more economic to target Bluenose without obtaining ACE'. It continues and states that 'this issue was raised part way through the 2012/13 fishing year and that a consultation on options to alter deemed value rates was undertaken but a decision was deferred to allow for further consultation with parties involved. It concludes that 'changes in behaviour do not appear to have occurred following these discussions and similar patterns are being observed'. The loophole now needs closing!
10. SIF strongly support MPI addressing this matter for once and for all. We propose -
 - a. Removing the Chatham Island concession therefore applying a consistent approach and level of deemed values as those set on the mainland.
11. There has to be a deterrence built in and we do not believe the MPI proposed rates for the Chatham Island will sufficiently deter continued overfishing to the Chatham Islands on the basis of the medium-high market value of the fishery. There has to be more deterrence built into the deemed value rate at the start so as to protect stock abundance levels and long-term viability for the fishery. The levels proposed still offer the chance to land BNS at a profitable level and encourage continued fishing against deemed values. Such practice does not provide a positive move for a rebuilding fishery.

Contact:
Carol Scott
Chief Executive



24th June 2014

Inshore Fisheries Management
Ministry for Primary Industries
PO Box 2526
Wellington 6011

REF: Submission DV's – BNS (3) Fishery

Dear Sir,

This submission is in response to the MPI consultation paper 2014/15 that addresses Deemed Values for BNS 3 effective from 1st October 2014

The current deemed value differential between the Chatham Islands and mainland New Zealand is unfortunately incentivizing some unscrupulous fishers to deliberately target BNS 3 without having sufficient access to the required ACE to cover their catch.

- The deemed value for BNS is a base of \$3.00/kg increasing up to \$10.00/kg for those fishers that exceed 60% over catch of their available ACE.

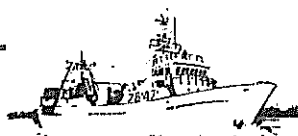
The Chatham Islands have a 'special' deemed value rate of \$1.05/kg standard rate increasing to \$2.10/kg for those fishers who exceed their available ACE by 200%.

The rules state –

"Deemed values on the Chatham concession only applies to resident fishermen landing fish into licenced fish receivers located on the Chatham Islands".

- Whilst New Zealand promotes the QMS as world leading we need to acknowledge that it is being politically 'fiddled' with by introducing differential Deemed Values such as the Chatham Island concession.
- The Chatham Island Deemed Value concession is being used as a loop-hole by unscrupulous fishers to allow them to ensure positive cash flows from their BNS landings. The BNS landings are being incorrectly classified as 'by-catch' when in fact deliberate targeting of BNS is involved in many instances.

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While the level of unavoidable by-catch of BNS 3 in 2013/14 is possible for vessels trawling for Alfonsino near the Chathams. It appears that when the BNS fishing activity for 2012/13 and 2013/14 (to date) is examined, fishing for the target species of HPB 4, LIN 4 and LIN 3, SCH 4 are relatively 'clean' fisheries with low to moderate by-catch levels of other fish stocks. It appears possible to catch the other long-line target species without having high levels of BNS 3 by-catch.

The Chatham Island concession is in effect allowing a non-compliant activity to occur in what MPI is classifying as a stressed fishery.

- In the fishing year ended 30th September 2013 the total catch of BNS 3 was 245 M/T which represents an over catch of 43% from the 171 M/T TACC – ie: 143% of the assigned TACC was caught.

It is morally wrong of MPI to continue to promote BNS 3 as a fish stock urgently requiring a reduced TACC, whilst continuing to support blatant over fishing via the Chatham Island DV concession policy.

- This year there are two fishing operators who are licenced to declare catch as landed in the Chatham Island (*even though the original DV concession policy was confined to resident fishermen*). In the first year of the scheme there was only 1 operator, we now have two and we have it on good authority that an additional three operators are planning on enrolling into the scheme for the fishing year due to commence on the 1st October 2014.
- It is a bitter pill for quota owners to swallow when we discover that one of the two licenced fishers has in the period 1st October 2013 until 31st May 2014 landed 83 M/T of BNS when that operator holds only 18 M/T of BNS (3) ACE. Enough is enough!!

