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## **Joint recreational submission on the review of deemed value rates for selected stocks, for 1 April 2016**

### **Recommendations**

- The deemed value regime is acknowledged as a failure to constrain commercial catch to the statutory catch limits in Triangle Shell 7 (SAE7) and Deepwater Tuatua 7 (PDO7).
- That a more flexible mechanism is developed that will remove the incentive to overcatch the TACC and receive increased ACE in the future.
- Future Discussion Papers include more detailed information such as realistic port and export prices to assist submitters in understanding deemed value rates for stocks under review.

### **NZ Sport Fishing Council - LEGASEA**

1. The New Zealand Sport Fishing Council, our outreach LegaSea, and the New Zealand Angling and Casting Association (the submitters) appreciate the opportunity to submit on the review of deemed value rates for selected stocks. The Ministry for Primary Industries (MPI) released their Discussion Paper on 14 January 2016 with submissions due by 11 February. Any changes will apply from 1 April 2016.
2. The NZ Sport Fishing Council is a national sports organisation with over 32,000 affiliated members from 57 clubs nationwide. The Council has initiated LegaSea to generate widespread awareness and support for the need to restore abundance in our inshore marine environment. Also, to broaden NZSFC involvement in marine management advocacy, research, education and alignment on behalf of our members and LegaSea supporters. [www.legasea.co.nz](http://www.legasea.co.nz).
3. The New Zealand Angling and Casting Association (NZACA) is the representative body for its 35 member clubs throughout the North Island. The Association promotes recreational fishing and the camaraderie of enjoying the activity with fellow fishers. The NZACA is committed to protecting fish stocks and representing its members' right to fish.
4. Together we are committed to ensuring that sustainability measures and environmental management controls are designed and implemented to achieve the Purpose and Principles of the Fisheries Act 1996, including "maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations..." [s8(2)(a) Fisheries Act 1996]
5. The submitters continue to object to the Ministry's tight consultation timetable, it seems 18 working

days has become the norm. In our view this timeframe does not allow for adequate consultation, it is particularly offensive for non-commercial organisations such as ours that need to consult with a range of interests and volunteers. This is unacceptable consultation and, in our opinion most likely unlawful as per ss 12 and 13 of the Fisheries Act and as judged by the Court of Appeal<sup>1</sup>.

6. In an effort to alert people to this review process and better inform our members and supporters, the Council developed a document summarising the proposed changes to deemed value rates. That summary was distributed to clubs, other groups, and organisations aligned with LegaSea's Principles, encouraging feedback prior to development of this submission.
7. The submitters' representatives are available to discuss this submission in more detail if required. We look forward to positive outcomes from this review and would like to be kept informed of future developments. Our contact is Dave Lockwood, [secretary@nzsportfishing.org.nz](mailto:secretary@nzsportfishing.org.nz).

### **Deemed values**

8. Commercial fishers who do not balance catch with Annual Catch Entitlement (ACE) must pay a financial penalty, a deemed value payment. Deemed values are charged for each kilo of overcatch not covered by ACE. The per kilo cost may ramp up, on a sliding scale, depending on the species.

### **Background**

9. The New Zealand Sport Fishing Council (NZSFC) has made substantive submissions on the deemed value regime for a decade. The 2012 submission details our concerns. <http://goo.gl/jHUzlf> The current review demonstrates those concerns are still valid today.
10. The deemed value system continues to incentivise either overfishing or dumping, depending on the landed and export price of that species. Historically, ongoing excess catch has resulted in recommendations from the Ministry for Primary Industries (MPI), and subsequent agreement from the Minister, to increase the TACC in some stocks.

### **MPI Proposals**

11. Application of the Ministry for Primary Industries' Deemed Value Guidelines has identified six stocks for review. The Ministry recommends no change to deemed value rates for three of the 6 stocks: Giant spider crab 5 (GSC5), Southern blue whiting 1 (SBW1) and Coromandel Scallops (SCA CS).
12. Of particular interest are the deemed value rates for Triangle Shell 7 (SAE7), Deepwater Tuatua 7 (PDO7) and Coromandel Scallops (SCA CS), because the TACs and TACCs are also being reviewed and each stock has special characteristics.
13. The current deemed value rate for Triangle Shell 7 (SAE7) is \$1.02. The port price for landed Triangle shell is \$5 per kilo, and the export price is conservative at \$8.00 per kilo.
14. For Deepwater Tuatua 7 (PDO7) the deemed value rate is proposed to increase from \$1.44 per kilo to \$5/kg. The port price is conservative at \$5/kg, as is the export price at \$8.00 per kilo.
15. Triangle Shell 7 (SAE7), Deepwater Tuatua 7 (PDO7) and Coromandel Scallops (SCA CS) are all target species. All are on Schedule 6 of the Fisheries Act, enabling commercial fishers to return unwanted catch to the water from where it was taken if it is likely to survive, or, in the case of scallops, out of season.

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<sup>1</sup> International Airport Ltd and Air New Zealand (CA 23/92, 73/92[1993] 1 NZLR 671).

