

COMMERCE ACT 1986: BUSINESS ACQUISITION

SECTION 66: NOTICE SEEKING CLEARANCE

24 November 2004

The Registrar
Business Acquisitions and Authorisations
Commerce Commission
PO Box 2351
WELLINGTON

Pursuant to section 66(1) of the Commerce Act 1986 notice is hereby given seeking **clearance** of a proposed business acquisition.

PART I: TRANSACTION DETAILS

1 **The business acquisition**

- 1.1 On 1 October 2004, Sanford Limited (**Sanford**) and Simunovich Fisheries Limited (**Simunovich**) entered into an Agreement for Sale and Purchase of NZ Fishing Rights and Assets (**Agreement**).
- 1.2 Under the Agreement, Sanford has the right to purchase Surplus Quota for scampi and trevally, the acquisition of which by Sanford requires consent from the Minister of Fisheries under section 60 of the 1996 Act. The acquisition of scampi Surplus Quota is also conditional on clearance under the Commerce Act 1986.
- 1.3 Sanford has not yet acquired any scampi quota from Simunovich. This is because Simunovich has currently only been issued with provisional individual transferable quota (**PITQ**) for scampi. Third parties have appealed against those allocations. The legality of those appeals was subject to challenge. The High Court has now ruled that those appeals are legal nullities, and that Simunovich is to be issued with individual transferable quota (**ITQ**).¹ Simunovich will transfer some or all of that ITQ to Sanford, subject to consents and clearance.
- 1.4 Attached as **Attachment 1** is a copy of the scampi Quota Share Register Report maintained for the Ministry of Fisheries by Commercial Fisheries Services Limited (**FishServe**). This shows the detailed holdings of all quota-holders. Attached as **Appendix A** is a table summarising those holdings at the date of this application; after Sanford has purchased all

¹ *Simunovich Fisheries Limited v Chief Executive of the Ministry of Fisheries* (HC Wgtn, CIV 2004-485-1987, 10 November 2004, Ronald Young J). The third parties have until 24 November 2004 to appeal.

Simunovich's scampi quota (if consents and clearance are both granted); or after Sanford has purchased up to the 35% limits (if consents and clearance are not both granted). This table shows that the relevant acquisition will lead to Sanford increasing its holding by 7.75% from 34.91% to 42.66% of the scampi TACC.

- 1.5 Accordingly, clearance is sought for the acquisition by Sanford of scampi Surplus Quota, leading to Sanford increasing its holding from 34.91% to 42.66% of the scampi TACC.
- 1.6 There is no competition issue as to the small aggregation in trevally, which itself forms only a small part of the broad finfish market previously identified by the Commission.² Clearance is not sought here for the purchase of trevally Surplus Quota.

Concurrent applications to Minister of Fisheries

- 1.7 This application is being made concurrently with two applications to the Minister of Fisheries for consent to exceed the aggregation limits, under section 60 of the Fisheries Act 1996 – one for scampi, and one for trevally.
- 1.8 The criteria guiding the Minister's decision under section 60 of the Fisheries Act 1996 are prescribed in detail. They are quite different to those relevant to this application for clearance under section 66 of the Commerce Act 1986. For that reason, the two documents differ significantly. A copy of the applications to the Minister is attached as **Attachment 2**.

Scampi industry generally

- 1.9 The scampi industry has generated much administrative law litigation over the last decade. It has also been the subject of two recent reviews:
 - (a) Primary Production Committee, *Inquiry Into the Administration and Management of the Scampi Fishery* (December 2003);³ and
 - (b) Helen Cull QC and David Smyth, *Report for the State Services Commissioner – An Inquiry Into Fisheries Management of the Scampi Fishery* (25 May 2004).⁴

² *New Zealand Seafood Investments Ltd/Basuto Investments Ltd* (Decision 388, 23 March 2000), para 122.

³

<http://www.clerk.parliament.govt.nz/Content>SelectCommitteeReports/Scampi%20fishery%20report.pdf>

⁴

http://www.ssc.govt.nz/upload/downloadable_files/Fisheries-Management-Inquiry-Report.pdf

- 1.10 Both reviews concerned allegations of improper conduct in relation to the development of the scampi fishery during the 1980s and 1990s. Neither found evidence of any misconduct. Neither concerned current market conditions. They are relevant by way of background only.

2 The person giving notice

- 2.1 This notice is given by:

Sanford Limited
22 Jellicoe Street
Freemans Bay
PO Box 443
Auckland

Telephone: +64 9 379 4720
Facsimile: +64 9 309 1190
Attention: Eric Barratt

- 2.2 Simunovich's contact details are:

Simunovich Fisheries Limited
1 Market Place
PO Box 91331
Auckland

Telephone: +64 9 377 9165
Facsimile: +64 9 379 5930
Attention: Peter Simunovich/Vaughan Wilkinson

- 2.3 All correspondence and notices in respect of this application should be directed to:

Chapman Tripp
1-13 Grey Street
PO Box 993
Wellington

Telephone: +64 4 499 5999
Facsimile: +64 7 472 7111
Email: neil.anderson@chapmantrip.com
Attention: Neil Anderson

3 Confidentiality

The fact of the acquisition

- 3.1 Confidentiality is not required for the fact of the acquisition.

Specific information contained or attached to the notice

- 3.2 Confidentiality is not requested for this notice, as all information contained in it is publicly available.

4 Details of participants

Acquirer

- 4.1 The person who proposes to acquire the scampi Surplus Quota is Sanford. Sanford is an Auckland-based fisheries company, listed in the NZSX market operated by New Zealand Stock Exchange Limited (**NZX**). We discuss Sanford's activities at paragraph 9.1 below. A simplified corporate structure diagram of the Sanford group is set out in **Appendix B**.

Owner

- 4.2 The scampi Surplus Quota is currently owned by Simunovich. Simunovich is an Auckland-based fisheries company, wholly owned by members of the Simunovich family. Simunovich has effectively exited the fishing industry. We discuss its previous activities at paragraph 9.2 below. A simplified corporate structure diagram of the Simunovich group is set out in **Appendix C**.

5 Persons interconnected to or associated with the participants

Sanford

Shareholders

- 5.1 Sanford is not interconnected with any of its shareholders. Amalgamated Dairies Limited (**ADL**) holds 37.4% of Sanford directly. No other shareholder owns more than 10%. The 20 largest shareholders are set out on page 50 of the Sanford Annual Report 2003, which is attached as

Attachment 3

Associated persons

- 5.2 Despite the lack of interconnection, the Commission may consider Sanford to be associated with certain "upstream" persons for the purposes of section 47 of the Commerce Act.

- 5.3 The Commission considered the issue of association extensively in *New Zealand Seafood Investments Ltd/Basuto Investments Ltd* (Decision 388, 23 March 2000). The relationships between the parties in that decision (**Basuto**) are illustrated in **Appendix D**. The Commission found that Sanford, ADL and Talley's Fisheries Limited (**Talley's**), and by implication Amalgamated Marketing Limited (**AML**) and Amaltal Corporation Limited (**Amaltal**) were all associated with the applicant, New Zealand Seafood Investments Limited (**NZSI**). By virtue of their shareholdings, each was able to exert a substantial degree of influence over the applicant, NZSI.

5.4 The situation differs here. The relationships between the parties in this situation are illustrated in **Appendix E**. The following points emerge:

- (a) ADL is associated with Sanford. ADL has a 37.4% direct shareholding in Sanford (not including any interests held in Sanford by directors of ADL and companies associated with those directors or with ADL). Sanford is a listed company with no other large shareholders. As noted below, Douglas Goodfellow is a director of both ADL and Sanford.
- (b) ADL is associated with Amaltal. ADL holds a 50% shareholding in Amaltal (through AML). Although Talley's holds the remaining 50% of Amaltal, the Commission held in *Basuto* (para 21) that this did not militate against association. For similar reasons, Talley's is also associated with Amaltal.
- (c) Sanford is not associated with Amaltal. The chain of association cannot stretch on forever. Section 47(3) focuses on persons able to exert a "substantial degree of influence" over Sanford. Amaltal is not able to exert substantial influence over Sanford, and vice versa. As noted below, Sanford and Amaltal have no common directors.
- (d) Sanford is not associated with Talley's. Sanford and Talley's have no influence over each other. There are no common directors.

5.5 Accordingly, ADL is the only "upstream" person associated with Sanford.

5.6 Section 59 of the Fisheries Act 1996 incorporates a different test of association from Section OD 7 of the Income Tax Act 1994. For this reason, a different analysis of the parties who are "associated" with Sanford and with Simunovich is set out in the applications to the Minister in **Attachment 2**.

Subsidiaries

5.7 Sanford's subsidiaries are:

- (a) Sanford Investments Limited (100%);
- (b) Pelagic And Tuna New Zealand Limited (100%);
- (c) Auckland Fish Market Limited (100%);
- (d) Bracanka Trading (NZ) Limited (100%);
- (e) Scampi Fishery Development Company Limited (100%);

- (f) Sanford Petroleum Limited (81.2%); and
 - (g) Kerikeri Delivery Centre Limited (60%).
- 5.8 Pelagic and Tuna New Zealand Limited is an example of a corporate stakeholder organisation (**CSO**). CSOs do not carry out commercial activities. They are simply administrative entities, common in the fishing industry.
- Associated persons*
- 5.9 The Commission may also consider Sanford to be “associated” with certain downstream persons for the purposes of section 47 of the Commerce Act. Sanford holds 10% or more of the shares in:
- (a) San Won Limited (50%);
 - (b) SS Fishing Limited (50%);
 - (c) New Zealand Japan Tuna Company Limited (35.1%);
 - (d) Auckland Fishing Port Limited (34%);
 - (e) Coromandel Mussel Seed Company Limited (33%);
 - (f) Sugarloaf Port Company Limited (12.2%);
 - (g) Tasman Bay Ring Road Limited (11%); and
 - (h) Premium Proteins (NZ) Limited (10%).
- 5.10 However, none of these companies hold any scampi quota or are in any other way engaged in the scampi industry.

Simunovich

Shareholders

- 5.11 Simunovich is owned equally by Ivan Simunovich and Neda Simunovich. No other “upstream” persons are able to exert a substantial degree of influence over Simunovich.

Subsidiaries

- 5.12 Simunovich’s subsidiaries are:
- (a) Simunovich Management Limited (100%);
 - (b) Simunovich (Deepwater) Fisheries Limited (100%);

- (c) Seatrek Corporation NZ Limited (100%); and
 - (d) Ocean Bridge Systems Limited (75%).
- 5.13 Simunovich holds 33% of the shares in Auckland Fishing Port Limited, but holds more than 10% of the shares in no other companies.

6 Beneficial interests/entitlements between participants

- 6.1 There are no beneficial interests, entitlements or other pecuniary interests between Sanford and Simunovich.

7 Formal links between participants

- 7.1 There are no contractual arrangements in place between Sanford and Simunovich.
- 7.2 As noted above, Sanford holds 34% and Simunovich 33% of Auckland Fishing Port Limited. Sanford and Simunovich each hold small stakes in a number of CSOs. These stakes vary according to catch in any given year. The most recent public records indicate that Sanford and Simunovich each hold:
- (a) 6.25% of The Orange Roughy Management Company Limited;
 - (b) 5% of Hoki Fishery Management Company Limited;
 - (c) 4% of Northland Scallop Enhancement Company Limited;
 - (d) 1.4% of The Northern Inshore Fisheries Company Limited;
 - (e) 1% of The Snapper 8 Company Limited; and
 - (f) small holdings of The Pagrus Auratus Company Limited.

8 Directorships

- 8.1 Sanford's seven directors hold numerous directorships outside the Sanford group. Relevantly, Douglas Goodfellow is a director of Sanford, ADL and AML. Otherwise, no directors of Sanford hold directorships in companies which are involved in the markets in which Simunovich operated.

9 The business activities of each participant (and interconnected or associated parties)

Sanford

- 9.1 The principal activities of the Sanford group are harvesting, processing and marketing of seafood and farming, processing and marketing of aquaculture products.

Harvesting

- 9.2 Sanford holds quota for a broad portfolio of finfish and other species, including scampi. Details of its scampi quota holdings are set out in **Appendix A**.
- 9.3 Sanford now operates a fleet of 43 vessels in New Zealand. It acquired 10 vessels from Simunovich under the Agreement.
- (a) Sanford operates 12 freezer vessels. Three focus on hoki, one on orange roughy and dory, two are longline freezer vessels fishing for toothfish and ling, and six fish year-round for scampi. (Sanford acquired one long-liner and five scampi vessels from Simunovich under the Agreement.)
 - (b) Sanford also charters 2 vessels for squid.
 - (c) Sanford has 7 smaller vessels longlining for snapper and groper in inshore waters in the north of the North Island.
 - (d) Sanford also has 17 ice trawlers fishing for hoki, orange roughy, snapper and other species in both the North and South Islands. (Sanford acquired four ice trawlers from Simunovich under the Agreement.)
 - (e) Sanford has 5 purse seine vessels fishing for tuna, mackerel and kahawai out of Tauranga. It also has 2 super-seiners fishing for tuna in the equatorial Pacific.

Processing

- 9.4 Sanford's freezer vessels process and freeze their catch at sea. This is true of all scampi caught by Sanford. Processing involves washing, grading, packaging, blast-freezing and (sometimes) tailing.
- 9.5 Smaller vessels' finfish catch is processed at one of Sanford's processing plants at Auckland, Tauranga, Timaru, Oamaru and Bluff.

Marketing

- 9.6 Sanford is heavily focussed on export seafood markets. It exports a broad variety of species to North America, Europe, Asia, Australia and the Middle East.

Aquaculture

- 9.7 Sanford operates marine farms growing pacific oysters, greenshell mussels and king salmon in Northland, Coromandel, Havelock and Stewart Island. Processing plants are located in each area.

Simunovich

- 9.8 Simunovich has now effectively exited the fishing industry. It holds Scampi Quota and Surplus Quota, pending resolution of the applications for consent and clearance. It has also retained its fish factory at 1 Market Place, and some associated berthing arrangements.
- 9.9 Prior to the Agreement, the principal activities of the Simunovich group were harvesting, processing and marketing of seafood.

Harvesting

- 9.10 Simunovich held a broad range of quota for finfish species, and substantial quota for scampi. Its scampi quota holdings are set out in **Appendix A**.
- 9.11 Simunovich formerly operated a fleet of 10 vessels in New Zealand. Sanford acquired those vessels under the Agreement.
- (a) Simunovich operated 5 small full-time scampi vessels.
 - (b) Simunovich operated 4 small ice boats that fish for inshore species such as snapper, john dory, gurnard, trevally and tarakihi.
 - (c) Simunovich operated 1 tuna long-liner (the *Red Bluff*).

Processing

- 9.12 As for Sanford, Simunovich's freezer vessels processed and froze their catch at sea. This was ordinarily true for all scampi caught by Simunovich. Very occasionally, Simunovich's ice boats were used to land small quantities of fresh scampi. These were then processed onshore. These vessels were ordinary trawlers temporarily modified to fish for scampi.
- 9.13 Some other species caught by Simunovich were processed at its processing plant at Auckland.

Marketing

- 9.14 Simunovich marketed its scampi overseas under the brand "SIMU", through a strong relationship with Maruha (one of Japan's largest marine food trading houses). The "SIMU" brand has been acquired by Sanford. Since 1989, Simunovich has, in combination with Maruha, pioneered the New Zealand scampi fishery and the scampi export market. Sanford has acquired from Simunovich its significant product and marketing plans for building on that commitment to the export market. Sanford would be less incentivised to put those plans into action were it not able to complete the acquisition. Although those plans are confidential, Sanford would be happy to discuss them further with the Commission.

9.15 For those reasons, the survival and strengthening of the “SIMU” brand and Sanford’s product and marketing plans will strengthen the appeal of New Zealand scampi generally.

10 The reasons for the proposal and the intentions in respect of the acquired or merged business

- 10.1 The parties entered into the acquisition in order to realise efficiencies and synergies by combining the relevant assets within a single entity. Sanford’s approach to Simunovich was well timed as Simunovich had formed the view that its best commercial options were either to expand itself by way of acquisition or to exit for value.
- 10.2 The combination of deepwater finfish quota and vessels will allow more efficient selection of vessels, possibly leading to rationalisation. As a positive corollary, Sanford and Simunovich each have an existing quota portfolio which is an especially “good fit” for the other.
- 10.3 The combination of scampi quota and vessels will allow operational synergies to be achieved. The operating characteristics of vessels could be matched to the particular area being fished. The larger fleet size will allow greater choice in deploying the most effective vessels to the most appropriate fishing grounds.

PART II: IDENTIFICATION OF MARKETS AFFECTED

11 Horizontal aggregation

Product market

11.1 The most recent seafood market definitions are those used by the Commission in *Basuto*. The Commission analysed (para 122):

- (a) the market for harvesting finfish in New Zealand;
- (b) the market for basic processing and wholesale supply of finfish in New Zealand;
- (c) the market for value-added processing and wholesale supply of finfish in New Zealand;
- (d) the market for the cultivation and supply of greenshell mussels in New Zealand;
- (e) the market for the harvesting and supply of scallops in New Zealand;
- (f) the market for the harvesting and supply of dredge oysters in New Zealand; and

- (g) the market for the processing and supply of shellfish in New Zealand.
- 11.2 The Commission has yet to consider scampi. On the demand-side, scampi have substitutes particularly at adjacent price/quality levels. These substitutes could include lobster, various slipper lobsters, crabs or prawns, or even certain finfish. Even if these products do not fall strictly in the same product market, they exert a degree of competitive constraint on scampi.
- 11.3 On the supply-side, scampi harvesting is mostly carried out beyond the limits of the territorial sea in the Exclusive Economic Zone. Deep sea operations of this nature require specialised vessels. Scampi fishing techniques are somewhat different from techniques used to recover other crustacea, shellfish, or finfish in inshore fisheries. On-board processing facilities are needed to process and freeze catch. But any freezer trawler can be easily converted to fish for scampi. In fact most scampi trawlers are simply modified prawn trawlers. It would be necessary simply to install a small factory layout on deck to process the catch. Adequate blast-freezing capacity would usually be already available. The cost of adding and removing these features is not inordinate. Further, as explained above in relation to Simunovich, scampi can be landed fresh using ice trawlers.