How much pain do the owners of this fish stock have to endure from bad inconsistent management policies.

Comments

- (a) T.G.L. has continuing concerns with the significant over catch occurring in BNS 3 that is legitimized by bad policy such as the variable Deemed Value applying for BNS 3.
- (b) It is an indictment on the policy makers and MPI management that both of the fishers exploiting the Chatham Island concession are based in mainland New Zealand when the original policy very clearly stipulated that the concession was for resident fishers only.
- (c) It is a serious concern that other fishers are contemplating enrolling into the scheme for the fishing year commencing 1st October 2014.
- (d) All BNS fish stocks are subject to a rebuilding regime. It is critical that the actual catch for all BNS fish stocks remain within the agreed limits (or within very close tolerance) to ensure these stocks recover within acceptable timeframes.

- (e) DV's are set at a number of levels: interim, annual and then at higher ramped differential rates to limit excessive catch.
- (f) The current situation in the BNS (3) fishery suggests that at the current DV rates, over-fishing remains cash positive for these operators and they may be targeting BNS3 despite the need for rebuilding the fishery. This activity obviously acts against the combined efforts of all other quota owners and fishers committed to rebuild the fishery. Such practices cannot be condoned or allowed to continue in the light of the requirement to act to rebuild the BNS fishery and the action taken by quota owners to achieve that outcome.

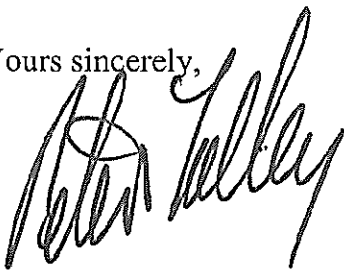
T.G.L. considers the actions of a few fishers (albeit acting legally as a result of a disparate DV regime) must not be able to compromise the positive efforts of many quota owners and fishers across the country in this shared resource.

Conclusion

Complete removal of the Deemed Value concessional policy for the Chatham Islands is required. This action is essential to restore the integrity of the QMS and to ensure that there is greater parity with the rest of the BNS (3) fishery and a stronger incentive for fishers to hold ACE, or change their fishing techniques to avoid catching Blue Nose when operating in the Groper HPB (4), LIN (3), LIN (4) and SCH (4) fisheries. These target fisheries are what are termed relatively 'clean' fisheries with low by-catch levels of other fish stocks.

The ongoing behaviour and the knowledge that it is legally possible creates unhealthy incentives for others to take advantage of the conditions. If this is allowed to continue it will affect the recovery of the BNS (3) fishery (and based on a single stock approach) the broader BNS fishery.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Peter Talley', written in a cursive style.

Peter Talley

2 July 2014

Ministry for Primary Industries

FMSubmissions@mpi.govt.nz (check)

DEEMED VALUES APPLYING TO THE BLUENOSE3 FISHSTOCK

Introduction

1. This submission is from Te Ohu Kai Moana Trustee Ltd (Te Ohu Kaimoana) as corporate trustee of Te Ohu Kai Moana Trust. It responds to the Ministry for Primary Industries (MPI) paper 2014/16 that addresses deemed values (DVs) for Bluenose 3 (BNS3) from 1 October 2014.
2. Te Ohu Kai Moana Trust was established under s.31 of the Maori Fisheries Act 2004. Our purpose is to advance the interests of Iwi individually and collectively, primarily in the development of fisheries, fishing, and fisheries-related activities, in order to:
 - ultimately benefit the members of Iwi and Maori generally
 - further the agreements made in the Deed of Settlement and to assist the Crown to discharge its obligations under the Deed of Settlement and the Treaty of Waitangi
 - contribute to the achievement of an enduring settlement of the claims and grievances referred to in the Deed of Settlement.
3. Te Ohu Kaimoana is a founding member of Fisheries Inshore New Zealand (FINZ) and is acutely aware of the work FINZ has carried out to ensure that utilisation of bluenose (which has been assessed as if it is a single stock) is sustainable across all quota management areas (QMAs). This work has included additional CPUE analysis, which has shown that if catch limits are maintained at their 2013-14 levels rather than be further reduced, the fishery will continue to rebuild. In order to ensure this happens, industry needs to work together to ensure appropriate restraint is applied to harvesting. Deemed values are part of the toolkit that is applied to ensure this objective is met.
4. We are aware of the FINZ submission and are broadly supportive of it as set out here.

