



Ministry of
Fisheries
Te Tautiaki i nga tini a Tangaroa

Carry Forward of Uncaught Paua ACE



Final Advice Paper – Carry Forward of Uncaught Paua ACE

Introduction

1 This paper proposes that all paua stocks be removed from Schedule 5A of the Fisheries Act 1996 (the Act).

2 Removing paua from this schedule would allow holders of annual catch entitlement (ACE) for paua to carry forward up to 10% of their ACE, if uncaught¹, into the next fishing year.

3 This change would provide the paua industry with opportunities to increase the economic benefits derived from the paua fishery.

The Issue

4 Paua was added to Schedule 5A of the Act in 1999 on the basis that, as a target fishery, there was no need to manage unexpected catch at the end of the fishing year.

5 The Paua Industry Council (PIC) has requested that paua be removed from Schedule 5A to allow commercial paua fishers to carry forward up to 10% of their ACE, if uncaught, from one fishing year to the next (as per section 67 A of the Act).

6 PIC considers removing paua from Schedule 5A would provide opportunities to increase the economic benefits derived from the paua fishery. PIC notes that fluctuations in export demand for paua create intra-annual volatility in prices. The high value of paua ACE creates incentives for ACE holders to catch all ACE before it expires at the end of the fishing year, regardless of the price on the export market. Allowing carry forward of up to 10% of ACE, if uncaught, would mean that, when prices are low towards the end of a year, fishing could be deferred until prices improve in the following fishing year.

Summary of Options

Option 1 – Status Quo

7 Retain all paua stocks on Schedule 5A.

Option 2 – Amend Schedule 5A

8 Under this option all paua stocks would be removed from Schedule 5A by an Order in Council made under s 67B(1)(b) of the Act.

¹ ACE is the allocation of the Total Allowable Commercial Catch for a given fishing year, distributed proportionally amongst quota owners. If it is not required to balance against catch, then s 67 A of the Act directs that up to a maximum of 10% of this ACE be carried forward into the next fishing year.

Consultation

9 The Ministry commenced consultation on this proposal on 2 May 2011. The proposal was sent to industry, recreational, customary and environmental NGO's as well as being posted on the Ministry web site. Submissions closed on 10 June 2011.

Submissions Received

| | | |
|-------------------|--------------------------|---|
| D. Baker | Chairman | PauaMAC 7 |
| D. Rae | Chairman | PauaMAC 3 |
| V. Reilly | Office Manager | Ngati Koata Trust |
| P. Riwaka-Herbert | Chief Executive Officer | Ngati Apa Ki Te Ra To Trust |
| A. Tuuta | Chairman | PauaMAC 4 |
| S. J Stanley | Chairman | Paua Industry Council Limited (PIC) |
| M. Barlow | President | Tasman Sounds Recreational Fishers' Association (Inc) (TASFISH) |
| S. Hart | Secretary | New Zealand Recreational Fishing Council (NZRFC) |
| A. Ranger | Environmental officer | Te Uri O Hau Settlement Trust |
| S. Smith | Trustee | Te Runanga O Ngati Kuia |
| K. Bartram | | New Zealand Seafood Industry Council (SeaFIC) |
| A. Riwaka | Senior Fisheries Advisor | Te Ohu Kaimoana |
| R. Baker | President | New Zealand Sport Fishing (NZSF) |
| J. Hutcheson | Chairman | Kahungunu ki Uta, Kahungunu ki Tai |

Ministry Discussion

10 Four of the 14 submitters support Option 1; TASFISH, NZRFC, Te Uri O Hau Settlement Trust, and NZSF.

11 Remaining submitters support Option 2; PauaMAC 3 PauaMAC 4, PauaMAC 7, PIC, SeaFIC, Ngati Koata Trust, Ngati Apa Ki Te Ra To Trust, Te Runanga O Ngati Kuia, Te Ohu Kaimoana, Kahungunu ki Uta, Kahungunu ki Tai.

Sustainability

12 Submitters supporting Option 1 (*status quo*) suggest that the proposal to allow catch to be deferred indicates there is a sustainability problem with the fishery. On this basis, under-catch in the paua fishery is not a decision based on economic choice, but a sustainability decision.

13 They consider that in times of low demand or price, paua harvest should drop or stop completely. These submitters consider paua fishers should follow market fluctuations and modify their fishing patterns accordingly.

14 TASFISH and NZRFC are concerned paua left in the water by commercial fishers will be harvested by the non-commercial sectors and, therefore, result in the TAC being over caught by the 10% carry-forward in the subsequent fishing year.