Functional market

- 11.4 This application has been prepared primarily by reference to the functional levels identified in *Basuto*. The broad fishing market is best understood in terms of harvesting; processing; and marketing.
- 11.5 Both Sanford and Simunovich are vertically integrated. Unlike some finfish, scampi are mostly processed at sea on freezer vessels. An important part of processing is the affixation of branded packaging. This makes it easier for the processor to also engage in marketing of scampi. Accordingly, participants in scampi markets are often vertically integrated across harvesting, processing and marketing. The vertical integration of Simunovich with respect to the scampi fishery has arisen by virtue of its role in pioneering the New Zealand scampi fishery and, in association with Maruha, the export market. Quite simply, there has historically been no-one else able to contribute effectively at any point in the supply chain.

Geographical market

- 11.6 Scampi are (or in the future may be) harvested within eleven quota management areas (**QMAs**). Each species/area combination is known as a "fish stock". Each fish stock has a fish stock code. For scampi these are SCI1, SCI2, SCI3, SCI4A, SCI5, SCI6A, SCI6B, SCI7, SCI8, SCI9 and SCI10.

- 11.7 As noted above, for each scampi fish stock ITQ or PITQ has been allocated. Those allocations are set out in **Appendix A**. They are final (ITQ) for the 2004-05 fishing year, except where an appeal has been lodged in relation to an allocation.
- 11.8 The distinction between different fish stocks does not give rise to narrow geographic markets. This is because, once processed at sea, scampi products are readily transportable. As discussed further below, nearly all scampi is exported. This confirms that the relevant geographical market is nation-wide, as it was for all products in *Basuto*.

Summary

- 11.9 The acquisition will involve Sanford purchasing scampi Surplus Quota from Simunovich, so will result in some aggregation in the market for scampi harvesting in New Zealand.

12 Differentiated product markets

- 12.1 Scampi are differentiated in export markets. However, the very small quantity of scampi consumed domestically is not differentiated.

13 Differentiated product characteristics

- 13.1 Scampi are differentiated by brand in export markets. As discussed further below, the "SIMU" brand acquired by Sanford from Simunovich, having been developed exclusively by Simunovich, is recognised in Japan as a market leader. Other brands are not backed by sufficient volume to be available year round, so do not necessarily realise the same premium in export markets.
- 13.2 However, that differentiation is not significant in domestic markets. Advertising is not carried out in New Zealand. The "SIMU" brand is largely unknown here. Consumers do not choose between scampi on the basis of perceived quality. The relevant differentiation exists in relation to substitutable products like lobster, slipper lobsters, prawns and crabs.

14 Vertical integration

- 14.1 The transaction will not result in any additional vertical integration in the scampi markets. Sanford is already vertically integrated across harvesting, processing and marketing in scampi.

15 Previous notifications to the Commission or acquisitions

- 15.1 Sanford was a participant in the proposed transaction analysed in *Basuto* in 2000. That transaction was not completed. Sanford has also acquired certain assets (including non-scampi quota) from Simunovich as discussed above.

- 15.2 Neither Sanford nor Simunovich has undertaken any other acquisition of assets, shares or vessels relevant to this application in the last 3 years.

PART III: CONSTRAINTS ON MARKET POWER BY EXISTING COMPETITION

16 Existing competitors

Market concentration

- 16.1 The concentration ratio of the scampi market emerges from the post-acquisition market shares set out in **Appendix A**. The three largest quota-owners seem to be Sanford, the Treaty of Waitangi Fisheries Commission or Te Ohu Kai Moana (**TOKM**) and the Crown. Together they would have a combined market share of 83.36%, suggesting that the industry is highly concentrated. This is not accurate, for two important reasons:
- (a) The Crown quota (20.7%) is not currently fished. As discussed further below, the Crown owns quota on an interim basis. It will go to tender within the next few years. The Crown is in the process of tendering the annual catch entitlement (**ACE**) rights to that quota. It is more likely than not that the quota will be acquired by several purchasers. For example, quite apart from those smaller scampi operators looking to increase their holdings of scampi quota for targeted scampi fishing, a number of fishers (particularly in the Chatham Rise area) targeting other species such as hoki now require scampi quota or ACE to support their substantial scampi by-catch. When scampi was a non-QMS species, that by-catch could be discarded or retained without being accounted for. Now that scampi has been introduced into the QMS, those fishers will need scampi quota or ACE to avoid having to pay deemed value for their scampi by-catch. These are sophisticated operators in their own right and so will be easily able to establish small scampi processing lines on their vessels.
- (b) The TOKM quota (20%) is also owned only on an interim basis. It will eventually be divided up, and allocated between approximately 58 iwi groups.
- 16.2 It is therefore likely that the industry will become significantly less concentrated in the near future. It is likely that the Crown tender and TOKM allocation process will cause the concentration ratio to fall below 70%.
- 16.3 The existing *owners* of scampi quota and their quota allocations are identified in **Appendix A**. This table shows that the acquisition of scampi Surplus Quota will result in Sanford moving from 34.91% to 42.66% of the

scampi TACC. This is marginally outside the Commission's 40% safe harbour. (The purchase of Scampi Quota other than scampi Surplus Quota is inside that 40% safe harbour.) It is primarily because this final level is outside the Commission's 40% safe harbour that clearance is sought in respect of scampi Surplus Quota.

- 16.4 It can be more difficult to identify the extent to which such quota ownership translates to actual share of the overall harvest due to the liquidity of the ACE market. A quota owner can elect not to fish at all but rather transfer ACE to fishers from time to time on a commercial basis. In this regard, Sanford has already arranged to fish Simunovich's ACE.

Crown quota

- 16.5 The Crown is not currently engaged in scampi harvesting, and is not likely to become so engaged in the future. It owns a substantial amount of quota (20.7%) on an interim basis. That quota will be the subject of a tender process in the near future. The tender is likely to be an important source of quota for existing competitors expanding in (or new competitors entering) the market. In addition, as explained above the operators of a number of hoki vessels will need to acquire some scampi quota to cover their by-catch.
- 16.6 Any participation by Sanford in the tender process would of course be limited not only by the Commerce Act but also by the Fisheries Act aggregation limits. Simunovich is unlikely to re-enter the scampi industry by bidding for the Crown quota. This means that the Crown quota will be acquired by other parties.
- 16.7 Importantly, the Crown quota is of significant size and spread across 6 different QMAs. This makes it likely that it will be acquired by several different purchasers. These purchasers could easily be existing competitors, increasing their current holdings or indeed entirely new parties entering the fishery. This will contribute to the fragmentation of the industry.

TOKM quota

- 16.8 Similarly, TOKM owns a substantial amount of quota (20%) on an interim basis. That quota will be allocated to approximately 58 iwi groups. There are also restrictions placed upon the re-aggregation of those quota allocations. Particularly, they may not be simply traded to non-Maori. The only method of transfer outside the iwi groups is by way of swap.

Export

- 16.9 Scampi is nearly all exported. Sanford estimates the domestic market to be no more than 5-10T annually of which Simunovich has historically

supplied less than a half to one tonne on average. This compares with a scampi TACC for 2004-2005 of 1291T. In other words, the domestic market accounts for significantly less than 1% of scampi caught. The entire domestic scampi market could be serviced by any one of the current quota holders identified in **Appendix A**.

17 Conditions of expansion by existing competitors

- 17.1 The major constraint on expansion by existing competitors is likely to be access to scampi quota and relevant by-catch quota. In that regard, without the acquisition by Sanford of Simunovich's Scampi Quota and (subject to regulatory clearance) scampi Surplus Quota, both Sanford and Simunovich would have been likely to have been vigorous participants in any subsequent Crown tender process with respect to its scampi ITQ. If the scampi Surplus Quota is purchased, both Sanford (because of regulatory constraint) or Simunovich (because it will have effectively exited the industry) will be severely limited in their ability to participate in that tender. So, when compared with the counterfactual, this provides an improved opportunity for existing competitors (including those who catch scampi only as by-catch) to access scampi quota.

18 Current suppliers

- 18.1 Of the existing competitors identified in **Appendix A**, all are focussed on exporting scampi. Any attempt by Sanford to raise price in the domestic market after the acquisition would simply encourage export diversion. The absence of long-term contracts ensures that such export diversion will be particularly easy.
- 18.2 Importantly, if a genuine domestic market for scampi were to emerge in New Zealand, it could be serviced by importing cheaper Northern Hemisphere scampi in bulk. Such scampi could be imported and sold at around \$25/kg, whereas New Zealand scampi can realise \$40-\$50/kg in the more discerning Japanese market. Market supply from the Northern Hemisphere is substantial. For example, the Scottish fishery is 15,000 tonnes annually and there are a number of other sizeable fisheries.

19 Conditions influencing expansion

Scampi Quota

- 19.1 The major apparent constraint on expansion by existing competitors is access to scampi quota. An operator cannot harvest scampi without a legal right to do so under the Fisheries Act 1996, unless willing to pay deemed values. Three points must be made here.
- (a) There are already a number of smaller participants with access to quota. The Fisheries Act 1996 provides for ITQ to be traded. So an existing competitor could acquire scampi quota from another quota-

holder as long as it was prepared to pay a market price. The industry will likely see some rationalisation in the future as smaller players look to optimise the efficiency of their operations.

- (b) As already noted the Crown currently holds 20% of the total quota, which is likely to go to tender in the near future. Any existing competitor could bid for that quota when it becomes available. As already noted, there are clear and substantial regulatory barriers to Sanford bidding for that quota.
 - (c) Quota-holders do not necessarily fish their own quota. Some sell their ACE to other fishers on an annual basis or contract to have their ACE caught on their behalf. This provides an obvious alternative to purchasing further quota. For example, Sanford has agreed to fish the ACE attaching to the scampi Surplus Quota for the fishing year 1 October 2004 to 30 September 2005 and ACE from other fisheries on an ad hoc basis.
- 19.2 For those reasons, access to quota does not present an appreciable barrier to expansion by existing competitors.

By-catch quota

- 19.3 A further apparent constraint on expansion is access to quota sufficient to cover by-catch. "By-catch quota" permits a scampi fisher to catch quantities of other species (especially hoki, ling, gemfish, sea perch, skate and stargazer) while targeting scampi. These volumes can be substantial compared to scampi volumes, but are usually small relative to the by-catch fishery as a whole. If the fisher holds insufficient quota, it will have to purchase ACE on-market to avoid having to pay to the Ministry of Fisheries the "deemed value" of the by-catch under section 76 of the Fisheries Act 1996. Deemed values are set so as to discourage fishers from over-fishing TACC limits for stocks by exceeding their respective ACE limits.
- 19.4 Access to quota is unlikely to prove problematic for an existing competitor seeking to expand in the scampi market. This is for three reasons:
 - (a) A number of other participants in the scampi market already possess by-catch quota portfolios.
 - (b) Quota is readily available on-market. Because only relatively small amounts are necessary for by-catch, overall sellers need not have substantial quota holdings relative to the entire fishery needed for the by-catch species.

- (c) Scampi fishers have usually been able to trade sufficient ACE on-market to avoid paying excessive deemed values. For instance, Simunovich has had to trade regularly in recent years to cover by-catch but has never encountered any insurmountable difficulty in doing so.
- 19.5 For those reasons, access to quota to cover by-catch does not present an appreciable barrier to expansion.
- Vessels**
- 19.6 Scampi vessels are specialised, but do not represent a barrier to expansion. Four points must be made.
- (a) Other vessels (particularly prawn trawlers) can be easily modified to fish for scampi (and vice versa), as noted above.
 - (b) Scampi vessels are traded both domestically and internationally. The capital cost of an average scampi trawler is around NZ\$1m-\$1.5m. The capital cost of a large hoki freezer trawler, by comparison, is around NZ\$11-12m.
 - (c) Scampi vessels may be leased or chartered, either domestically or internationally.
 - (d) There is a degree of over-capacity in the scampi industry. Rationalisation of scampi vessels is inevitable in the near future. This makes it more likely that an existing competitor will be able to acquire a scampi vessel domestically.
- 19.7 For those reasons, access to scampi vessels does not represent an appreciable barrier to expansion in the scampi market.

20 Time

- 20.1 In response to an increase in price, existing competitors could immediately divert scampi destined for export. Most scampi exported by smaller participants is sold into overseas spot markets, rather than under long-term contracts. Scampi may not be diverted from export unless the post-acquisition domestic price exceeds the export price (net of transport and other costs), but were that the case Sanford would not sell scampi domestically to begin with. Northern hemisphere scampi could be imported, as discussed above.
- 20.2 Existing competitors could also increase capacity following the Crown tender process. When this quota can be fished will depend on when the tender process is completed.

21 Constraint

- 21.1 The competitive response of existing participants would wholly constrain Sanford after the acquisition. Most importantly, quota and scampi destined for export are both readily available.

22 Summary – existing competitors

- 22.1 As just noted, Sanford will be constrained after the acquisition by the conduct of existing competitors.

23 Coordination effects

- 23.1 There is minimal scope for collusion in the scampi industry. Referring to the Commission's *Mergers & Acquisitions Guidelines* (December 2003), this is for the following reasons:

- (a) There will still be at least 9 quota owners and more are likely to enter the market when Crown quota becomes available for purchase. The industry is fragmented, with an acrimonious and litigious history.
- (b) Scampi is differentiated by brand in the export market, but is not differentiated domestically.
- (c) Fishing technologies are not static. Vessels continue to become more specialised, in terms of both harvesting and processing techniques.
- (d) New entry is threatened immediately by the prospect of existing quota being traded, and the Crown quota becoming available (either through tender of the quota itself, or of the ACE associated with it).
- (e) As already noted, there are several fringe competitors. Each possesses more than enough quota to supply the entire domestic market.
- (f) Simunovich has been the mainstay rather than the maverick of the industry.
- (g) Demand for scampi is not price inelastic. Scampi is very much a luxury good rather than a necessity.
- (h) There is no history of collusive conduct in the industry.
- (i) Most buyers of scampi are offshore.

24 Monitoring and enforcement

- 24.1 There is no real scope for detection and retaliation in the scampi industry:

- (a) As noted above, seller concentration is not high.
- (b) Scampi sales are not particularly frequent, even domestically.
- (c) Although Sanford is vertically integrated, so are most other scampi harvesters. Some fishers (Barine, for instance) harvest and process scampi but use export agents to sell into overseas markets.
- (d) Demand is principally export-driven. Depending on fluctuations in transport costs and exchange rates, demand may both rise and fall.
- (e) Industry costs are neither entirely transparent, nor uniform.
- (f) Although some competitors do operate in other seafood markets, each of those markets depends on separate quota, separate vessels and separate marketing channels.
- (g) Pricing is not entirely transparent, particularly in export.
- (h) Threats of expanding capacity are not without strength given the availability of further quota outlined above. However, capacity is not unlimited.

25 **Pricing**

- 25.1 Evidence on pricing behaviour is difficult to recover from overseas markets. Simunovich has regarded itself as a price leader.

26 **Summary**

- 26.1 There will be little scope for coordinated market behaviour after the acquisition.

PART IV: CONSTRAINTS ON MARKET POWER BY POTENTIAL COMPETITION

27 **Conditions of entry**

- 27.1 The same factors mentioned under conditions of expansion in paras 17 and 19 above will apply to the ability of new firms to enter all markets referred to in this application.

28 **Potential competitors**

- 28.1 Potential entrants would include:

- (a) Companies already established in other seafood markets in New Zealand but currently lacking scampi quota, such as Sealord Group Limited and Talley's (although Talley's has an interest in scampi

through its 50% shareholding in Amaltal). Others would include Ngai Tahu, Aotearoa Fisheries Limited and other iwi based fishing companies.

- (b) Other substantial primary production companies not currently engaged in seafood markets. Such companies could enter the market either independently, or in collaboration with more experienced parties.
- (c) Importers of scampi, as outlined above.

29 Conditions influencing entry

- 29.1 The points made in para 19 apply equally here. New entry into the scampi market is likely to be only constrained to some extent by access to target quota, access to by-catch quota, and access to vessels. For the reasons given above, none of these present an appreciate barrier to entry.

30 Time

- 30.1 The points made in para 20 apply equally here.

31 Likelihood

- 31.1 It is likely that new entry would follow any increase in price. Scampi has been recognised as a high-return product in the industry, largely thanks to the high prices paid in export markets. Incentives to enter would only be strengthened further by an increase in price.

32 Extent

- 32.1 New entry and expansion by existing competitors would together easily suppress any post-acquisition increase in price. As already, the domestic market is minute so any competitor could service the demand.

33 Conditions influencing de novo entry

- 33.1 The points made in paras 19 and 29 apply equally here.

34 Time for de novo entry

- 34.1 The points made in paras 20 and 30 apply equally here.

35 Constraint from de novo entry

- 35.1 The points made in para 32 apply equally here.