Deemed values for fish landed into Chatham Islands

5. At present the bluenose fishery is managed through the different QMAs but as if it is one stock. For the fishery/ies to recover within a suitable timeframe, all BNS fishstocks are subject to a rebuilding regime. It is critical that the actual catch for all BNS fishstocks remains within the limits set by the Minister (or within a close tolerance) to ensure these stocks recover within acceptable timeframes. It will not be enough for industry to live within the TACC for only some of the QMAs; industry must work together to ensure that all QMAs operate within the agreed

limits. The key tools are the TACC limits and the deemed values (DVs) imposed on fishers where they catch in excess of the ACE they hold.

6. DVs are an important tool that assists utilisation and sustainability of fishstocks. DVs must be set at an appropriate level that allows utilisation but, where necessary, constrains effort where fishers catch in excess of ACE without being set so high as to provide perverse incentives (discarding). Setting DVs for a fishery is therefore an art and not a science. This is made more difficult in a recovering fishery where abundance increases. This increase will not occur uniformly across all QMAs or even across sub-regions in a QMA.
7. The record shows that for all BNS QMAs except BNS3 the overall catch has been within the TACC limits even though these have been progressively reduced. It was highlighted in looking at the TACCs in 2013 that catch in BNS was exceeded to such an extent that the catch in 2012-13 was at almost the same level of 2011-12 – ie the overall take was not measurably less than the previous year even though the TACC was cut by 31%.
8. The significant over-catch occurring in BNS3 in 2012-13 was caught by an industry participant with little ACE landing substantial catches into a LFR on the Chatham Islands. This activity highlighted that in doing so, those landing fish into the Chathams without ACE are subject to a more advantageous DV regime that applies in that circumstance than elsewhere in BNS3 or other BNS QMAs.
9. There are reasons for this historical difference. It is usual to set DV rates to apply to each Quota Management Area (QMA) for a stock. In the case of catches landed to a Chatham Island LFR, the DVs for fishstocks whose QMA includes the islands have historically been set at lower levels than the DVs applying elsewhere in the QMA. The Chatham Island DVs have generally been set at 50% of the normal rate but have been set at higher percentages if there have been perceived issues of fishers taking advantage of the lower DV rate. BNS3 is one such stock that to date has had lower DV rates.
10. It appears that when the BNS DVs were reviewed in 2011 for all BNS fishstocks to take into account the need to protect the decreased TACCs, the DV rates for BNS3 landed to the Chatham Islands LFRs were not adjusted and remained at their previous low levels.
11. MPI proposed to change the Chatham Islands DV regime in 2013/14 but the Minister decided that participants did not have adequate time to respond to the proposed change. The Minister challenged the island to develop its own solutions and FINZ is aware that island participants are actively looking for solutions. Te Ohi is supportive of this and wish to work with Ngati Mutunga and Moriori (along with the Chatham Islands Enterprise Trust) on this.
12. There is no doubt that the landings of BNS3 at least in part indicate a recovering fishery. MPI has noted that the general experience of all fishers near the Chathams is an increasing level of unavoidable bycatch of bluenose irrespective of harvest method. It is also fact that more than 90% of BNS3 caught to date in the current year has been caught in the statistical areas around the Chatham Islands.
13. However, the catch evidence to date for 2013-14 shows that there is already substantial over-catch against ACE held by some participants in the year to date and at the end of June the catch of BNS3 is at 111% of the TACC.

14. This means that with this level of overcatch of ACE in the Chathams, the TACC in that QMA will be exceeded for the 2nd year in a row while elsewhere fishers and quota owners are restraining catch within the TACC set for their QMAs, (not withstanding evidence that those fisheries are also recovering), and undertaking additional measures to assist the recovery of and better manage the BNS fishery/ies.
15. Te Ohu Kaimoana therefore supports MPI in bringing this issue back for examination in its paper 2014/16.