15 The Ministry notes that most paua stocks are fully caught every year. Only PAU 1, 10, and 5A are not. PAU 1 and 10 have nominal total allowable commercial catches

(TACCs) of 2 and 1 tonnes respectively, as paua at those latitudes rarely attain minimum legal size. Quota holders in PAU 5A have a voluntary ACE shelving programme of in place for those fisheries.

16 The Ministry reviews the status of paua stocks annually. Sustainability and the availability of paua to harvest are not driving PIC's request, and the proposal will not affect sustainability of paua stocks. Allowing fishers to carry forward up to 10% of ACE, if uncaught, would not result in the taking of more paua than the amount of ACE. The \$60/kg deemed value in place for paua for exceeding available ACE is a strong disincentive to over-catch, and is unaffected by this proposal.

17 The Ministry agrees that up to 10% more paua could be taken in the subsequent fishing year, but only if paua fishers forgo an equivalent quantity of paua catch in the previous year. The total catch over two seasons will not exceed the TAC or the total ACE available across those two seasons; only more could be caught in one year than the other.

Consultation

18 NZSF submit there was insufficient information in the IPP upon which to adequately assess the merits of the proposal. TASFISH and NZRFC also submit they are now seeing the Ministry produce generic IPP's that contain no analysis. NZSF submit that the purpose of consultation to ensure that, before changes are enacted, all interest groups are given the opportunity and information to assess and understand the consequences. They note that, for example, the IPP does not set out the basis for proposing a figure of 10% carry over, and it is not clear if the industry wants to sell this year's catch at next year's price.

19 The Ministry agrees with these submitters about the purpose of consultation. Its approach in this IPP was to; fully assess the information held on this issue, include references to the relevant legislation, and provide details on how to contact the Ministry for specific or different information. The time period provided for submissions (six weeks) was an appropriate period in which to do this.

20 The "10% carry over" figure is the maximum prescribed by s 67A of the Act, as set out in the IPP. If more than 10% of ACE is uncaught, then the difference is lost and that ACE is not able to be carried forward to the following year.

21 As stated in the IPP, the intention of the proposal is to allow fishing to be deferred until prices are higher in the following year.

Need for Change

22 TASFISH and NZRFC conclude the fishery is not well managed financially and consider better organisation between the marketing, processing and harvesting sectors could achieve the same outcomes as Option 1.

23 The Ministry agrees that enhanced co-ordination and co-operation would assist towards the desired outcome. However, as stated in the IPP, this would not provide the same level of flexibility as allowing carry forward of ACE, nor the ability to reduce business compliance costs during end-of-year ACE balancing. While paua is a target fishery, it is difficult to exactly balance catch with ACE. These costs arise from fishing small quantities of paua to match ACE holdings, or paying deemed values (where ACE holdings have been accidentally exceeded).

24 The 10 submitters that support Option 2, consider there is compelling case for change due to the following benefits:

- More flexible administration of the fishery
- Better able to match supply and demand
- Fish left uncaught at the end of year can be carried over to the following year and sold when prices are high
- End of year balancing made easier
- Potential to increase export earnings.

25 These submitters note that, given the international recession, paua prices can be depressed and have at times fallen below \$20/kg. However, there are also periods of demand, when prices can exceed \$30/kg. Submitters consider this is a significant margin which should be used to advantage.

26 The Ministry agrees with these submitters that Option 2 would improve the economic benefit obtained from the paua fishery.

Other Issues Raised in Submissions

27 NZSF raise concerns about the consequences of the proposal for enforcement, stock monitoring and general compliance.

28 The Ministry notes the systems are already in place to manage such a regime as the majority of fisheries operate a 10% carry over system under s 67A. It considers there are no consequences for enforcement, stock monitoring or general compliance.

29 TASFISH and NZRFC also raise the following issues that are beyond the scope of this paper.

30 They consider that a 'carry back' of over-catch should also apply, not only for the paua fisheries, but all fisheries. They note the recreational sector cannot carry forward any uncaught daily bag limit entitlement. They also propose the establishment of meaningful non-commercial areas.

Rationale for Management Options

Option 1 – Status Quo

31 Under the *status quo* paua would remain on Schedule 5A and paua ACE holders would be unable to carry forward any uncaught ACE.

32 Under this option PIC could improve-industry co-ordination and co-operation in order to match supply with demand and streamline end-of-year ACE balancing.

Impacts

33 Retention of the *status quo* would not provide the paua industry with an opportunity to improve the economic benefits obtained from the paua fishery through the carry forward of ACE. While improved co-ordination and co-operation within the paua industry could assist in matching supply with demand and streamline end-of-year ACE balancing, this is unlikely to be as effective as amending Schedule 5A, as the underlying incentives to catch all ACE before the end of the fishing year will remain.