PART V: OTHER POTENTIAL CONSTRAINTS

36 Constraints on market power by the conduct of suppliers

- 36.1 There are no suppliers to scampi harvesters.

39 Constraints on market power by the conduct of acquirers

- 39.1 The vast majority of acquirers are located offshore. In addition to the countervailing power exercised by those acquirers, fluctuations in transport costs and exchange rates make scampi harvesters quite vulnerable.

THIS NOTICE is given by Eric Barratt on behalf of Sanford Limited.

I hereby confirm that:

- All information specified by the Commission has been supplied;
 - All information known to the applicant/s which is relevant to the consideration of this application/notice has been supplied;
 - All information supplied is correct as at the date of this application/notice.

I undertake to advise the Commission immediately of any material change in circumstances relating to the notice.

Signed by Sanford Limited:

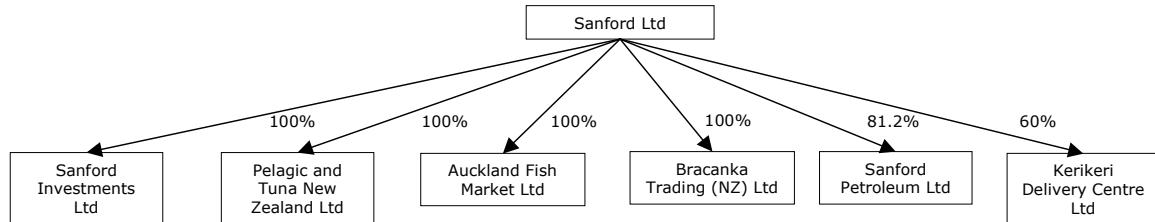
Eric Barratt
Managing Director

I am an officer/director of this company and are duly authorised to make this notice.

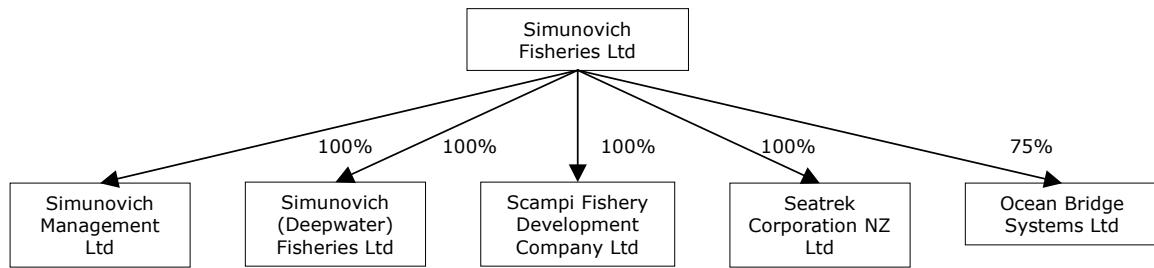
APPENDIX A – SCAMPI QUOTA

At date of application													
	SCI1 (t)	SCI2 (t)	SCI3 (t)	SCI4A (t)	SCI5 (t)	SCI6A (t)	SCI6B (t)	SCI7 (t)	SCI8 (t)	SCI9 (t)	SCI10 (t)	Total (t)	Total (%)
Amalat Fishing Co Limited	-	-	11.53	-	-	14.41				-	-	25.94	2.00
Barine Developments Limited	0.80	31.63	7.88	-	-	25.65				-	-	65.96	5.10
Deadman & Lees	6.70	-	9.25	1.45	0.26	28.03				0.01	-	45.69	3.54
Petromont Holdings Limited	0.33	0.19	6.88	3.58	-	14.83				-	-	25.81	2.00
Sanford Limited	-	41.37	4.89	5.10	-	47.13				-	-	98.49	7.63
Simunovich Fisheries Limited	88.17	69.24	106.73	85.73	-	102.36	-	-	-	-	-	452.23	35.03
Vautier Shelf Company No 14 Limited	-	17.56	21.19	0.14	-	12.40				-	-	51.29	3.97
Treaty of Waitangi Fisheries Commission	24.00	40.00	68.00	24.00	8.00	61.20	10.00	15.00	1.00	7.00	-	258.2	20.00
Crown	-	-	103.62	-	31.74	-	40.00	60.00	4.00	28.00	-	267.36	20.7
TACC	120	200	340	120	40	306	50	75	5	35	0	1291	100
At Scampi Settlement Date (if consents and clearance achieved)													
	SCI1 (t)	SCI2 (t)	SCI3 (t)	SCI4A (t)	SCI5 (t)	SCI6A (t)	SCI6B (t)	SCI7 (t)	SCI8 (t)	SCI9 (t)	SCI10 (t)	Total (t)	Total (%)
Sanford Limited	88.17	110.61	111.62	90.83	-	149.49	-	-	-	--	-	550.72	42.66
Simunovich Fisheries Limited	-	-	-	-	-	-	-	-	-	-	-	-	0
At Scampi Settlement Date (if consents and clearance not achieved)													
	SCI1 (t)	SCI2 (t)	SCI3 (t)	SCI4A (t)	SCI5 (t)	SCI6A (t)	SCI6B (t)	SCI7 (t)	SCI8 (t)	SCI9 (t)	SCI10 (t)	Total (t)	Total (%)
Sanford Limited	68.67	95.11	88.12	71.83	-	126.99	-	-	-	-	-	450.72	34.91
Simunovich Fisheries Limited	19.50	15.50	23.50	19.00	-	22.50	-	-	-	-	-	100	7.75

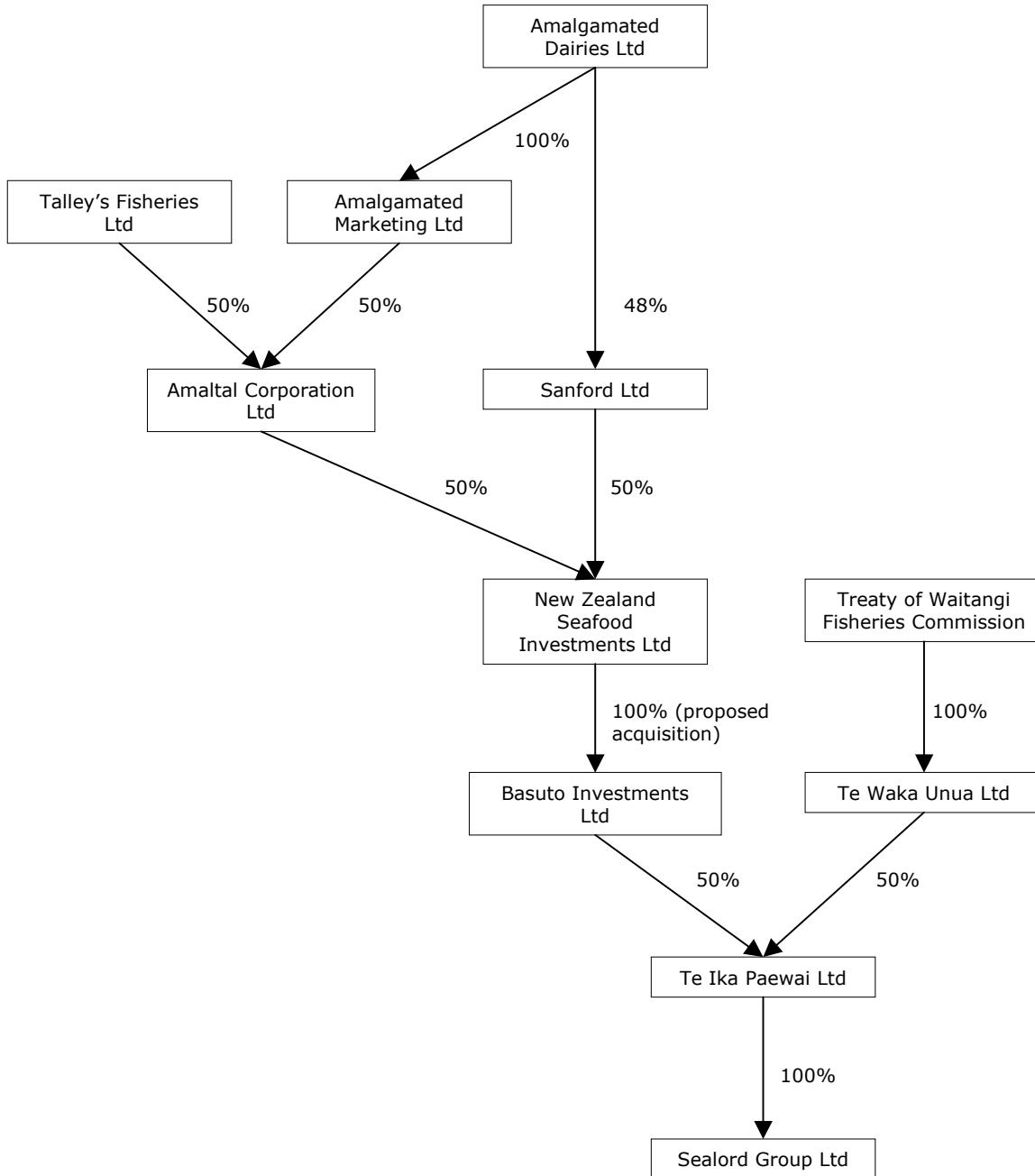
APPENDIX B – SANFORD CORPORATE STRUCTURE (SIMPLIFIED)



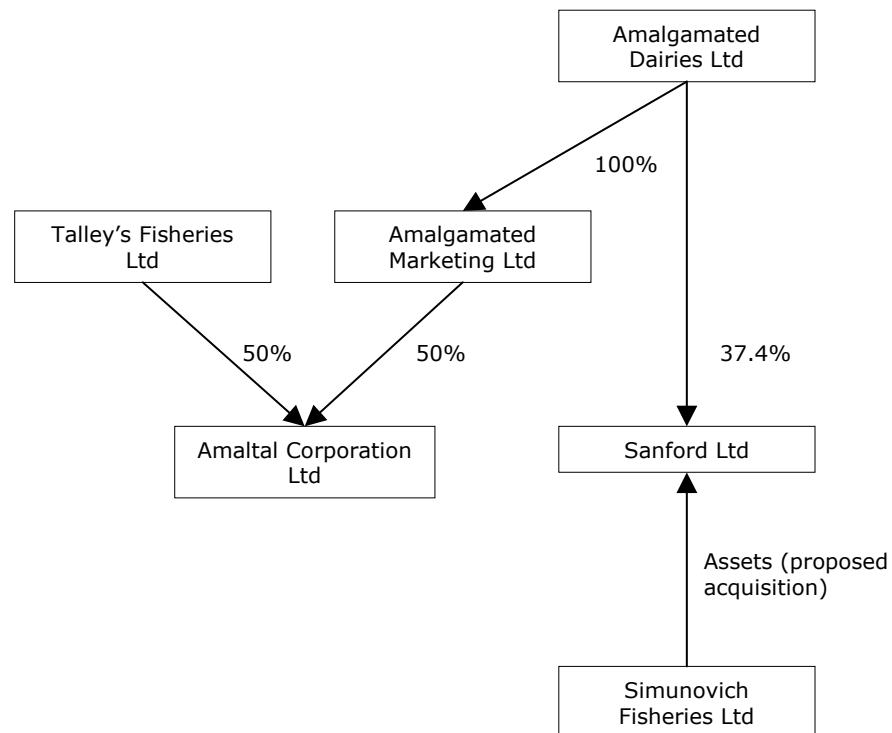
APPENDIX C – SIMUNOVICH CORPORATE STRUCTURE (SIMPLIFIED)



APPENDIX D – BASUTO (ASSOCIATED PERSONS)



APPENDIX E – ACQUISITION (ASSOCIATED PERSONS)



* ADL's 37.4% direct shareholding in Sanford is calculated from Sanford's Annual Report 2003 (see **Attachment 3**). It has not been aggregated with any indirect shareholdings.

ATTACHMENT 1 – QUOTA SHARE REGISTER REPORT (SCAMPI)

Client ID	Legal Name	Holding (kg)	Regular ACE	Unrestricted	Restriction	Type	Postal Address	Postal City	Post Code	Email	ACF	
			Holding (kg)	ACE (kg)	Type							
9260105	Hemi, Kathy as Trustee for The Ngati Apa Ki Te Waipounamu Trust	17	17				P O Box 361	Blenheim	7315	ngatitapa.wai@xtra.co.nz		
9270046	Te Waipounamu Fisheries Limited	172	172				P O Box 13575	Christchurch	8015	Heather.Coatsworth@ngaitahu.iwi.nz		
9330066	Raukura Moana Fisheries Limited	299	299				P O Box 5642	Frankton	2031	rangitaua@rmfl.co.nz		
9340074	Te Tai A Kupe Limited Ihapera Lully Waten Heemi, Stephen Ngeungeu Zister, Caroline Karu, Haerengarangi Mikaere, David Peka Ngati Ranginui Iwi Society Incorporated	808	808				P O Box 361	New Plymouth C	4615	ngatitama@clear.net.nz		
9420016	C/- Josephine Marama Anderson	2,103	2,103				P O Box 33	Paeroa	2951	hfldt@xtra.co.nz		
9430014		359	359				P O Box 2526	Tauranga	3015	ranginuiwi@clear.net.nz		
9440073	Forty South Limited	10	10				P O Box 12135	Napier	4030	quota@pactrawl.co.nz		
9560030	Tama Fishing Company Limited	17	17				P O Box 10	Nelson	7015	david.bennett@westyates.co.nz		
9760152	Totaranui Limited	18	18				P O Box 349	Blenheim	7315	david.bennett@westyates.co.nz		
9770070	Jack Daymond, Bernard James Thomas, Tenera George Goones Commercial Fisheries Services Limited	23	23				P O Box 62	Wharekauri	Chatham Islands	8030	ngatimutungaowharekauri@xtra.co.nz	
9790642	Ngati Ruanui Group Management Limited	2,345		0 Court Caveat	P O Box 297			Wellington	6015	ruanui.raupatu@xtra.co.nz		
SCI2		150	150				P O Box 594	Hawera	4800	o.nz		
8422125	Sanford Limited Treaty of Waitangi Fisheries Commission	110,613	110,613				P O Box 443	Auckland	1015	gmchamarara@sanford.co.nz		
8600300	Barine Developments Limited	28,866	28,866				P O Box 3277	Wellington	6015	michele.wallace@tcckm.co.nz		
8920034		31,631	31,631				P O Box 273	Kumeu	1250	seacagle@clear.net.nz		

Client ID	Legal Name	ACE				Postal City	Post Code	Email
		Regular ACE Holding (kg)	Unrestricted ACE (kg)	Restriction Type	Postal Address			
8970117 Limited	Ngai Tahu Seafood Products	1,681	1,681		P O Box 13575	Christchurch	8031	Heather.Coatsworth@ngaitahu.iwi.nz
9040015 Limited	Vautier Shelf Company No. 14	17,564	17,564		P O Box 156	Auckland	1462	skaga@xtra.co.nz
9040054	Ngati Porou Fisheries Limited	5,078	5,078		P O Box 1296	Gisborne	3815	breedy@rnzfl.co.nz
9120012 Petromont Holdings Limited		192	192		P O Box 87179	Auckland	1130	rja@petromont.co.nz
9140091 Ika Toa Limited		639	639	C/- Matiu Rei	P O Box 50079	Porirua	6215	m.rei@ngatitao.iwi.nz
9160064 Kailkaiawaro Fishing Co Limited		31	31		P O Box 7008	Nelson	7015	wayne@donker.co.nz
9210001 Ngatiwai Fishing Limited		182	182		C/- Thomson Wilson P O Box 1042	Whangarei	1115	legal@thomsonwilson.co.nz
9240060 Te Awapatiki Fisheries Limited	Russell James Thomas, Barry Mathew Mason, John Te Rangi-O-Kiwa Morgan, Tuinirangi James Martin, Ms Amoroa Luke, Lorraine Shirle	38	38		P O Box 1188	Chatham Islands	8030	tekopingaa@xtra.co.nz
9260025	Hemi, Kathy as Trustee for The Ngati Apa Ki Te Waipounamu Trust	31	31		C/- TVA Lock Limited P O Box 1003	Blenheim	7315	arn@tva.co.nz
9260105		31	31		P O Box 361	Blenheim	7315	ngatiapa.wai@xtra.co.nz
9270046	Te Waipounamu Fisheries Limited	277	277		P O Box 13575	Christchurch	8015	Heather.Coatsworth@ngaitahu.iwi.nz
9330066	Raukura Moana Fisheries Limited	499	499		P O Box 5642	Hamilton	2031	rangitaua@rnzfl.co.nz
9340074	Te Tai A Kupe Limited	1,346	1,346		P O Box 361	New Plymouth C	4615	ngatitama@clear.net.nz
	Thapera Lully Waten Heemi, Stephen Ngeungeu Zister, Caroline Karu, Haerengarangi Mikaere, David Peke Ngati Ranginui Iwi Society Incorporated				C/- Josephine Marama Anderson	Papteroa	2951	hfiftd@xtra.co.nz
9420016		602	602		P O Box 33	Tauranga	3015	ranginuiwi@ctear.net.nz
9430014		348	348		P O Box 2526			