MPI Proposal

16. DVs are set at a number of levels: interim, annual and then at higher ramped differential rates to limit excessive catch. For other BNS fishstocks the current DVs are:

Fishstock	BNS1	BNS2	BNS7	BNS8
Interim	\$3.60	\$3.60	\$2.70	\$3.60
Annual value	\$4.00	\$4.00	\$3.00	\$4.00
Ramped rate	\$10.00	\$10.00	\$10.00	\$10.00

17. For BNS3 the current DVs are:

BNS3	Chatham Islands	Elsewhere in BNS3 QMA
Interim value	\$0.53	\$2.70
Annual value	\$1.05	\$3.00
Ramped rate	\$2.10 when 200% greater than ACE	\$10 when 60% greater than ACE

18. MPI notes in its paper that Section 75(1) of the Act requires the Minister to set deemed value rates for all stocks managed under the QM5. Section 75(2)(a) requires the Minister, when setting deemed value rates, to take into account the need to provide an incentive for every commercial fisher to acquire or maintain ACE that is not less than the fisher's total catch of each stock taken. Section 75(5) allows the Minister to set an interim and annual deemed value for fish landed to a licensed fish receiver (LFR) on the Chatham Islands that is different to the interim and deemed values for that fishstock landed to a LFR elsewhere.
19. MPI guidance also proposes that for vulnerable or rebuilding stocks, a more stringent differential deemed value schedule (eg applying from 5% or 10%) may be more appropriate than the standard schedule which uses 20% steps.
20. The MPI proposal for DVs in BNS3 is :

BNS 3	Interim	Annual 100-105%	105-110 %	110-120 %	120-130%	130-140%	140-150 %	150-160%	>160%	>180%	>200%
MPI BNS3 Chathams Proposed 2014-15	\$0.95	\$1.05	\$1.05	\$1.05	\$2.00	\$4.00	\$5.00	\$6.00	\$10.00	\$10.00	\$10.00

Comment and Recommendations

21. Te Ohu Kaimoana supports the proposal to change the current DV settings for BNS3 in the Chatham Islands - the current DV settings cannot be left unchanged. The current settings are not providing sufficient restraint catch to within the TACC (or close to) of the BNS3 fishery. .
22. Analysis of the fishery shows that the CPUE across all methods in the Chathams fishery is increasing. MPI acknowledges that all fishers it has spoken to that have been fishing in the Chatham's zone this year report that it is impossible to avoid Bluenose.
23. Examination of the catch of those landing into the Chathams shows that while there has been a considerable increase in bycatch of BNS3 when trawling for alfonsino, the level of landings of BNS3 into a Chatham Island LFR from this operation has been modest <15% of total catch of BNS3.
24. However there are both far greater levels of landings and percentage of total catch of BNS3 from longlining (generally a more selective method). This ongoing behaviour and the knowledge that it is legally possible also creates unhealthy incentives for others to take advantage of the conditions. If this is allowed to continue it will, at a minimum, affect the rate of recovery and could threaten the overall recovery of the BNS3 fishery and (based on a single stock approach) the broader BNS fishery. The actions of a few fishers (albeit acting legally as a result of a disparate DV regime) must not be able to compromise the positive efforts of many quota owners and fishers across the country in this shared resource.
25. DVs need to be set at a level that encourages fishers to buy ACE and record catch (not discard). It is unusual to have different DVs within the same QMA but the Fisheries Act allows this for the Chatham Islands.
26. We agree that the DVs for BNS3 being landed into the Chatham Islands need to change from 1 October 2014.
27. Te Ohu Kaimoana is aware that there are mixed views from BNS3 quota owners on what set of DVs should be placed on BNS landed into the Chatham Islands. Some are of the view that the current rates should remain in place until further analysis demonstrates the current state of the fishery. Others consider that the differential between BNS3 at the Chatham's and elsewhere in the QMA should be removed altogether and the current BNS3 rates should apply to all BNS3 irrespective of where it is landed. Others agree that change is required but consider that a margin should still exist for BNS landed on to the Chatham's compared with elsewhere in the QMA but not at the levels currently set, or proposed.
28. Notwithstanding the differences in opinion among bluenose quota owners on what DV rates should apply to BNS landed into the Chatham Islands, there is strong agreement on many aspects:
 - All understand that in mixed fisheries there is inevitable unavoidable bycatch and that this will likely be more of a problem in a recovering fishery
 - All agree ensuring sustainability is the bottom line
 - All agree they want effective measures to achieve this while allowing maximum utilisation within that constraint
 - All agree that DVs are important instrument but should be set at a level that assists to achieve the sustainability outcome without being un-necessarily punitive.