16. **MPI proposals.** Fish stocks prioritised for review in 2016 -

<b>Stock</b>	<b>Rationale for review</b>	<b>Proposed action</b>	<b>Basis for proposed action</b>
GSC5 Giant spider crab 5	422% of TACC caught in 2014/15	No change to deemed value rates.	Non-target species. Trawl caught GSC worthless. More time required to monitor effectiveness of previous decisions.
SBW1 Southern blue whiting 1	364% of TACC caught in 2014/15	No change to deemed value rates.	Non-target species in mixed fishery with variable abundance.
SAE7 Triangle Shell 7	215% of TACC caught in 2014/15	Increase deemed value rates	MPI Guidelines for target species. Set annual deemed value rate at twice the port price.
PDO7 Deepwater Tuatua 7	108% of TACC caught in 2013/14;102% of available ACE caught in 2014/15	Increase deemed value rates	MPI Guidelines for target species. Set annual deemed value rate at twice the port price.
SSC3 Sea cucumber 3	109% of TACC caught in 2014/15	Increase deemed value rates	Moving from non-target to target species. Set annual deemed value rate at twice the port price.
SCA CS Coromandel Scallops	34% of TACC caught in 2015	No change to deemed value rates	Fishery is performing within Guidelines.

## Submission

### *Giant Crab 5 (GSC5)*

17. We do not agree with the Ministry's assessment that Giant Crab 5 (GSC5) is worthless when caught by trawl, and that they need more time to assess changes to the deemed value rate and industry-led avoidance measures. GSC is caught while trawling for orange roughy. There is no market for trawl caught GSC. An historic attempt to establish a target fishery was not successful.
18. While we do not understand the role this species occupies in the ecosystem and before implying GSC is a pest we have to grant this species value, even if it is only as an ecosystem component. Measuring value by only considering the port price is yesterday's metric. Now we are directed by the FAO<sup>2</sup> to act in a precautionary manner so as not to unintentionally disrupt the ecosystem in potentially very damaging ways.
19. In 2004 the Minister introduced GSC to the QMS and set the Total Allowable Commercial Catch (TACC) at 19 tonnes to ensure sustainability using a precautionary approach. The TACC has never constrained commercial catch and the GSC TACC was overcaught by 422% in 2014/15. There is no real penalty for this overcatch because the annual deemed value rate for GSC5 is set at \$0.10 per kilo and the ACE price at \$1.11 per kilo. Meaning, there is no incentive to buy ACE even though GSC is an inevitable catch while trawling, and there is no incentive to develop innovations to avoid their capture.
20. The Ministry notes that they need more time to gauge the effectiveness of industry-led measures to avoid GSC. Exploratory fishing for GSC started in the late 1960s and resumed in earnest in 1999/2000, giving plenty of time to innovate and develop effective avoidance measures.
21. Without any effective controls fishers can continue to catch GSC at virtually no cost to them, the cost is borne by the environment and the species that depend and are associated with GSC. A poor outcome for a fish stock that we know very little about; yet has existed for longer than most of can imagine. The deemed value regime has not been effective in protecting GSC5 from overfishing in the past and is unlikely to change fishers' behaviour in the future.

<sup>2</sup> Food and Agriculture Organization of the United Nations. <http://www.fao.org/home/en/>

### *Coromandel scallops (SCA CS)*

22. No change is proposed to the annual deemed value rate of \$37.00 per kilo of meatweight for Coromandel scallops (SCA CS). This rate was set in 2002 when SCA CS was introduced to the Quota Management System. In 2012/13 an in-season review resulted in a TACC increase from 22 to 315 tonnes, meatweight. Commercial fishers landed 73 tonnes that year. Due to management changes, in-season reviews were replaced by a TACC increase in 2013/14, increasing from 22 to 100 tonnes. That year 51 tonnes of scallops were landed and 34 tonnes were landed in 2014/15, at these catch rates the deemed value rate of \$37/kg has no relevance.

### *Surf clams in QMA 7*

23. The failure to control excess catch and the profitable rewards from landing overcatch are likely contributing factors to the (concurrent) proposals to increase the Total Allowable Commercial Catch (TACC) for Triangle shell 7 (SAE7) and Deepwater Tuatua 7 (PDO7), by 110% and 385% respectively.
24. The commercial catch of Deepwater Tuatua 7 (PDO7) and Triangle Shell 7 (SAE7) stocks has been increasing in recent years and deemed value rates have failed to constrain commercial harvesting to the TACC levels set by the Minister to ensure sustainability using a precautionary approach.
25. The PDO7 TACC was exceeded in 2014/15. The 112 tonne TACC for SAE7 has also been exceeded, by 44% in 2012/13 and 70% in 2013/14. The company responsible for this excess, Cloudy Bay Clams, conceded at a 2015 public meeting that their catch was for scientific, research purposes. This excessive catch has prompted a review of the deemed value.
26. The proposed new deemed value rates of \$5.00 per kilo for SAE7 and PDO7 are unlikely to discourage overcatch beyond the existing TACC given that the conservative export price is \$8.00.
27. Given the high market value of these species it is hard to believe the \$5.00 per kg port price and \$8.00 per kg export price are realistic. If MPI expects submitters to believe these returns are real more information ought to be provided to support these numbers.
28. Low deemed values, even at the proposed new rates, would make it extremely profitable to continue over harvesting in SAE7 and PDO7. Those profits are more attractive if the fishers, Licenced Fish Receiver and exporter are the same entity.
29. The relationship between the entities involved in harvesting these Surf clams ought to be made clear in the Initial Position Paper because it has a bearing on who profits most from the over exploitation of a public resource.
30. It is clearly time to develop and implement a more flexible mechanism to remove the incentive to overcatch the TACC and receive increased ACE in the future.