Client ID	Legal Name	ACE				Postal City	Post Code	Email
		Regular ACE Holding (kg)	Unrestricted ACE (kg)	Restriction Type	Postal Address			
9560030	Tama Fishing Company Limited	31	31		P O Box 10	Nelson	7015	ates.co.nz
9760152	Totaranui Limited	30	30		P O Box 349	Blenheim	7315	david.bennett@westy ates.co.nz
9770070	Jack Daymond, Bernard James Thomas, Tenera George Goomes Ngati Ruanui Group Management Limited	39	39		P O Box 62	Wharekauri	Chatham Islands	ngatimutungaowharekauri@xtra.co.nz
9790664	SCI3	251	251		P O Box 594	Hawera	4800	ruanui.raupatu@xtra.co.nz
8422125	Sanford Limited	128,371	128,371		P O Box 443	Auckland	1015	gmcnamara@sanford.co.nz
8460042	Amalai Fishing Co Limited	4,030	4,030		P O Box 36	Auckland	1015	quota@amalmark.co.nz
8600000	Her Majesty the Queen in Right of New Zealand Acting by and through the Minister of Fisheries or the Ministry of Fisheries, either Treaty of Waitangi Fisheries Commission	103,621	103,621		P O Box 1020	Wellington	6015	fosterdm@fish.govt.nz
8600300		36,780	36,780		P O Box 3277	Wellington	6015	michele.wallace@tok m.co.nz
8920034	Barine Developments Limited	7,881	7,881		P O Box 273	Kumeu	Auckland	1250
8970117	Ngai Tahu Seafood Products Limited	15,608	15,608		P O Box 13575	Christchurch	8031	seacagle@clear.net.nz Heather.Coatsworth@ngaitahu.iwi.nz
9040015	Vautier Shelf Company No. 14 Limited	21,213	21,213		P O Box 156	Auckland	1462	skada@xtra.co.nz
9040054	Ngati Porou Fisheries Limited	4,777	4,777		P O Box 1296	Gisborne	3815	breedy@npfl.co.nz
9120012	Petromont Holdings Limited	6,884	6,884		P O Box 87179	Meadowbank	1130	rja@petromont.co.nz
9140091	Ika Toa Limited	238	238	C/- Matiu Rei	P O Box 50079	Porirua	6215	m.rei@ngatitoa.iwi.nz
9160064	Kaikaiawaro Fishing Co Limited	52	52		P O Box 7008	Nelson	7015	wayne@donker.co.nz

Client ID	Legal Name	ACE			Postal Address	Postal City	Post Code	Email
		Regular ACE Holding (kg)	Unrestricted ACE (kg)	Restriction Type				
9210001	Ngatiwai Fishing Limited	309	309	C/- Thomson Wilson P O Box 1042	Whangarei	115	co.nz	legal@thomsonwilson.
9240060	Te Awapatiki Fisheries Limited Russell James Thomas, Barry	2,190	2,190	P O Box 188	Chatham Islands	8030		tekopinga@xtra.co.nz
9260025	Mathew Mason, John Te Rangi-O-Kiwa Morgan, Turirangi James Martin, Ms Amoroa Luke, Lorraine Shirle Hemi, Kathy as Trustee for The Ngati Apa Ki Te Waipounamu Trust	53	53	C/- TVA Lock Limited P O Box 1003 P O Box 361	Blenheim	7315	ann@tva.co.nz	ngatiapa.wai@xtra.co.nz
9270046	Te Waipounamu Fisheries Limited	472	472	P O Box 13575	Blenheim	7315	nz	Heather.Coatsworth@ngaitahu.jiwi.nz
9330066	Raukura Moana Fisheries Limited	848	848	P O Box 5642	Christchurch	8015		rangitaua@rmfl.co.nz
9340074	Te Tai A Kupe Limited Ihapera Lully Waten Heemi, Stephen Ngeungeu Zister, Caroline Karu, Haerengarangi Mikaere, David Peka	2,288	2,288	P O Box 361 C/- Josephine Marama Anderson	Hamilton	2031		ngatitama@clear.net.nz
9420016	Ngati Ranginui Iwi Society Incorporated	1,023	1,023	P O Box 33 P O Box 2526	Paoeroa	2951	nz	hfltd@xtra.co.nz
9430014	Tama Fishing Company Limited	591	591	P O Box 10	Tauranga	3015		ranginuiwi@clcar.net.nz
9560030	9760152 Totaranui Limited	52	52	P O Box 349	Nelson	7015		david.bennett@westyates.co.nz
	Jack Daymond, Bernarc James Thomas, Tenera George Gomes	52	52		Blenheim	7315		david.bennett@westyates.co.nz
9770070	Ngati Ruanui Group Management Limited	2,189	2,189	P O Box 62	Chatham Islands	8030		ngatimutungaowharekauri@xtra.co.nz
9790064	SCI4A	426	426	P O Box 594	Hawera	4800	o.nz	ruanui.raupatu@xtra.co.nz

Client ID	Legal Name	ACE				Postal City	Post Code	Email
		Regular ACE Holding (kg)	Unrestricted ACE (kg)	Restriction Type	Postal Address			
8422125	Sanford Limited	92,288	92,288		P O Box 443	Auckland	1015	gmcnamara@sanford.co.nz
	Treaty of Waitangi Fisheries Commission	12,980	12,980		P O Box 3277	Wellington	6015	michele.wallace@itok.m.co.nz
8600300	Ngai Tahu Seafood Products Limited	1,009	1,009		P O Box 13575	Christchurch	8031	Heather.Coatsworth@ngaitahu.iwi.nz
8970117	Vautier Shelf Company No. 14 Limited	135	135		Silverdale	Auckland	1462	skaga@xtra.co.nz
9040015	Ngati Porou Fisheries Limited	1,686	1,686		P O Box 156	Gisborne	3815	breedy@mpfl.co.nz
9040054	Petromont Holdings Limited	3,577	3,577		P O Box 1296	Auckland	1130	rja@petromont.co.nz
9120012	Ika Toa Limited	84	84	C/- Matiu Rei	Meadowbank	Porirua	6215	m.rei@ngatitoa.iwi.nz
9140091	Kaikaiawaro Fishing Co Limited	18	18	P O Box 7008	P O Box 50079	Nelson	7015	wayne@donker.co.nz
9160064	Ngatiwai Fishing Limited	109	109	C/- Thomson Wilson	P O Box 1042	Whangarei	115	legal@thomsonwilson.co.nz
9210001	Te Awapatiki Fisheries Limited	3,023	3,023	P O Box 188		Chatham Islands	8030	tekopinqa@xtra.co.nz
9240060	Russell James Thomas, Barry Mathew Mason, John Te Rangi-O-Kiwa Morgan, Turirangi James Martin, Ms Amoro Luke, Lorraine Shirle	17	17	C/- TVA Lock Limited	P O Box 1003	Blenheim	7315	ann@tva.co.nz
9260025	Hemi, Kathy as Trustee for The Ngati Apa Ki Te Waipounamu Trust	18	18	P O Box 361		Blenheim	7315	ngatiapa.wai@xtra.co.nz
9260105	Te Waipounamu Fisheries Limited	171	171	P O Box 13575		Christchurch	8015	Heather.Coatsworth@ngaitahu.iwi.nz
9270046	Raukura Moana Fisheries Limited	299	299	P O Box 5642	Frankton	Hamilton	2031	rangitaua@rmfl.co.nz
9330066	Te Tai A Kupe Limited	808	808	P O Box 361		New Plymouth C	4615	ngatitama@clear.net.nz

Client ID	Legal Name	ACE Holding (kg)	Unrestricted ACE (kg)	Restriction Type	Postal Address	Postal City	Post Code	Email
						ACE		
	Ihapera Lully Waten Heemi, Stephen Ngeungeu Zister, Caroline Karu, Haerengarangi	361	361	C/- Josephine Marama Anderson	P O Box 33	Paeroa	2951	hfittd@xtra.co.nz ranginuiwi@clear.net.nz
9420016	Mikaere, David Peka Ngati Ranginui Iwi Society	209	209	P O Box 2526		Tauranga	3015	david.bennett@westyates.co.nz
9430014	Incorporated			P O Box 10		Nelson	7015	david.bennett@westyates.co.nz
9560030	Tama Fishing Company Limited	17	17	P O Box 349		Blenheim	7315	ngatimutungaowharekauri@xtra.co.nz ruanui.raupatu@xtra.co.nz
9760152	Totaranui Limited	18	18	P O Box 349		Chatham Islands	8030	gmcnamara@sanford.co.nz
9770070	Jack Daymond, Bernard James Thomas, Tenera George Goomes	3,023	3,023	P O Box 62		Hawera	4800	
9790664	Ngati Ruanui Group Management Limited	150	150	P O Box 594		Auckland	1015	
SCT15				P O Box 443				
8422125	Sanford Limited	258	258	P O Box 1020		Wellington	6015	fosterdm@fish.govt.nz michele.wallace@tokm.co.nz
	Her Majesty the Queen in Right of New Zealand Acting by and through the Minister of Fisheries or the Ministry of Fisheries, eit Treaty of Waitangi Fisheries Commission	31,742	31,742	P O Box 3277		Wellington	6015	Heather.Coatsworth@ngaitahu.iwi.nz breddy@mpfli.co.nz
8600000	Ngai Tahu Seafood Products Limited	4,325	4,325	P O Box 13575		Christchurch Gisborne	8031	m.rei@ngaitauo.iwi.nz
8600300	Ngati Porou Fisheries Limited	2,337	2,337	P O Box 1296		Porirua	3815	wayne@donker.co.nz legal@thomsonwilson.co.nz
8970117	Ika Toa Limited	562	562	C/- Matiu Rei	P O Box 50079	Nelson	7015	
9040054		28	28					
9140091	Kaikaiawaro Fishing Co Limited	6	6	P O Box 7008				
9160064	Ngatiwai Fishing Limited	36	36	C/- Thomson Wilson P O Box 1042		Whangarei	115	
9210001								

Client ID	Legal Name	ACE				Postal Address	Postal City	Post Code	Email
		Regular ACE Holding (kg)	Unrestricted ACE (kg)	Restriction Type	Postal Address				
9240060	Tc Awapatiki Fisheries Limited Russell James Thomas, Barry Matthew Mason, John Te Rangi-O-Kiwa Morgan, Turirangi James Martin, Ms Amorua Luke, Lorraine Shirle	7	7		P O Box 188	Chatham Islands	8030	tekopinga@xtra.co.nz	
9260025	Hemi, Kathy as Trustee for The Ngati Apa Ki Te Waipounamu Trust	7	7	C/- TVA Lock Limited P O Box 1003		Blenheim	7315	ann@tva.co.nz	
9260105		6	6	P O Box 361		Blenheim	7315	ngatitapa.wai@xtra.co.nz	
9270046	Te Waipounamu Fisheries Limited	55	55	P O Box 13575		Christchurch	8015	Heather.Coatsworth@ngaitahu.iwi.nz	
9330066	Raukura Moana Fisheries Limited	100	100	P O Box 5642		Hamilton	2031	rangitaua@rmfl.co.nz	
9340074	Te Tai A Kupe Limited Thapera Lully Water Heemi, Stephen Ngeungeu Zister, Caroline Karu, Haerengarangi Mikaere, David Peka	259	269	P O Box 361		New Plymouth C	4615	ngatitama@clear.net.nz	
9420016	Ngati Ranginui Iwi Society Incorporated	120	120	C/- Josephine Marama Anderson	P O Box 33	Paeroa	2951	hfldd@xtra.co.nz	
9430014		72	72	P O Box 2526		Tauranga	3015	ranginuiwi@clear.net.nz	
9560030	Tama Fishing Company Limited	6	6	P O Box 10		Nelson	7015	david.bennett@westyates.co.nz	
9760152	Totaranui Limited	6	6	P O Box 349		Blenheim	7315	david.bennett@westyates.co.nz	
9770070	Jack Daymond, Bernard James Thomas, Tenera George Goomes Ngati Ruanui Group Management Limited	8	8	P O Box 62		Wharekauri		ngatumutunga@xwarekauri.co.nz	
9790664		50	50	P O Box 594		Hawera	4800	auri@xtra.co.nz	
SCI6A				P O Box 443		Auckland	1015	ruanui.raupatu@xtra.co.nz	
8422125	Sanford Limited	187,016	187,016					gmcnamara@sanford.co.nz	

Client ID	Legal Name	ACE				Postal City	Post Code	Email
		Regular ACE Holding (kg)	Unrestricted ACE (kg)	Restriction Type	Postal Address			
8460042	Amalai Fishing Co Limited	906	906	P O Box 36	Auckland	1015	nz	quota@amalaimark.co.
	Treaty of Waitangi Fisheries Commission	44,135	44,135	P O Box 3277	Wellington	6015	m.co.nz	michele.wallace@tok
8600300	Brian Sydney Deadman, Robert Whitelaw Lees	4,000	4,000	5/91 Bassett Road	Auckland	1005	isc.net.nz	robandmichele@parad
8630094	Barine Developments Limited	25,652	25,652	P O Box 273	Auckland	1250	seaagle@clear.net.nz	Heather.Coatsworth@q
8920034	Ngai Tahu Seafood Products Limited	3,429	3,429	P O Box 13575	Christchurch	8031	ngaitahu.iwi.nz	Heather.Coatsworth@q
8970117	Vautier Shelf Company No. 14 Limited	12,401	12,401	P O Box 156	Auckland	1462	skaga@xtra.co.nz	breedy@npfl.co.nz
9040015	Ngati Porou Fisheries Limited	5,732	5,732	P O Box 1296	Gisborne	3815	rja@petromont.co.nz	rja@petromont.co.nz
9040054	Petromont Holdings Limited	14,825	14,825	P O Box 8179	Auckland	1130	m.rei@ngatitoa.iwi.nz	m.rei@ngatitoa.iwi.nz
9120012	Ika Toa Limited	286	286	C/- Matiu Rei	Porirua	6215	wayne@donker.co.nz	wayne@donker.co.nz
9140091	Kaikaiawaro Fishing Co Limited	63	63	P O Box 7008	Nelson	7015	legal@thompsonwilson.	legal@thompsonwilson.
9160064	Ngatiwai Fishing Limited	371	371	C/- Thomson Wilson	Whangarei	115	co.nz	co.nz
9210001	Te Awapatiki Fisheries Limited	78	78	P O Box 188	Chatham Islands	8030	tekopinga@xtra.co.nz	tekopinga@xtra.co.nz
9240060	Russell James Thomas, Barry Mathew Mason, John Te Rangi-O-Kiwa Morgan, Turirangi James Martin, Ms Amoroa Luke, Lorraine Shire	63	63	C/- TVA Lock Limited P O Box 1003	Blenheim	7315	ann@tvva.co.nz	ann@tvva.co.nz
9260025	Hemi, Kathy as Trustee for The Ngati Apa Ki Te Waipounamu Trust	63	63	P O Box 361	Blenheim	7315	ngatiapa.wai@xtra.co.	ngatiapa.wai@xtra.co.
9260105	Te Waipounamu Fisheries Limited	565	565	P O Box 13575	Christchurch	8015	nz	Heather.Coatsworth@q
9330066	Raukura Moana Fisheries Limited	1,017	1,017	P O Box 5642	Frankton	2031	ngaitaua@rmfi.co.nz	ngaitaua@rmfi.co.nz

Client ID	Legal Name	ACE				Postal Address	Postal City	Post Code	Email
		Regular ACE Holding (kg)	Unrestricted ACE (kg)	Restriction Type	Postal Address				
9340074	Te Tai A Kupe Limited Ihaperia Lully Water Heemi, Stephen Ngeutungeu Zister,	2,746	2,746		P O Box 361	New Plymouth C	4615	nz	ngatilama@clear.net.nz
9420016	Caroline Karu, Haerengarangi Mikaere, David Peka Ngati Ranginui Iwi Society	1,228	1,228	C/- Josephine Marama Anderson	P O Box 33	Paeroa	2951	nz	hfldd@xtra.co.nz ranginuiwi@clear.net.nz
9430014	Incorporated	710	710		P O Box 2526	Tauranga	3015	nz	david.bennett@westyates.co.nz
9560030	Tama Fishing Company Limited	63	63		P O Box 10	Nelson	7015	nz	david.bennett@westyates.co.nz
9760152	Totaranui Limited	62	62		P O Box 349	Blenheim	7315	nz	ngatimutungaowharekauri@xtra.co.nz ruanui.raupatu@xtra.co.nz
9770070	Jack Daymond, Bernard James Thomas, Tenera George Goomes	78	78		P O Box 62	Chatham Islands	8030	nz	
9790664	Ngati Ruanui Group Management Limited	511	511		P O Box 594	Hawera	4800	nz	
SCI6B									
Her Majesty the Queen in Right of New Zealand Acting by and through the Minister of Fisheries or the Ministry of Fisheries, eit Treaty of Waitangi Fisheries Commission									
86000000	Ngai Tahu Seafood Products	40,000	40,000		P O Box 1020	Wellington	6015	nz	fosterdm@fish.govt.nz michele.wallace@tokm.co.nz
8600300	9040054 Ngati Porou Fisheries Limited	7,212	7,212		P O Box 3277	Wellington	6015	nz	Heather.Coatsworth@ngaitahu.iwi.nz breedy@hpfl.co.nz
8970117	Ika Toa Limited	560	560		P O Box 13375	Christchurch	8031	nz	m.rei@ngatitoto.iwi.nz
9140091	Ika Toa Limited	937	937		P O Box 1296	Gisborne	3815	nz	wayne@donker.co.nz legal@thomsonwilson.co.nz
9160064	Kaikaiawaro Fishing Co Limited	46	46	C/- Matiu Rei	P O Box 50079	Porirua	6215	nz	
9210001	Ngatiwai Fishing Limited	11	11		P O Box 7008	Nelson	7015	nz	
		61	61		C/- Thomson Wilson P O Box 1042	Whangarei	115	nz	