29. Te Ohu Kaimoana considers and supports some differential for the Chathams. Te Ohu Kaimoana recognises the importance of fisheries to Ngati Mutunga and Moriori and the whole community of the Chatham Islands along with the Island's desire to establish a more sustainable economic and social base by having a larger role in the value chain of those fisheries notwithstanding the cost realities for the island. Any measures proposed in this submission are not meant in any way to undermine that objective (quite the reverse, sustainable economics are gained from sustainable resources, not short term profit taking).
30. But the primary imperative is to look after the fishery. This means the differential should apply but not at a level that will not restrain catch effort close to the TACC with a little leeway for unavoidable bycatch.
31. This is particularly important for BNS as the Ministry manages it as if it is one stock. That means that problems in one area may affect the whole stock. Bluenose quota owners and fishers are collaborating right throughout the country to achieve this –albeit with better CPUE arising from the recovering fishery. A regime that undermines everyone else's efforts is not acceptable.
32. We recommend that while the Annual DV should remain at the same level as present, the ramped differential levels of DV for fish being landed into the Chatham Islands should be adjusted from the current and proposed rates and be those set out on the bottom row of the following table:

DEEMED VALUES FOR BNS3 (\$/KG)

BNS 3	Interim	Annual 100-105%	105-110%	110-120%	120-130%	130-140%	140-150%	150-160%	>160%	>180%	>200%
BNS3 Chathams 2013-14	\$0.53	\$1.05	\$1.05	\$1.05	\$1.26	\$1.26	\$1.47	\$1.47	\$1.68	\$1.89	\$2.10
BNS3 Elsewhere	\$2.70	\$3.00	\$4.00	\$5.00	\$6.00	\$7.00	\$8.00	\$9.00	\$10.00	\$10.00	\$10.00
MPI BNS3 Chathams Proposed 2014-15	\$0.95	\$1.05	\$1.05	\$1.05	\$2.00	\$4.00	\$5.00	\$6.00	\$10.00	\$10.00	\$10.00
Te Ohu Kaimoana Proposed DV for BNS3 landed to Chathams 2014-15	\$0.95	\$1.05	\$1.05	\$1.50	\$3.00	\$4.00	\$5.00	\$6.00	\$7.00	\$7.00	\$7.00

33. This set of DVs for BNS3 landed into the Chatham Islands will deliver the three key policy outcomes sought. First, they will appropriately provide for fishers with a reasonable margin for unavoidable bycatch when catching with the ACE held by the fisher; second, it will send clearer signals to not continue fishing when well in excess of the ACE held and reasonably available; and

third it will retain a suitable margin for landing fish into the Chatham Islands, recognizing that the fishery is under a rebuild regime.

34. We consider that in combination, these DVs, the commitment from BNS quota owners to continue funding additional analysis, catch sampling and Management Strategy Evaluation undertaken by FINZ, and the setting of TACCs based on this work, will provide the Minister with continued confidence that these measures are sufficient to continue the rebuild of the BNS fishery within a suitable timeframe, while still retaining an ability for the Chatham Islands to progress its wider development objectives.
35. Te Ohu Kaimoana expects that MPI will continue with industry to assess the effectiveness of these measures (and across other BNS fishstocks) and that consistent with having the DV values set to achieve the sustainability outcome without being un-necessarily punitive, the ongoing DVs will be adjusted as the fisheries recover further. We consider this important so that the overall effect is to ensure sustainability of the fishery and encourage full reporting.
36. This review process is of course not unique to the Bluenose fisheries. We are aware that FINZ has requested a working group be set up with industry participants to look at the overall regime. Te Ohu Kaimoana would seek to participate in the working group to ensure the long-term interests of iwi are reflected in its considerations.
37. Please contact Laws Lawson 021 529 701 or laws.lawson@teohu.maori.nz if there are any queries on any aspect of the submission.