Costs

34 There are no direct costs associated with retaining the status quo.

Benefits

35 Under the *status quo* the implementation cost associated with making an Order in Council to remove paua from Schedule 5A would not be incurred. The administrative system costs, which will be incurred to the paua industry, (see Option 2 below) would also be avoided.

Option 2 – Amend Schedule 5A

36 Under this option paua will be removed from Schedule 5A by an Order in Council made under s 67B(1)(b) of the Act.

37 Paua ACE holders would then be able to carry forward up to 10% of ACE, if uncaught, to the following fishing year.

38 FishServe would give effect to the changes by updating their ACE balancing and reporting systems.

Impacts

39 The proposed carry forward of ACE would have no impact on the sustainability of paua stocks or the health of the aquatic environment because catch entitlements would not be increased. Instead, catch would be deferred and taken in the following fishing year.

Costs

40 This option requires an Order in Council.

41 The administrative system costs to give effect to this change are estimated to be \$5,000 plus GST, but possibly less depending on the final degree of change required to FishServe reporting systems. These administrative system costs will be met by the paua industry.

42 Informing stakeholders of the change is expected to have low resource impact.

Benefits

43 This option would provide opportunities to increase economic benefit from the commercial fishery.

44 PIC estimates that this initiative has the potential to create up to \$3 million of additional export revenue from improved matching of supply to market demand. The return to ACE holders, based on PIC's estimates, could improve by \$1.5 million. The Ministry notes that these value increase estimates cannot be verified prior to making the change.

45 The option also has the potential to reduce industry compliance costs associated with end of year ACE balancing. Direct and indirect costs associated with end of year ACE balancing, including business compliance costs, are driven by the very high cost of ACE and that deemed values are set at 200% of the port price. Figures supplied by PIC indicate that

up to \$50,000-\$60,000 per year could be saved by this initiative. The Ministry notes that fishers will still need to balance catch against ACE or pay deemed values, and that these cost reduction estimates cannot be verified prior to making the change.

46 There are approximately 388 quota holders, 199 ACE holders and 236 divers across 11 paua fishstocks (covering the entire New Zealand paua fishery) that would potentially benefit from the proposal.

Other Management Controls

47 No other management controls are proposed or amended. No supporting offence and penalty provisions need to be introduced or amended.

Statutory Considerations

48 Section 67B(1)(b) of the Act allows stocks to be added or removed from Schedule 5A. This section does not establish specific matters for you to consider when deciding whether to remove a stock from schedule 5A, but general statutory considerations outlined below are of relevance in making your decision.

Purpose of the Act

49 The purpose of the Act is to provide for utilisation while ensuring sustainability. Utilisation, as defined in the Act, includes using and enhancing fisheries resources to enable people to provide for their social, economic and cultural wellbeing. The Ministry considers allowing the carry forward of ACE (Option 2) would better meet this purpose than the status quo (Option 1), as it would give the paua industry increased flexibility to manage under-fishing and improve the economic benefit obtained from the paua fishery.

50 The change would not impact on the sustainability of paua stocks, the health of the aquatic environment, or on the cultural and social benefits derived from the fishery because catch entitlements would not increase. Instead, catch would be deferred and carried forward to the following fishing year.

Environmental principles

51 Both Option 1 and Option 2 take into account the environmental principles of the Act. Neither option would negatively impact the long term viability of associated or dependent species, the biological diversity of the aquatic environment, nor habitats of particular significance for fisheries management, as catch entitlements would not be increased.

Information principles

52 The best available information has been used in assessing this proposal. The analysis relies on information held by the Ministry and/or supplied by the paua industry, and submitters on the IPP. There is adequate information to decide on the merits of the proposal and there is no reason to postpone or fail to make a decision. The Ministry notes, however, that estimates of additional value/cost reduction are based on industry assessments of costs and market potential, and cannot be verified prior to making the change.

Other Statutory considerations

53 Both options are consistent with both New Zealand's international obligations relating to fishing and the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

54 Under section 67B before you recommend to the Governor-General to omit stocks from schedule 5 A, you must consult with such persons or organisations as you consider are representative of those classes of persons having an interest in the stock. The IPP and the feedback provided by the stakeholder groups constitute this consultation. The Ministry consulted with industry, recreational, customary and environmental NGO's and assessed their submissions.

Summary of Recommendations

55 The Ministry recommends that you:

- i. **Agree** to recommend Schedule 5A of the Act be amended by Yes / No omitting all paua stocks

Leigh Mitchell
for Acting Chief Executive

AGREED / AGREED AS AMENDED / NOT AGREED

Hon Phil Heatley
Minister of Fisheries and Aquaculture

/ / 2011