Client ID	Legal Name	ACE				Postal Address	Postal City	Post Code	Email
		Regular ACE Holding (kg)	Unrestricted ACE (kg)	Restriction Type					
9240060	Te Awapatiki Fisheries Limited Russell James Thomas, Barry Matthew Mason, John Te Rangi-O-Kiwa Morgan, Tuirirangi James Martin, Ms Amoroa Luke, Lorraine Shirle	13	13		P O Box 188	Chatham Islands	8030	tekopinga@xtra.co.nz	
9260025	Hemi, Kathy as Trustee for The Ngati Apa Ki Te Waipounamu Trust	10	10	C/- TVA Lock Limited P O Box 1003	Blenheim	7315	ann@tvva.co.nz	ngatiapaka.wai@xtra.co.nz	
9260105		10	10	P O Box 361	Blenheim	7315	Heather.Coatsworth@ngaitahu.iwi.nz	nz	
9270046	Te Waipounamu Fisheries Limited	92	92	P O Box 13575	Christchurch	8015	rangitaua@rmfl.co.nz	ngalitarna@clear.net.nz	
9330066	Raukura Moana Fisheries Limited	167	167	P O Box 5642	Hamilton	2031	david.bennett@westyates.co.nz		
9340074	Te Tai A Kupe Limited Ihapera Lully Waten Heemi, Stephen Ngeungeu Zister,	447	447	P O Box 361	New Plymouth C	4615			
9420016	Caroline Karu, Haerengarangi Mikaere, David Peka Ngati Ranginui Iwi Society Incorporated	201	201	C/- Josephine Marana Anderson P O Box 33	Paoeo	2951	liftd@xtra.co.nz	ranginuiwi@clear.net.nz	
9430014		115	115	P O Box 2526	Tauranga	3015	david.bennett@westyates.co.nz		
9560030	Tama Fishing Company Limited	11	11	P O Box 10	Nelson	7015	david.bennett@westyates.co.nz		
9760152	Totaranui Limited	10	10	P O Box 349	Blenheim	7315	ngatimutungaowharekauri@xtra.co.nz	ruanui.raupatu@xtra.co.nz	
9770070	Jack Daymond, Bernard James Thomas, Tenera George Goomes Ngati Ruanui Group Management Limited	13	13	P O Box 62	Wharekauri	Chatham Islands	8030		
9790664		84	84	P O Box 594	Hawera	4800	o.nz		

Client ID	Legal Name	Regular ACE Holding (kg)	Unrestricted ACE (kg)	Restriction Type	Postal Address	Postal City	Post Code	Email	ACE
Her Majesty the Queen in Right of New Zealand Acting by and through the Minister of Fisheries or the Ministry of Fisheries, eit Treaty of Waitangi Fisheries Commission									
86000000		60,000	60,000		P O Box 1020	Wellington	6015	fosterdm@fish.govt.nz michele.wallace@itok.m.co.nz	
86003000	Ngai Tahu Seafood Products Limited	8,114	8,114		P O Box 3277	Wellington	6015	Heather.Coatsworth@ngaitahu.iwi.nz	
8970117	9040054 Ngati Porou Fisheries Limited	630	630		P O Box 13575	Christchurch	8031	breedy@npfli.co.nz	
9140091	Ika Toa Limited	1,054	1,054		P O Box 1296	Gisborne	3815		
9160064	Kaikaiawaro Fishing Co Limited	288	288	C/- Matiu Rei	P O Box 50079	Porirua	6215	m.rei@ngatitoa.iwi.nz	
9210001	Ngatiwai Fishing Limited	247	247		P O Box 7008	Nelson	7015	wayne@donker.co.nz legal@thomsonwilson.co.nz	
9240060	Te Awapatiki Fisheries Limited Russell James Thomas, Barry Mathew Mason, John Te Rangi-O-Kiwa Morgan, Turirangi James Martin, Ms Amioroa Luke, Lorraine Shirle Hemi, Kathy as Trustee for The Ngati Apa Ki Te Waipounamu Trust	15	68	C/- Thomson Wilson	P O Box 1042	Whangarei	115		
9260025		245	245		P O Box 188	Chatham Islands	8030	tekopinga@xtra.co.nz	
9260105		245	245	C/- TVA Lock Limited	P O Box 1003	Blenheim	7315	ann@tva.co.nz	
9270046	Te Waipounamu Fisheries Limited	2,214	2,214		P O Box 361	Blenheim	7315	ngatiapa.wai@xtra.co.nz	
9330066	Raukura Moana Fisheries Limited	422	422		P O Box 13575	Christchurch	8015	Heather.Coatsworth@ngaitahu.iwi.nz	
9340074	Te Tai A Kupe Limited	504	504		P O Box 5642	Hamilton	2031	rangitaua@rmfl.co.nz ngatitama@clear.net.nz	
					P O Box 361	New Plymouth C	4615		

Client ID	Legal Name	ACE Holding (kg)	Unrestricted ACE (kg)	Restriction Type	Postal Address	Postal City	Post Code	Email
						ACE		
9420016	Ihapera Lully Waten Haemi, Stephen Ngeungeu Zistar, Caroline Karu, Haerengarangi Mikaele, David Peka Ngati Rangnui Iwi Society Incorporated	226	226	C/- Josephine Marama Anderson	P O Box 33	Paoera	2951	hfldd@xtra.co.nz ranginuiwi@clear.net.nz
9430014	Tama Fishing Company Limited	129	129	P O Box 2526		Tauranga	3015	david.bennett@westyates.co.nz
9560030	Totaranui Limited	246	246	P O Box 10		Nelson	7015	david.bennett@westyates.co.nz
9760152	Jack Daymond, Bernard James Thomas, Tenera George Goomes Ngati Ruanui Group Management Limited	245	245	P O Box 349		Blenheim	7315	ngatimutungaowharekauri@xtra.co.nz ruanui.raupatu@xtra.co.nz
9770070		14	14	P O Box 62	Wharekauri	Chatham Islands	8030	
9790664		94	94	P O Box 594		Hawera	4800	
SCI8								
8600000	Her Majesty the Queen in Right of New Zealand Acting by and through the Minister of Fisheries or the Ministry of Fisheries, eit Treaty of Waitangi Fisheries Commission	4,000	4,000	P O Box 1020		Wellington	6015	fosterdm@fish.govt.nz michele.wallace@tckm.co.nz
8600300	Ngai Tahu Seafood Products Limited	631	631	P O Box 3277		Wellington	6015	Heather.Coatsworth@ngaitahu.iwi.nz breddy@npfli.co.nz
8970117	Ngati Porou Fisheries Limited	42	42	P O Box 13575		Christchurch	8031	
9040054		71	71	P O Box 1296		Gisborne	3815	
9140091	Ika Toa Limited	4	4	C/- Matiu Rei	P O Box 50079	Porirua	6215	m.rei@ngatitoa.iwi.nz
9160064	Kaikatawaro Fishing Co Limited	1	1	P O Box 7008		Nelson	7015	wayne@donker.co.nz legal@thomsonwilson.co.nz
9210001	Ngatiwai Fishing Limited	5	5	C/- Thomson Wilson	P O Box 1042	Whangarei	115	
9240060	Te Awapatiki Fisheries Limited	1	1	P O Box 188		Chatham Islands	8030	tekopinga@xtra.co.nz

Client ID	Legal Name	ACE Holding (kg)	Regular ACE Holding (kg)	Unrestricted ACE (kg)	Restriction Type	Postal Address	Postal City	Post Code	Email
9260025	Russell James Thomas, Barry Mathew Mason, John Te Rangi-O-Kiwa Morgan, Turirangi James Martin, Ms Amoroa Luke, Lorraine Shirle Hemi, Kathy as Trustee for The Ngati Apa Ki Te Waipounamu Trust	1	1	1	C/- TVA Lock Limited P O Box 1003	Blenheim	Blenheim	7315	ann@tvac.co.nz ngatiapa.wai@xtra.co.nz Heather.Coatsworth@ngaitahu.iwi.nz
9270046	Te Waipounamu Fisheries Limited	7	7	7	P O Box 13575	Christchurch	Christchurch	8015	
9330066	Raukura Moana Fisheries Limited	44	44	44	P O Box 5642	Frankton	Hamilton	2031	rangitaua@rmfl.co.nz ngatitama@clear.net.nz
9340074	Te Tai A Kupe Limited Ihapera Lully Waten Heemi, Stephen Ngeungeu Zister, Caroline Karu, Haerengarangi Mikaere, David Peka Ngati Ranginui Iwi Society Incorporated	146	146	146	P O Box 361	New Plymouth C	New Plymouth	4615	
9420016	15	15	15	15	C/- Josephine Marama Anderson	P O Box 33	Paeroa	2951	hfld@xtra.co.nz ranginuiwi@clear.net.nz
9430014	Incorporated	6	6	6	P O Box 2526	Tauranga	Tauranga	3015	david.bennett@westyates.co.nz
9760152	Totaranui Limited	1	1	1	P O Box 349	Blenheim	Blenheim	7315	ngatimutungaowhatekauri@xtra.co.nz ruanui.raupatu@xtra.co.nz
9770070	Jack Daymond, Bernard James Thomas, Tenera George Goones Ngati Ruanui Group Management Limited	1	1	1	P O Box 62	Wharekuri	Chatham Islands	8030	
9790664	SCR9 Commission	23	23	23	P O Box 594	Ilawera	Ilawera	4800	
86000000	Her Majesty the Queen in Right of New Zealand Acting by and through the Minister of Fisheries or the Ministry of Fisheries, eit Treaty of Waitangi Fisheries Commission	27,999	27,999	27,999	P O Box 1020	Wellington	Wellington	6015	fosterdm@fish.govt.nz michele.wallace@tokm.co.nz
8600300	SCR9	5,537	5,537	5,537	P O Box 3277	Wellington	Wellington	6015	

Client ID	Legal Name	ACE Holding (kg)	Regular ACE		Restriction Type	Postal Address	Postal City	Post Code	Email	ACE
			Unrestricted ACE (kg)	Type						
8630094	Brian Sydney Deadman, Robert Whitelaw Lees Ngai Tahu Seafood Products Limited	1	1			5/91 Bassett Road Remuera	Auckland	1005	robandmichele@paradise.net.nz	
8970117	Ngati Porou Fisheries Limited	295 491	295 491	P O Box 13575 P O Box 1296		Christchurch Gisborne	Christchurch	8031 3815	Heather.Coatsworth@ngaitahu.iwi.nz breddy@npfli.co.nz	
9140091	Ika Toa Limited	24	24	C/- Matiu Rei		P O Box 50079	Porirua	6215	m.rei@ngatitoa.iwi.nz	
9160064	Kaikaiawaro Fishing Co Limited	5	5	P O Box 7008		Nelson	Nelson	7015	wayne@donker.co.nz legal@thomsonwilson.co.nz	
9210001	Ngatiwai Fishing Limited	32	32	C/- Thomson Wilson	P O Box 1042	Whangarei	Whangarei	1115		
9240060	Te Awarapatiki Fisheries Limited Russell James Thomas, Barry Mathew Mason, John Te Rangi-O-Kiwa Morgan, Tuirirangi James Martin, Ms Amoroa Luke, Lorraine Shirel Hemi, Kathy as Trustee for The Ngati Apa Ki Te Waipounamu Trust	6	6	P O Box 188		Chatham Islands	Chatham Islands	8030	tekopinga@xtra.co.nz	
9260025	Matihine, Māori Fisheries Limited	5	5	C/- TVA Lock Limited P O Box 1003		Blenheim	Blenheim	7315	ann@tva.co.nz	
9260105	Ngati Apa Ki Te Waipounamu Trust	6	6	P O Box 361		Blenheim	Blenheim	7315	ngatiapa.wai@xtra.co.nz	
9270046	Te Waipounamu Fisheries Limited	48	48	P O Box 13575		Christchurch	Christchurch	8015	Heather.Coatsworth@ngaitahu.iwi.nz	
9330066	Raukura Moana Fisheries Limited	88	88	P O Box 5642		Hamilton	Hamilton	2031	rangitaua@rmfl.co.nz ngatitama@clear.net.nz	
9340074	Te Tai A Kupe Limited Ihapera Lully Waten Heemi, Stephen Ngeungeu Zister, Caroline Karu, Haerengarangi	235	235	P O Box 361		New Plymouth C	New Plymouth C	4615		
9420016	Mikaere, David Peka Ngati Ranginui Iwi Society Incorporated	105	105	C/- Josephine Marama Anderson	P O Box 33	Pāeroa	Pāeroa	2951	hfiftd@xtra.co.nz ranginuiwi@clear.net.nz	
9430014		61	61	P O Box 2526		Tauranga	Tauranga	3015		

Client ID	Legal Name	ACE				Postal Address	Postal City	Post Code	Email
		Regular ACE Holding (kg)	Unrestricted ACE (kg)	Restriction Type	Postal Address				
9560030	Tama Fishing Company Limited	6	6	P O Box 10	Nelson	7015	david.bennett@westyates.co.nz		david.bennett@westyates.co.nz
9760152	Totaranui Limited	5	5	P O Box 349	Blenheim	7315	david.bennett@westyates.co.nz		david.bennett@westyates.co.nz
9770070	Jack Daymond, Bernard James Thomas, Tenera George Goomes Ngati Ruanui Group Management Limited	7	7	P O Box 62	Wharekauri	8030	ngatimutungaowharekauri@xtra.co.nz	Chatham Islands	auri@xtra.co.nz
9790664		44	44	P O Box 594	Hawera	4800	ruanui.raupatu@xtra.co.nz		o.nz

7, Wellington, New Zealand
788 228 Fax: (04) 460 9570
SLS (fisheries) CO, LTD

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SCI Quota Share Owners

Information as at 23 November 2004

Report Criteria: All Share Owners for SCI (Scampi)

Client ID SCI1	Account	Legal Name	Share Type	Shares Held	Unrestricted Shares	Restricted Shares	Type	Equivalent (kg)	Postal Address	ACE	
										Post City	Post Code
8422209	NOR	Simunovich Fisheries Limited	PTTQ	73471589	73471589	0		88165.9068 P O Box 91331	Auckland	1030	fishserve@simu.co.nz
8600300	NOR	Treaty of Waitangi Fisheries Commission	ITQ	20000000	20000000	0		24000 P O Box 3277	Wellington	6015	michele.walace@itokn.co.nz
8630094	NOR	Brian Sydney Deadman, Robert Whitelaw Lees	ITQ	5581041	3626927	1954114	Court Caveat	6697.2492 5/91 Bassett Remuera	Auckland	1005	robandmichelle@paradise.net.nz
8920034	NOR	Barine Developments Limited	ITQ	667146	667146	0		800.5752 P O Box 275 Kumete	Auckland	1250	scaeagle@clear.net.nz
9120012	NOR	Petromont Holdings Limited	PTTQ	272017	272017	0		326.4204 P O Box 871 Meadowbank	Auckland	1130	rja@petro.mont.co.nz
9790089	NOR	Pacific Trawling Limited, Barron Fishing Limited	ITQ	8207	8207	0		9.8484 P O Box 12135	Napier	4015	christrob@pacstrawl.co.nz
SCI10											

Client ID	Account	Legal Name	Share Type	Total Shares Held	Unrestricted Shares	Restricted Shares	Restriction Type	Equivalent (kg)	Postal Address	Post Code	Postal City	ACE Email
Her Majesty the Queen in Right of New Zealand Acting by and through the Minister of Fisheries or the Ministry of Fisheries, etc												
86000000	UNE	Treaty of Waitangi Fisheries Commission	ITQ	30000000	80000000	0		0 P O Box 1020	Wellington	6015	Wellington	fosterdm@fish.govt.nz
86003000	NOR	SCI2	ITQ	20000000	20000000	0		0 P O Box 3277	Wellington	6015	Wellington	michele.walace@itokm.co.nz
8422125	NOR	Sanford Limited	ITQ	20688381	20688381	0		41376.762 P O Box 443	Auckland	1015	Auckland	gmcnamara@sanford.co.nz
8422209	NOR	Simunovich Fisheries Limited	PTQ	34618152	34618152	0		69236.304 P O Box 91331	Auckland	1030	Auckland	fishserve@simu.co.nz
86003000	NOR	SCI2	ITQ	20000000	20000000	0		40000 P O Box 3277	Wellington	6015	Wellington	michele.walace@itokm.co.nz
8920034	NOR	Barine Developments Limited	ITQ	15815550	15815550	0		31631.1 P O Box 275 Kumeu	Auckland	1250	Auckland	seaagle@clear.net.nz
9040015	NOR	Vautier Shelf Company No. 14 Limited	ITQ	8782134	0	8782134 Mortgage		17564.268 P O Box 156 Silverdale	Auckland	1462	Auckland	skaga@xtra.co.nz
9120012	NOR	Petromont Holdings Limited	PTQ	95783	95783	0		191.566 P O Box 871 Meadowbank	Auckland	1130	Auckland	rja@petro mont.co.nz
8422125	NOR	SCI3	ITQ	1439412	1439412	0		4894.0008 P O Box 443	Auckland	1015	Auckland	gmcnamara@sanford.co.nz
8422209	NOR	Simunovich Fisheries Limited	PTQ	31390294	31390294	0		106726.9996 P O Box 91331	Auckland	1030	Auckland	fishserve@simu.co.nz

Client ID	Account	Legal Name	Share Type	Total Shares Held	Unrestricted Shares	Restricted Shares	Type	ACE Equivalent (kg)	Postal Address	Postal City	Post Code	Email
		Her Majesty the Queen in Right of New Zealand Acting by and through the Minister of Fisheries or the Ministry of Fisheries, eit	PTQ	30476765	30476765	0		103621.001	P O Box 1020	Wellington	6015	fosterdm@fish.govt.nz michele.walace@tokm.co.nz
86000000	UNE	Treaty of Waitangi Fisheries Commission	ITQ	20000000	20000000	0		68000	P O Box 3277	Wellington	6015	
86000300	NOR	Brian Sydney Deadman, Robert Whitelaw Lees	ITQ	2720588	2720588	0		9249.9992	5/91 Bassett Remuera	Auckland	1005	robandmichelle@paradise.net.nz quota@amalmark.co.nz
8630094	NOR	Amalta Corporation Limited	ITQ	3391176	3391176	0		11529.9984	P O Box 36	Auckland	1015	
8660047	NOR	Barine Developments Limited	ITQ	2317941	2317941	0		7880.9994	P O Box 275 Kumeu	Auckland	1250	sea eagle@clear.net.nz
8920034	NOR	Vautier Shelf Company No. 14 Limited	ITQ	6239118	6239118	0		21213.0012	P O Box 156 Silverdale	Auckland	1462	skaga@xtratrco.nz
9040015	NOR	Petromont Holdings Limited	PTQ	2024706	2024706	0		6884.0004	P O Box 871 Meadowbank	Auckland	1130	rja@petro mont.co.nz
9120012	NOR	SCI4A										gmchamara@sanford.c
8422125	NOR	Sanford Limited	ITQ	4254006	4254006	0		5104.8072	P O Box 443	Auckland	1015	@sanford.co.nz
8422209	NOR	Simunovich Fisheries Limited	PTQ	71441172	71441172	0		85729.4064	P O Box 91331	Auckland	1030	fishserve@simu.co.nz michele.walace@tokm.co.nz
8600300	NOR	Treaty of Waitangi Fisheries Commission	ITQ	20000000	20000000	0		24000	P O Box 3277	Wellington	6015	

Client ID	Account	Legal Name	ACE						Postal City	Post Code	Email
			Total Shares	Share Held Type	Unrestricted Shares	Restricted Shares	Type	Equivalent (kg)			
		Brian Sydney Deadman, Robert Whitelaw Lees Vautier Shelf Company No. 14 Limited	1211593	ITQ	1211593	0		1453.9116 5/91 Bassett Remuera	Auckland	1005	ele@paradi se.net.nz
8630094	NOR	Petromont Holdings Limited	112521	ITQ	0	112521 Mortgage		135.0252 P O Box 156 Silverdale	Auckland	1462	.co.nz
9040015	NOR		2980708	PTQ	2980708	0		3576.8496 P O Box 871 Meadowbank	Auckland	1130	mont.co.nz
SCI5		Her Majesty the Queen in Right of New Zealand Acting by and through the Minister of Fisheries or the Ministry of Fisheries, eit									
		Treaty of Waitangi Fisheries Commission	79355000	PTQ	79355000	0		31742 P O Box 1020	Wellington	6015	fosterdm@fish.govt.nz
		Brian Sydney Deadman, Robert Whitelaw Lees	20000000	ITQ	20000000	0		80000 P O Box 3277	Wellington	6015	michele.wal lace@iokn.co.nz
			645000	ITQ	645000	0		258 5/91 Bassett Remuera	Auckland	1005	robardmich ele@paradi se.net.nz
											gmcranmar @sanford.c
											.nz
8630094	NOR	Sanford Limited	15401765	ITQ	15401765	0		47129.4009 P O Box 443	Auckland	1015	fishserve@simu.co.nz
8422125	NOR	Simunovich Fisheries Limited	33450921	PTQ	33450921	0		102359.8183 P O Box 91331	Auckland	1030	michele.wal lace@iokn.co.nz
8422209	NOR	Treaty of Waitangi Fisheries Commission	20000000	ITQ	20000000	0		61200 P O Box 3277	Wellington	6015	
8600300	NOR										

Client ID	Account	Legal Name	Share Type	Total Shares Held	Unrestricted Shares	Restricted Shares	Type	ACE	Postal Address (kg)	Post Code	City	Email
8630094	NOR	Brian Sydney Deadman, Robert Whitelaw Lees	ITQ	9159013	9159013	0		28026.57978	5/91 Basset Remuera	Auckland	1005	robandmich ele@paradi se.net.nz
8660047	NOR	Amaltal Corporation Limited	ITQ	4707784	4707784	0		14405.81904	P O Box 36	Auckland	1015	quota@am almark.co.nz
8920034	NOR	Barine Developments Limited	ITQ	8382934	8382934	0		25651.77804	P O Box 275 Kumeu	Auckland	1250	seaeagle@ dcar.net.nz
9040015	NOR	Vautier Shelf Company No. 14 Limited	ITQ	4052799	0	4052799	Mortgage	12401.56494	P O Box 156 Silverdale	Auckland	1462	skaga@xtra .co.nz
9120012	NOR	Petromont Holdings Limited	PTQ	4844784	4844784	0		14825.03904	P O Box 871 Meadowbank	Auckland	1130	rja@petro mont.co.nz
SCI6B												
Her Majesty the Queen in Right of New Zealand Acting by and through the Minister of Fisheries or the Ministry of Fisheries, eit												
8600000	UNE	Treaty of Waitangi Fisheries Commission	ITQ	80000000	80000000	0		40000	P O Box 1020	Wellington	6015	fosterdm@f ish.govt.nz
8600300	NOR	SCI7	ITQ	20000000	20000000	0		10000	P O Box 3277	Wellington	6015	michele.wal lace@tokm .co.nz
Her Majesty the Queen in Right of New Zealand Acting by and through the Minister of Fisheries or the Ministry of Fisheries, eit												
8600000	UNE	SCI Share Owners	ITQ	80000000	80000000	0		60000	P O Box 1020	Wellington	6015	fosterdm@f ish.govt.nz

Client ID	Account	Legal Name	Share Type	Total Shares Held	Unrestricted Shares	Restricted Shares	Restriction Type	Equivalent (kg)	Postal Address	Post Code	Postal City	Email
8600300	NOR	Treaty of Waitangi Fisheries Commission	ITQ	20000000	20000000	0		15000 P O Box 3277	Wellington	6015		michele.walace@takm.co.nz
SCI8		Her Majesty the Queen in Right of New Zealand Acting by and through the Minister of Fisheries or the Ministry of Fisheries, eit	ITQ									
		Treaty of Waitangi Fisheries Commission	ITQ	80000000	80000000	0		4000 P O Box 1020	Wellington	6015		fosterdm@fish.govt.nz
		Treaty of Waitangi Fisheries Commission	ITQ	20000000	20000000	0		1000 P O Box 3277	Wellington	6015		michele.walace@takm.co.nz
SCI9		Her Majesty the Queen in Right of New Zealand Acting by and through the Minister of Fisheries or the Ministry of Fisheries, eit	ITQ	79997143	79997143	0		27999.00005 P O Box 1020	Wellington	6015		fosterdm@fish.govt.nz
		Treaty of Waitangi Fisheries Commission	ITQ	20000000	20000000	0		7000 P O Box 3277	Wellington	6015		michele.walace@takm.co.nz
		Brian Sydney Deadman, Robert Whitedaw Lees	ITQ	2857	2857	0		0.99995 5/91 Bassett Remuera	Auckland	1005		robardmichelle@paradise.net.nz
8630094	NOR											



SCI ACE Holders

Information as at 23 November 2004

Report Criteria: All ACE Holders for SCI (Scampi) - Catch not noted until December 2004 Balancing

Client ID SCI1	Legal Name	ACE				Postal City	Post Code	Email
		Regular ACE Holding (kg)	Unrestricted ACE (kg)	Restriction Type	Postal Address			
8422125	Sanford Limited	92,518	92,518		P O Box 443	Auckland	1015	gmcnamara@sanford.co.nz
8600300	Treaty of Waitangi Fisheries Commission	15,980	15,980		P O Box 3277	Wellington	6015	michele.wallace@toto.m.co.nz
8920034	Barine Developments Limited	801	801		P O Box 273	Auckland	1250	scaeagle@clear.net.nz
8970117	Ngai Tahu Seafood Products Limited	1,009	1,009		P O Box 13575	Heather,Coatsworth@ngaitahu.iwi.nz	8031	Heather.Coatsworth@ngaitahu.iwi.nz
9040054	Ngati Porou Fisheries Limited	1,686	1,686		P O Box 1296	Gisborne	3815	breedy@npfl.co.nz
9120012	Petromont Holdings Limited	326	326		P O Box 87179	Auckland	1130	rja@petromont.co.nz
9140091	Ika Toa Limited	83	83		C/- Matiu Rei	Porirua	6215	m.rei@ngatitoa.iwi.nz
9160064	Kaikatawareo Fishing Co Limited	17	17		P O Box 7008	Nelson	7015	wayne@donker.co.nz
9210001	Ngatiwai Fishing Limited	1,218	1,218		C/- Thomson Wilson P O Box 1042	Whangarei	1115	legal@thomsonwilson.co.nz
9240060	Te Awapatiki Fisheries Limited	23	23		P O Box 188	Chatham Islands	8030	tekopinga@xtra.co.nz
9260025	Russell James Thomas, Barry Mathew Mason, John Te Rangi-O-Kiwa Morgan, Tuirirangi James Martin, Ms Amoro Luke, Lorraine Shirie	18	18		C/- TVA Lock Limited P O Box 1003	Blenheim	7315	ann@tva.co.nz

ATTACHMENT 2 – APPLICATIONS TO MINISTER OF FISHERIES



22 November 2004

Russell Burnard
Service Delivery Manager
Ministry of Fisheries
PO Box 1020
WELLINGTON

FISHERIES ACT 1986: APPLICATION BY SANFORD LIMITED FOR CONSENT TO EXCEED QUOTA AGGREGATION LIMITS

- 1 Sanford Limited seeks the Minister's consent pursuant to section 60 of the Fisheries Act 1996 (1996 Act) to it exceeding the aggregation limits prescribed by section 59(1)(e) in respect of scampi, and trevally.

PART 1: BACKGROUND TO THE APPLICATIONS

- 2 **The acquisitions**
 - 2.1 On 1 October 2004, Sanford Limited (**Sanford**) and Simunovich Fisheries Limited (**Simunovich**) entered into an Agreement for Sale and Purchase of NZ Fishing Rights and Assets (**Agreement**).
 - 2.2 Under the Agreement, Sanford has the right to purchase Surplus Quota for scampi and trevally, the acquisition of which by Sanford will require consent from the Minister of Fisheries under section 60 of the 1996 Act. The acquisition of scampi Surplus Quota is also conditional on clearance under the Commerce Act 1986.
 - 2.3 Sanford has not yet acquired any scampi quota from Simunovich. This is because Simunovich has currently only been issued with provisional individual transferable quota (**PITQ**) for scampi. Third parties have appealed against those allocations. The legality of those appeals was subject to challenge. The High Court has now ruled that those appeals are legal nullities, and that Simunovich is to be issued with individual transferable quota (**ITQ**).¹ Simunovich will transfer some or all of that ITQ to Sanford, subject to consents and clearance.
 - 2.4 Attached as **Attachment 1** is a copy of the scampi Quota Share Register Report maintained for the Ministry of Fisheries by Commercial Fisheries Services Limited (**FishServe**). This shows the detailed holdings of all scampi quota-owners. Attached as **Appendix A** is a table showing the detailed holdings of all scampi quota-owners at the date of this application; after Sanford has purchased all Simunovich's scampi quota (if consents and clearance are both granted); or after Sanford has purchased up to the

¹ *Simunovich Fisheries Limited v Chief Executive of the Ministry of Fisheries* (HC Wgtn, CIV 2004-485-1987, 10 November 2004, Ronald Young J). The third parties have until 24 November 2004 to appeal.



35% limits (if consents and clearance are not both granted). This table shows that the relevant acquisition will lead to Sanford increasing its holding by 7.75% from 34.91% to 42.66% of the scampi TACC.

- 2.5 Attached as **Attachment 2** is a copy of the trevally Quota Share Register Report maintained for the Ministry of Fisheries by FishServe. This shows the detailed holdings of all trevally quota-owners. Sanford has not yet acquired any trevally quota from Simunovich as Sanford was allocated quota based on its catch history in excess of the 35% aggregation limit. (It was grandfathered in at a level above the section 59 aggregation limit.) Attached as **Appendix B** is a table summarising the holdings of all trevally quota-owners at the date of this application; and after any acquisition of Simunovich's trevally quota. This table shows that the acquisition will lead to Sanford increasing its holding by 4.49% from 39.18% to 43.67% of the trevally TACC.
- 2.6 Accordingly, the Minister's consent is sought for the acquisition by Sanford of:
- (a) scampi Surplus Quota, leading to Sanford increasing its holding from 34.91% to 42.66% of the scampi TACC; and
 - (b) trevally Surplus Quota, leading to Sanford increasing its holding from 39.18% to 43.67% of the trevally TACC.

Concurrent application to Commerce Commission

- 2.7 These applications are being made concurrently with an application to the Commerce Commission under section 66 of the Commerce Act 1986 in relation to the acquisition of scampi Surplus Quota. The criteria guiding the Commission's decision under the Commerce Act are very different to those to be applied in relation to this application under the 1996 Act. For that reason, the two applications differ significantly.

Scampi industry generally

- 2.8 As you are well aware, the scampi industry has generated much administrative law litigation over the last decade. It has also been the subject of two recent reviews:
- (a) Primary Production Committee, *Inquiry Into the Administration and Management of the Scampi Fishery* (December 2003);² and
 - (b) Helen Cull QC and David Smyth, *Report for the State Services Commissioner – An Inquiry Into Fisheries Management of the Scampi Fishery* (25 May 2004).³
- 2.9 Both reviews concerned allegations of improper conduct in relation to the development of the scampi fishery during the 1980s and 1990s. Neither found evidence of any

² <http://www.clerk.parliament.govt.nz/Content/SelectCommitteeReports/Scampi%20fishery%20report.pdf>

³ http://www.ssc.govt.nz/upload/downloadable_files/Fisheries-Management-Inquiry-Report.pdf



misconduct. Neither concerned current market conditions. They are relevant by way of background only.

3 The applicant

- 3.1 These applications are made by:

Sanford Limited
22 Jellicoe Street
Freemans Bay
PO Box 443
Auckland

Telephone: +64 9 379 4720
Facsimile: +64 9 309 1190
Attention: Eric Barratt

- 3.2 Simunovich's contact details are:

Simunovich Fisheries Ltd
1 Market Place
PO Box 91331
Auckland

Telephone: +64 9 377 9165
Facsimile: +64 9 379 5930
Attention: Peter Simunovich/Vaughan Wilkinson

- 3.3 All correspondence and notices in respect of these applications should be directed to:

Chapman Tripp
1-13 Grey Street
PO Box 993
Wellington

Telephone: +64 4 499 5999
Facsimile: +64 7 472 7111
Email: bruce.scott@chapmantripp.com
neil.anderson@chapmantripp.com
Attention: Bruce Scott/Neil Anderson

4 Details of parties

Sanford

- 4.1 Sanford is an Auckland-based fisheries company, listed in the NZSX market operated by New Zealand Stock Exchange Limited (NZX). Under section 59(10) of the 1996 Act,



and section OD 7 of the Income Tax Act 1994, Sanford is only "associated" with Sanford Investments Limited for the purposes of this application.

Simunovich

- 4.2 Simunovich is an Auckland-based fisheries company, wholly owned by members of the Simunovich family.

PART 2: FISHERIES ACT 1996

5 Aggregation limits

- 5.1 Section 59(1) provides that:

59. Aggregation limits—

(1) Notwithstanding the provisions of this Act relating to the transfer of quota, no person shall be entitled to own—

(a) A number of quota shares for any one species the total quota weight equivalent of which is more than 45 percent of the combined total allowable commercial catches for every stock of that species (which species shall be a species named in Schedule 5 to this Act):

(b) More than 10,000,000 quota shares (10 percent of the total allowable commercial catch) for spiny rock lobster in any one quota management area:

(c) More than 20,000,000 quota shares (20 percent of the total allowable commercial catch) for paua in any one quota management area:

(d) In the case of bluenose (*Hyperoglyphe antarctica*), a number of quota shares for that species the quota weight equivalent of which is more than 20 percent of the combined total allowable commercial catches for every stock of that species:

(e) In any other case, a number of quota shares for any one species the total quota weight equivalent of which is more than 35 percent of the combined total allowable commercial catches for every stock of that species.

- 5.2 The species named in Schedule 5 are:

Alfonsino	Ling
Barracouta	Orange roughy
Blue warehou	Oreos
Gemfish	Packhorse rock lobster
Hake	Red cod
Hoki	Silver warehou
Jack mackerel	Squid

- 5.3 This means that both scampi and trevally are currently subject to the default 35% aggregation limit, set out in section 59(1)(e).

6 Consent to exceed aggregation limits

- 6.1 Section 60(1) provides that:

60. Minister may consent to persons holding quota in excess of aggregation limits—

(1) Notwithstanding section 59 of this Act, the Minister may from time to time, after



consultation with such persons or organisations the Minister considers are representative of those classes of persons having an interest in this section, by notice in the Gazette, consent to any named person holding,—

(a) In the case of spiny rock lobster, up to a specified number of quota shares exceeding 10,000,000 for any one quota management area:

(b) In the case of paua, up to a specified number of quota shares exceeding 20,000,000 for any one quota management area:

(c) In any other case, quota shares for any one species having a combined quota weight equivalent less than or equal to a specified percentage of the combined total allowable commercial catches for all stocks of that species (which percentage is greater than the percentage specified in section 59(1) of this Act for the stock concerned).

6.2 Section 60(3) provides that:

60. Minister may consent to persons holding quota in excess of aggregation limits—

(3) The Minister shall, in considering whether to grant any consent under subsection (1) of this section, consider—

(a) The willingness and ability of other members of the New Zealand fishing industry to acquire quota of the relevant species:

(b) The likely effect of the granting or withholding of the consent on—

(i) The development of any new or existing stock or species:

(ii) Other quota owners or commercial fishers:

(iii) The processing and marketing of that stock or species:

(iv) The ability of the applicant to take any other stock or species:

(v) The efficiency of the New Zealand fishing industry or any person engaged in the New Zealand fishing industry:

(c) Such other matters as the Minister considers relevant.

7 Purpose of aggregation limits

7.1 The Minister has in the past interpreted the aggregation limits as being directed to prohibiting not aggregation per se, but undesirable trade practices associated with aggregation. As explained below, no such undesirable trade practices will here develop in either scampi or trevally.

7.2 However, Sanford questions whether a focus on trade practices is appropriate under the 1996 Act. The true purpose of sections 59 and 60 is to ensure sustainable utilisation of fisheries resources. This emerges from a consideration of the relevant legislative history, the purpose of the 1996 Act, and the presence of an alternative regulatory regime in the form of the Commerce Act 1986.

Legislative history

7.3 Aggregation limits were established as part of the creation of the QMS, when it was first introduced in 1986. Section 28W(1) of the Fisheries Act 1983 (**1983 Act**) sets out the aggregation limits. Section 28W(5) provided for the Minister to consent to those limits being exceeded. Some minor amendments to those provisions were

subsequently made. Section 28W was replaced by sections 59 and 60 when the relevant provisions of the 1996 Act came into effect in 2001.

7.4 From the legislative history of section 28W of the 1983 Act, and sections 59 and 60 of the 1996 Act five points emerge:

- (a) Additional aggregation has never been prohibited per se. Some level of aggregation above the specified limits has always been tolerated. The Minister has always had the power to consent to an aggregation exceeding the limits.
- (b) Aggregation limits have been relaxing over time. When section 28W was introduced back in 1986, it provided for a flat aggregation limit of 20% across all finfish species. At the Select Committee stage, that was split into two finfish limits (one 20%, one 35%). When section 59 was introduced in 1995, it repeated those limits. But again at the Select Committee stage, the general finfish limits were increased from 20% to 35%, and from 35% to 45%. Further, aggregation limits do not apply to ACE. This is consistent with a Parliamentary intention to limit the scope of the aggregation limits.
- (c) The “split” introduced in 1986 recognised that higher levels of aggregation are appropriate for some species. The species made subject to the higher limit by being listed in Schedule 1A to the 1983 Act are all species the efficient harvesting of which (for varying reasons) depends on the realisation of economies of scale. The preservation of the split in the 1996 Act reflects a similar conclusion that some fisheries require substantial investment, and can only be internationally competitive if economies of scale are achieved.
(Parliament took the opportunity to include in Schedule 5 to the 1996 Act a number of species omitted from Schedule 1A to the 1983 Act, including alfonsino, blue warehou and red cod.) In particular:
 - (i) Oreos and orange roughy are deepwater species requiring substantial investments in specialised equipment and vessels.
 - (ii) Packhorse rock lobster – a fishery with strong parallels to the scampi fishery - is a small, specialised fishery centred in Northland. It is incapable of supporting a number of small participants.
 - (iii) Barracouta, gemfish, jack mackerel and red cod are all marginal stocks, with low volumes and unreliable demand. These fisheries are only profitable if significant economies are realised.
- (d) The Minister now has the power to add a species to Schedule 5 when it is introduced to the QMS (see section 19). Logically, scampi should have been added to Schedule 5 when it was introduced into the QMS. Presumably through oversight, this did not occur.



- (e) The criteria now to be applied under section 60(3) of the 1996 Act are broader than those set out in section 28W of the 1983 Act. In particular, the deliberate inclusion at the Select Committee stage of an explicit efficiency criterion in section 60(3)(b)(v) shifts the focus of the inquiry even more clearly towards the efficient utilisation of resources.

Purpose of 1996 Act

- 7.5 That final point in particular is borne out by reference to the overarching provisions in sections 8 and 9 of the 1996 Act. They provide:

8. Purpose

- (1) The purpose of this Act is to provide for the utilisation of fisheries resources while ensuring sustainability.
(2) In this Act—
“Ensuring sustainability” means—
(a) Maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations; and
(b) Avoiding, remedying, or mitigating any adverse effects of fishing on the aquatic environment;
“Utilisation” means conserving, using, enhancing, and developing fisheries resources to enable people to provide for their social, economic, and cultural wellbeing.

9. Environmental principles

- All persons exercising or performing functions, duties, or powers under this Act, in relation to the utilisation of fisheries resources or ensuring sustainability, shall take into account the following environmental principles:
(a) Associated or dependent species should be maintained above a level that ensures their long-term viability;
(b) Biological diversity of the aquatic environment should be maintained;
(c) Habitat of particular significance for fisheries management should be protected.

- 7.6 These provisions emphasise the efficient utilisation of fisheries resources, whilst ensuring sustainability. They do not, for example, direct attention toward the protection of small quota owners or fishers. Sections 8 and 9 are relevant to the Minister’s decision in two ways. They will help identify the “other matters” contemplated in section 60(3)(c). They will also help determine the weight to be given to the mandatory criteria set out in section 60(3)(a) and 60(3)(b).

Commerce Act 1986

- 7.7 It must also be noted that Parliament has specifically entrusted the Commerce Commission with the enforcement of competition policy, under the Commerce Act 1986. It is for this reason that Sanford has filed a concurrent application with the Commission in relation to scampi Surplus Quota, as noted above. Parliament cannot have intended the Commission and the Minister to have an essentially identical jurisdiction.

Summary

- 7.8 The Ministry may prefer to continue its previous focus on undesirable trade practices associated with the aggregation. As explained below, the aggregations in scampi and trevally each satisfy the criteria of section 59 and 60 on this approach.



7.9 However, (whatever the purpose of aggregation limits when first introduced in 1986) it is not certain that the purpose of sections 59 and 60 is to prevent anti-competitive behavior, or to protect the interests of small quota-owners. The strict words of section 60(3) are to be interpreted, and weight to be assigned to the criteria in accordance with the legislative purpose – the utilisation of fisheries resources while ensuring sustainability. This shift of focus from the 1983 Act to the 1996 Act is inevitable, given the development of the Commerce Act 1986. The two aggregations contemplated here do not offend against this approach. In fact, they actively promote the ends at issue.

PART 3: SCAMPI

8 In this Part, the aggregation in scampi is assessed against the criteria which section 60(3) of the 1996 Act provides the Minister shall take into account.

9 ***The willingness and ability of other members of the New Zealand fishing industry to acquire quota of the relevant species***

9.1 There are a number of other persons who would be willing to acquire this parcel of scampi quota. The acquisition will not decrease their willingness to acquire other scampi quota. In fact, it will likely increase it.

(a) Scampi quota has not been traded before, so the willingness of other persons to acquire it cannot be judged by reference to the market. However, the high returns available in scampi export markets make scampi fishing rights valuable. This in turn makes scampi quota valuable. The history of litigation concerning scampi rights confirms that other persons will be more than willing to acquire scampi quota, notwithstanding Sanford's purchase.

(b) One of the key advantages of the acquisition is that it ensures the survival and strengthening of the "SIMU" brand internationally. The "SIMU" brand has in the past been backed by sufficient year-round supply to become recognised as a market leader in Japan particularly. Simunovich pioneered the export scampi market, particularly through its strong relationship with Maruha (one of Japan's largest marine food trading houses). Sanford has acquired from Simunovich its significant product and marketing plans for building on that commitment to the export market. Sanford would be less incentivised to put those plans into action were it not granted consent to acquire scampi Surplus Quota, as they require certain economies of scale to be feasible. Accordingly, Sanford's plans would be compromised if it were not able to complete the acquisition. Although those plans are confidential, Sanford would be happy to discuss them further with the Ministry. The survival and strengthening of the "SIMU" brand and Sanford's product and marketing plans will strengthen the appeal of New Zealand scampi generally. This will only increase the commercial attractiveness of scampi quota.



- 9.2 Despite the willingness of other persons to acquire scampi quota, none would have been able to acquire this scampi quota parcel from Simunovich.
- (a) Simunovich was approached by Sanford and presented with a comprehensive commercial proposition, effectively enabling Simunovich to exit the industry. Accordingly, it sold the parcel to Sanford only as part of a wider transaction comprising virtually all of Simunovich's entire fishing asset base. Simunovich was not prepared to sell the parcel unless the purchaser took the vast majority of the assets, including staff. An alternative purchaser would have needed access to substantial financial resources in order to acquire that asset portfolio. Very few participants in the industry would have had such access to finance.
 - (b) Further, for strategic reasons, Simunovich would not have sold its entire asset base to anyone other than Sanford. Sanford is quite simply the only purchaser with an appropriate "fit". For example, because Sanford and Simunovich are both close neighbours geographically, the transition of assets and staff could be made with minimal cost or disruption.
 - (c) An alternative purchaser would have needed access to an established export marketing arm. Few parties other than Sanford would have been able to dispose of Simunovich's scampi catch in overseas markets.
- 9.3 However, the fact that Sanford has acquired the parcel from Simunovich actually increases the ability of other persons to acquire other quota.
- (a) **Appendix A** shows that there are currently 7 other scampi quota owners, each with substantial interests. Each could be persuaded to sell its quota at the right price. There is no history of quota trading as scampi has only been introduced into the QMS from 1 October 2004.
 - (b) The Crown currently holds 20.7% of the scampi TACC for all areas. We understand that the fishing rights associated with that quota are likely to be the subject of a tender before the end of 2004. Existing participants will be able to bid. But post-acquisition Sanford could not bid without seeking further consent under the 1996 Act, and would also need to consider further clearance under the Commerce Act. Simunovich is not interested in re-entering the fishing industry. For this reason, the acquisition actually improves the chances of other players at that tender, by removing Sanford and Simunovich from the pool of bidders.
- 10 ***The likely effect of the granting or withholding of the consent on the development of any new or existing stock or species***
- 10.1 Given the focus of the 1996 Act on utilisation and sustainability, this is clearly a key consideration for the Minister. So it is important to note that the acquisition will encourage careful development of existing scampi stocks, and the development of new ones.

- (a) The acquisition will give Sanford a substantial stake in the existing scampi fishery. It will be incentivised to manage the resource carefully, to avoid over-fishing in poor years. Sanford has a long established record of taking a leading role in the establishment and ongoing management of commercial stakeholder organisations, and has considerable input into research and management proceedings. It has had and would continue to have considerable involvement with the Ministry in developing policy and structures, and carrying out stock assessments in relation to a number of fisheries. This is particularly important, given that scampi has only just been introduced into the QMS. Sanford will also be better able to invest in research, as the costs of that research are subject to certain economies of scale.
- (b) Sanford will also be better incentivised to seek out new stocks. Such exploration requires substantial investment (eg vessels, research) which cannot be justified without the prospect of commercial return. The proportional QMS regime now offers the potential and will provide a large quota owner the incentive it needs to make the necessary investments.

11 *The likely effect of the granting or withholding of the consent on other quota owners or commercial fishers*

- 11.1 As explained above, protecting the commercial interests of smaller quota-owners is not the proper purpose of sections 59 and 60. The effect of the acquisition on quota-owners is primarily relevant to the extent that it relates to utilisation and sustainability. In any event, the acquisition would have only a positive effect on other quota owners and commercial fishers.
 - (a) As already noted, the strengthening of the "SIMU" brand under the stewardship of Sanford (including the confidential product and marketing plans acquired by Sanford from Simunovich) will strengthen the appeal of New Zealand scampi generally. This will improve the position of all quota-owners and fishers. Importantly, Simunovich would not have sold its product and marketing plans to any other person. Withholding consent from Sanford will compromise those plans, denying any positive spin-offs to other quota-owners and fishers.
 - (b) Sanford has a diverse quota portfolio. Simunovich's quota portfolio was not as strong, meaning that it was at times forced to acquire by-catch quota on-market. Following the acquisition, Sanford will be better able to cover its scampi by-catch internally. This means that other persons will be better able to acquire by-catch quota on-market (as Simunovich's previous demand will now be absent). Further, Sanford will not have an incentive to overfish and pay deemed value. This will avoid any negative effect on the holders of property rights in those by-catch fisheries.
 - (c) As already noted, Sanford will have increased incentive to invest in research and exploration. Both will benefit other quota-owners and fishers by encouraging



better utilisation of known resources and discovery of new ones, leading to increased absolute levels of TACC.

- (d) The scampi industry is populated by a number of smaller players, as set out in **Appendix A**. Each has had a small share of scampi production relative to Simunovich, yet has managed to survive even without the benefits of the QMS. There is no reason to believe that the acquisition will make it any more difficult for those smaller quota-owners to survive.
- (e) None of the other quota-owners attempted to buy Simunovich's stake. The size and value of that stake would have put it beyond the reach of most of them. And, as already noted, Simunovich simply would not have sold to anyone other than Sanford.
- (f) Each fisher's value of landed catch is a function of export prices. It reveals nothing about the effect of the acquisition on other fishers.

12 *The likely effect of the granting or withholding of the consent on the processing and marketing of that stock or species*

- 12.1 The acquisition will have a positive effect on scampi processing and marketing.
 - (a) Most scampi processing is carried out at sea. There is no harvester/processor split as in other fisheries. The acquisition will allow Sanford to realise processing economies, through better vessel selection and scheduling. Sanford needs access to a substantial level of quota in order to realise these efficiencies.
 - (b) As already noted, the acquisition ensures the pioneering work undertaken by Simunovich in developing the scampi fishery is continued by an entity resourced to strengthen the "SIMU" brand. The confidential product and marketing plans acquired by Sanford from Simunovich (and discussed above) are a good example of the innovation likely to result from the acquisition. The strengthening of the SIMU brand in overseas markets will further expose New Zealand's scampi fishery, which will benefit Sanford and all other scampi-harvesters alike.

13 *The likely effect of the granting or the withholding of the consent on the ability of the applicant to take other stock or species*

- 13.1 The acquisition will improve the ability of Sanford to take other species more efficiently, as by-catch. This is discussed further below. The acquisition does not otherwise affect Sanford's ability to take any other species.
- 13.2 The by-catch generated by Sanford's scampi-harvesting activities will be better met after the acquisition as Sanford holds a strong quota portfolio, as discussed above. Sanford will be able to cover its by-catch internally, so will not need to buy quota on-



market or be incentivised to overfish and pay deemed values. These synergies will help ensure the efficient operation of the QMS, as explained immediately below.

14 *The likely effect of the granting or the withholding of the consent on the efficiency of the New Zealand fishing industry or any person engaged in the New Zealand fishing industry*

14.1 Most importantly, granting consent will have a positive impact on the efficient operation of the QMS, and in particular upon the conservation and management of the various fisheries. As already noted, Sanford has a stronger quota portfolio than Simunovich had. It holds quota for and targets many of the species which are caught as scampi by-catch (such as ling). Accordingly, it will be better able to cover any by-catch internally. This means that Sanford will not be likely to overfish, as other scampi-harvesters may when the market value of scampi exceeds the deemed values payable for exceeding quota entitlements in by-catch species. This represents a positive result for the conservation and management of those fisheries resources, in line with the broad purpose set out in section 8 of the 1996 Act. It will also impact positively on other fishers who will be better able to acquire by-catch quota on-market. Withholding consent would thus lead the QMS to operate less efficiently, with greater negative pressures in the by-catch markets and on fishstocks more broadly.

14.2 Efficiency can also be analysed in terms of allocative, productive or dynamic efficiency. Allocative efficiency concerns the proper operation of the market. A loss of allocative efficiency usually equates to an increase in price, and a decrease in output brought about by an increase in market power. Allocative efficiency will not be reduced by the acquisition.

(a) Sanford will be constrained by other players. In addition to existing competitors, the tender of the Crown quota before the end of 2004 provides an opportunity for a new competitor to enter.

(b) Sanford will be constrained by the countervailing power of buyers. Over 99% of scampi harvested are exported. The price paid for those scampi is determined by overseas consumers. It will not be determined by Sanford.

(c) In relation to the very small proportion of scampi consumer domestically, Sanford will possess no market power. Any one of its existing competitors could service domestic demand.

14.3 Productive efficiency concerns the costs of production. An increase in productive efficiency equates to a fall in those costs. Such an increase in productive efficiency will clearly result from the acquisition.

(a) Sanford will be able to engage in better vessel selection. A single larger vessel will be able to catch scampi more efficiently than two smaller vessels. Further, a scampi vessel will be able to catch other species as by-catch. In other words,



there will be economies of scope realisable by Sanford being able to catch its entitlement in scampi and other species simultaneously.

- (b) As already noted, Sanford will be able to realise economies of scale in processing at sea.
 - (c) Prior to the acquisition of its assets by Sanford, Simunovich was a significant purchaser of by-catch ACE "on-market". By contrast, Sanford will be better positioned to avoid trading ACE to cover by-catch. This is because Sanford and Simunovich have complementary by-catch portfolios. This will remove both transaction costs, and costs associated with paying "deemed values". As already noted, it will also allow other fishers to acquire by-catch ACE more easily as they will no longer need to compete with Simunovich for access to that ACE.
- 14.4 Dynamic efficiency refers to the preservation of allocative and productive efficiency over time, particularly through innovation. It will be increased by the acquisition.
- (a) Sanford will be better incentivised to develop new fishing techniques. These may allow cheaper harvesting of scampi, or minimisation of by-catch not covered by quota.
 - (b) Sanford will also be better able to identify and realise economies of scale in processing, which, as argued above, are crucial to specialist fisheries like scampi and packhorse rock lobster.

15 ***Other matters that the Minister may consider relevant***

- 15.1 There are several other matters that are relevant. Each supports the granting of consent.
- (a) The margin by which the aggregation will exceed the 35% limit set down by section 59 is not large (7.7%).
 - (b) Scampi is closely analogous to the species listed in Schedule 5. Those species require a "critical mass" entitlement before they can be fished, for varying reasons. The harvesting of scampi similarly requires the realisation of economies of scale. Scampi is similar to packhorse rock lobster, which (for reasons which have already been explained) is listed in Schedule 5. It seems likely that it was only by oversight that the Fisheries Amendment Act (No.2) 2004 – which introduced scampi into the QMS – failed to add scampi to Schedule 5.
 - (c) There is no genuine reason for anyone opposing the acquisition. However, the scampi fishery has been acrimonious in recent years. The high value of scampi in export markets motivates other quota owners to oppose aggregation simply on the basis that it will not make scampi quota available to them.

- (d) The Commerce Commission is separately considering the competition implications of the acquisition. There is no reason for the Ministry to duplicate the Commission's expert assessment of the effect of the acquisition on competition.
- (e) Sanford has never breached the aggregation limits.
- (f) There are no precedents suggesting that aggregation in the scampi industry is undesirable.
- (g) Both Sanford and Simunovich have invested heavily in all levels of the scampi industry, especially in developing export markets. Refusing consent will make recovery of those costs difficult.

16 Conclusion

- 16.1 For the foregoing reasons, the Minister should consent to the acquisition by Sanford of scampi Surplus Quota, leading to Sanford increasing its holding from 34.91% to 42.66% of the scampi TACC.

PART 4: TREVALLY

- 17 In this Part, the aggregation in trevally is assessed against the criteria which section 60(3) of the 1996 Act provides the Minister shall take into account.

18 ***The willingness and ability of other members of the New Zealand fishing industry to acquire quota of the relevant species***

- 18.1 The acquisition will not reduce the ability of other persons to acquire trevally quota.

- (a) The balance of supply and demand will not be altered by the acquisition. Accordingly, the market price for trevally quota (the main barrier to entry into the market) should not be altered by the acquisition.
- (b) The size of the acquisition itself is relatively small in terms of the total potential pool of trevally quota available to new entrants. The acquisition only relates to 4.49% of the available trevally quota. Such a limited aggregation is unlikely to effect the ability of other members of the fishing industry to acquire trevally quota.
- (c) 197 industry participants hold trevally quota across the main trevally quota management areas TRE1, TRE2 and TRE7. 105 of those industry participants hold quota shares the quota weight equivalent of which is 1t or greater. 47 hold quota shares the quota weight equivalent of which is 10t or greater. Thus, granting consent for the acquisition will only lower the pool of possible vendors of trevally quota in the market from 197 to 196 (or from 105 to 104 in respect of purchases in excess of 1t or 47 to 46 in respect of purchases in excess of



10t). Such a limited reduction in the available pool of possible vendors of trevally quota is unlikely to effect the ability of other members of the fishing industry to acquire trevally quota.

- (d) The Crown itself currently holds the TACC equivalent of 11.2t of Trevally quota.
- (e) Any person who wishes to acquire the rights attaching to trevally quota can do so by acquiring ACE. This operates as an effective alternative to acquiring quota.

18.2 No other industry participant would have been able to acquire this trevally quota parcel from Simunovich. Simunovich wished to exit from the industry. Accordingly, it sold the parcel to Sanford as part not only of its entire trevally portfolio, but of its entire fishing asset base. Simunovich were not prepared to sell the parcel unless the purchaser took all of the assets, including staff. An alternative purchaser would have needed access to substantial financial resources in order to acquire that asset portfolio. Only a few participants in the industry would have had such access to finance.

18.3 The acquisition will not reduce the willingness of other persons to acquire trevally quota either. In fact, it will likely increase it. Regardless of the current level of industry willingness to take trevally quota, the acquisition is likely to lead to an overall increase in industry willingness to purchase trevally quota. Sanford is likely to better research, manage and promote the existing trevally stock if the consent is granted. This will strengthen the appeal of New Zealand trevally generally and incentivise incoming quota-owners to purchase trevally quota and ‘piggyback’ off Sanford’s expenditure.

19 *The likely effect of the granting or withholding of the consent on the development of any new or existing stock or species*

19.1 Granting consent for the acquisition is likely to have a positive effect (if any effect at all) on the development of any new or existing trevally stocks for the following reasons:

- (a) Sanford is a responsible member of the fishing industry. The table below depicts Sanford’s available trevally ACE for the years 2000 through to 2004 and contrasts it with Sanford’s trevally catch for each given year. Sanford’s average utilisation of its trevally ACE over the most recent 5 years has been 89%. This compares favourably with the industry average over the last 5 years of approximately 80%.

Year	Total ACE (t)	Total Catch (t)	Utilisation
2000	1561	1439	92%

2001	1550	1123	72%
2002	1630	1437	88%
2003	1656	1557	94%
2004	1581	1553	98%
Total	7978	7109	89%

- (b) Sanford will hold an increased stake in the well-being of trevally stocks. This increased stake will further encourage Sanford to carefully manage the existing trevally stocks, and Sanford's current investment in the development of new ones. Consolidation allows larger quota-owners to invest in research and management of the fishery and can help to protect fish stocks.
- (c) The TACC for trevally has remained at 3932t since 1993-94 (indicating that trevally stocks have remained relatively stable during that period). This is further evidenced by the table below, which sets out the most recent estimate of the maximum constant yield (**MCY**) for trevally and compares that figure with the fishery's reported catch for the 2002-2003 and 2001-2002 years. The table indicates that the industry has been fishing on or about the trevally MCY in recent years.

Fishstock	MCY(t)	Actual Catch 2002-2003(t)	Percentage 2002-2003	Actual Catch 2001-2002(t)	Percentage 2001-2002
TRE1	1230	1014	82.4%	1085	88.2%
TRE2	310	270	87.1%	243	78.4%
TRE3	5	<1	20%	<1	20%
TRE7	1572	2029	129.1%	1856	118.1%
TRE10	0	0	N/A	0	N/A
Total	3117	3313	106.3%	3185	102.2%

20 **The likely effect of the granting or withholding of the consent on other quota owners or commercial fishers**

20.1 Granting consent for the acquisition is likely to have a positive effect on other quota-owners or fishers.

- (a) As discussed above, the acquisition will further incentivise Sanford to invest in research and management of the fishery. Such increased investment and management can only benefit other trevally quota-owners and other fishers in general.
- (b) As discussed above, there are currently 197 holders of trevally quota, many of whom hold relatively small amounts of trevally quota compared to Sanford. Each of those smaller quota-owners have to date managed to actively participate in the trevally market notwithstanding Sanford's current quota holding. There is no reason to believe that the acquisition by Sanford of an additional 4.49% of the trevally quota will make it any more difficult for those smaller quota-owners to survive, or for further smaller quota-owners to enter the market.

21 ***The likely effect of the granting or withholding of the consent on the processing and marketing of that stock or species***

21.1 The acquisition is unlikely to alter the processing and marketing of trevally but to the extent that the processing and marketing of trevally is altered, such alteration is likely to be positive.

- (a) Lower prices are a key aspect of any marketing. The acquisition will not enable Sanford to unilaterally raise the price of trevally.
 - (i) There are several other producers with considerable ITQ and nearly 200 other producers holding some ITQ. Any attempt by Sanford to raise trevally price would not raise the market price.
 - (ii) Trevally is a product which faces considerable competition from other types of fish. If Sanford attempted to raise THE price of trevally consumers would simply switch to purchasing one of the many other fish of a similar quality and price.
- (b) To the extent that the acquisition does alter the position with respect to the processing and marketing of trevally, such alteration is likely to be positive due to:
 - (i) the application of better economies of scale; and
 - (ii) Sanford's increased incentive to market the product.

22 ***The likely effect of the granting or the withholding of the consent on the ability of the applicant to take other stock or species***

- 22.1 The granting of consent will not affect Sanford's ability to take other stock or species. Sanford has a very good quota portfolio that means by-catch species have always been effectively dealt with under the quota system. The granting of a consent for aggregation will not adversely affect this position as Simunovich also has a very good quota portfolio.
- 23 ***The likely effect of the granting or the withholding of the consent on the efficiency of the New Zealand fishing industry or any person engaged in the New Zealand fishing industry***
- 23.1 As noted above, efficiency can be analysed in terms of allocative, productive and dynamic efficiency. Allocative efficiency will be increased rather than reduced by the acquisition.
- (a) Sanford will gain no market power by virtue of the acquisition. There are several other producers with considerable ITQ and nearly 200 other producers holding some ITQ. Any attempt by Sanford to raise the price of trevally would not raise the market price.
- (b) Trevally is a product which faces considerable demand side competition from other types of fish. If Sanford attempted to raise price of trevally consumers would simply switch to purchasing one of the many other types of fish of a similar quality and price.
- 23.2 Productive efficiency will also be increased by the acquisition.
- (a) Sanford will be able to engage in better vessel selection.
- (b) Sanford will be able to avoid trading quota to cover by-catch.
- (c) As already noted, Sanford will be able to realise economies of scale in processing.
- 23.3 Dynamic efficiency will be increased by the acquisition. Sanford will have increased incentives to manage the trevally stocks in New Zealand for the long term benefit of the industry.
- 24 ***Other matters that the Minister may consider relevant***
- 24.1 There are several other matters that Sanford believes are relevant. Each supports the granting of consent.
- (a) Sanford notes that the trevally aggregation will not lead to a concentration level above 45% for the available quota. This is relevant in that the aggregation that Sanford seeks is not one beyond the level that is permitted for other species in Schedule 5 of the Fisheries Act 1992. The aggregation level therefore is one that is not unduly excessive under the legislation.



- (b) The margin by which the aggregation will exceed the 35% limit set down by section 59 is not large (8.67%). More importantly, the increase in the level of aggregation is small (4.49%). Accordingly, Sanford submits that:
- (i) Sanford's record as a responsible industry participant will not be altered by the further acquisition of 4.49% of the available quota, and if anything, it will be improved by it; and
 - (ii) smaller fishers' ability to obtain trevally quota and compete in the market will not be altered by the acquisition of only 4.49% of the available quota.
- (c) Another consideration that Sanford sees as relevant in assessing whether to grant a consent is that the aggregation in the present case will not infringe upon the intent of the legislation. The quota limits were established to ensure ongoing sustainability of New Zealand's fishing stocks and to this end the aggregation will not affect these aims in any way. Instead, as Sanford will be willing to take an increased role in the management of the fishery the opposite is true; aggregation will in fact aid the ongoing sustainability of New Zealand's trevally stocks.
- (d) As reflected in Sanford's catch history and resulting quota allocation of 39.18% of the available trevally quota, Sanford has a long and significant association with this fishery. It has consistently demonstrated its ability to maximise the value of the fishery for the benefit of the nation.

25 **Conclusion**

For the foregoing reasons, the Minister should also consent to the acquisition by Sanford of trevally Surplus Quota, leading to Sanford increasing its holding from 39.18% to 43.67% of the trevally TACC.

Yours faithfully,

Eric Barratt

Managing Director

APPENDIX A – SCAMPI QUOTA

At date of application													
	SCI1 (t)	SCI2 (t)	SCI3 (t)	SCI4A (t)	SCI5 (t)	SCI6A (t)	SCI6B (t)	SCI7 (t)	SCI8 (t)	SCI9 (t)	SCI10 (t)	Total (t)	Total (%)
Amaica Fishing Co Limited	-	-	11.53	-	-	14.41	-	-	-	-	-	25.94	2.00
Banine Developments Limited	0.89	31.63	7.88	-	-	35.65	-	-	-	-	-	65.96	5.10
Deacon & Sons	6.70	-	9.25	1.45	0.26	28.03	-	-	0.01	-	-	45.68	3.54
Petromont Holdings Limited	0.33	0.19	6.88	3.58	-	14.81	-	-	-	-	-	23.81	2.00
Sanford Limited	-	41.37	4.89	5.10	-	27.13	-	-	-	-	-	98.49	7.63
Simunovich Fisheries Limited	88.17	59.24	108.73	65.73	-	102.35	-	-	-	-	-	452.23	35.93
Vander Shelf Company No 14 Limited	-	17.56	21.19	0.14	-	12.40	-	-	-	-	-	51.29	3.97
Treaty of Waitangi Fisheries Commission	24.00	40.00	69.00	24.00	8.00	91.00	10.00	15.00	1.00	7.00	-	298.2	23.00
Crown	-	-	103.62	-	31.74	-	40.00	60.00	4.00	28.00	-	257.36	20.7
TACC	120	200	340	120	40	306	50	75	5	35	0	1291	100
At Scampi Settlement Date (if consents and clearance achieved)													
	SCI1 (t)	SCI2 (t)	SCI3 (t)	SCI4A (t)	SCI5 (t)	SCI6A (t)	SCI6B (t)	SCI7 (t)	SCI8 (t)	SCI9 (t)	SCI10 (t)	Total (t)	Total (%)
Sanford Limited	88.17	110.61	111.62	90.83	-	149.49	-	-	-	-	-	553.72	42.66
Simunovich Fisheries Limited	-	-	-	-	-	-	-	-	-	-	-	0	-
At Scampi Settlement Date (if consents and clearance not achieved)													
	SCI1 (t)	SCI2 (t)	SCI3 (t)	SCI4A (t)	SCI5 (t)	SCI6A (t)	SCI6B (t)	SCI7 (t)	SCI8 (t)	SCI9 (t)	SCI10 (t)	Total (t)	Total (%)
Sanford Limited	88.62	95.11	86.12	71.53	-	126.99	-	-	-	-	-	450.72	34.51
Simunovich Fisheries Limited	19.50	15.50	23.50	19.00	-	32.50	-	-	-	-	-	100	7.75

APPENDIX B – TREVALLY QUOTA

At date of application							
	TRE1 (t)	TRE2 (t)	TRE3 (t)	TRE7 (t)	TRE10 (t)	Total (t)	Total (%)
Sanford Limited	503.30	26.10		1012.6		1541.00	39.16
Moana Pacific Quota Holdings Limited	243.35	41.47		319.54		604.35	15.37
Treaty of Waitangi Fisheries Commission	148.98	23.88	1.58	214.96	1.00	390.21	9.92
North Harbour Nominees Limited	93.76	3.10		75.40		176.26	4.48
Esperance Fishing Co Limited	125.50			10.70		136.20	3.46
Raukura Moana Seafoods Limited				127.60		127.60	3.24
Talley's Group Management Limited	3.10	1.00	17.02	108.70		126.82	3.23
David Boyd Brown, David McKay Hayman				83.50		83.50	2.13
Leigh Fisheries Limited	41.20			25.10		66.30	1.69
Kia Tamuro Limited	64.15			1.00		65.15	1.66
Vela Quota Number One Limited	2.10	39.00				41.10	1.04
Ngai Tahu Seafood Resources Limited		18.00		20.20		38.80	0.99
Star Fish Supply Limited		23.41		2.00		25.41	0.65
Ronald John McGrath	24.46	0.40				24.86	0.63
Rem Supplies Limited				23.50		23.50	0.60
Fo Henga Limited	22.07			1.33		23.37	0.59
Gisborne Fisheries 1955 Limited	0.10	22.00				22.10	0.56
Michael William Dozier				19.50		19.50	0.50
Branka Krolca	17.56			0.10		17.69	0.45
Grandin Lewis St John Peder, Andrew McLean Murray, Jera Rydor Jensen		17.20				17.20	0.44
Papakura Trawling & Fishing Co Limited	17.00					17.00	0.42
Brian George Kiddie	14.70					14.70	0.37
Peter John Breton	11.70					11.70	0.30
The Crown	2.20				9.00	11.20	0.29
Barry Connolly	11.00					11.00	0.28
22 persons holding between 5t and 10t	96.11	11.60		34.40		142.10	3.61
22 persons holding between 2t and 5t	36.71	9.63	1.20	45.75		93.29	2.37
20 persons holding between 0.5t and 2t	26.50	1.80	1.60	18.87		45.77	1.24
71 persons holding under 0.5t	5.32	2.26	0.20	4.53		12.30	0.31
TACC	1506.89	241.26	21.60	2153.35	10.00	3933.10	100
At Settlement Date (if consents achieved)							
	TRE1 (t)	TRE2 (t)	TRE3 (t)	TRE7 (t)	TRE10 (t)	Total (t)	Total (%)
Sanford Limited (and subsidiaries)	546.10	25.20		1022.20		1717.50	43.67
Simunovich Fisheries Limited (and subs diaries)							

ATTACHMENT 1 – QUOTA SHARE REGISTER REPORT (SCAMPI)

ATTACHMENT 2 – QUOTA SHARE REGISTER REPORT (TREVALLY)

ATTACHMENT 3 – SANFORD ANNUAL REPORT 2003