

PAUA ACCUMULATION AND PERSONAL EXPORT LIMITS - FINAL ADVICE

Executive Summary

- 1 You are being asked to impose an accumulation limit on the amount of paua recreational fishers can have in their possession at any one time. MFish will work with Customs New Zealand (Customs) to restrict the personal export of paua in support of the accumulation limit. The proposal relates solely to unlawful possession in breach of the accumulation limit.
- 2 An Initial Position Paper (IPP), released 23 February 2009, proposed:
 - a) *Option one - status quo* (no action): Under this option, the existing management controls would continue. The existing daily limit of 10 paua will still apply, and there will be no limit on the amount of paua that one person can accumulate in their possession at any one time. The defence provision in r 29(3) of the Fisheries (Amateur Fishing) Regulations 1986 (Amateur Regulations) is available where a person charged with unlawful possession of paua in excess of the daily limit can satisfy the court that the paua was lawfully taken over a number of days.
 - b) *Option two: Accumulation and Personal Export Limits*. Under this option, an accumulation limit would be set in the Amateur Regulations on the number and equivalent meat weight of paua that a person may possess on any day. MFish would work with Customs to restrict the personal export of paua in support of the accumulation limit. The IPP sought submissions from tangata whenua and stakeholders on the impacts of an accumulation limit set at 1, 2, or 3 times the daily limit of 10 paua.
- 3 Illegally harvested paua is considered by MFish to be threatening the sustainability of paua stocks in New Zealand. Any paua that is not taken using a commercial permit or a customary authorisation is, by default, subject to the Amateur Regulations which govern the amateur harvest of paua. As noted above, there is a defence available in r 29(3) of the Amateur Regulations. In the absence of an accumulation limit, the defence provision in r 29(3) is exploited by the poaching and black market (PBM) trade to illegally harvest large quantities of paua.
- 4 Nine submissions were received on this issue. No submitter supported the *status quo* of taking no action. All recognised that an accumulation limit is needed to restrict illegal harvesting of paua.
- 5 Commercial interests recommend setting an accumulation limit at 1 times the daily limit. Customary and recreational interests favour an accumulation limit set higher at 2, 3, or more times the daily limit.

- 6 A balance has to be achieved between restricting PBM activity, and not being unreasonable to legitimate recreational fishers. In light of the submissions, MFish recommends that you set the accumulation limit at 2 times the daily limit (20 paua) or the equivalent meat weight (2.5 kg of paua).

The Issue

- 7 Illegally harvested paua is considered by MFish to be threatening the sustainability of paua stocks in New Zealand. MFish considers the illegal harvest has been considerable in recent years, but the quantity is unknown.
- 8 The Total Allowable Commercial Catch for all paua fishstocks¹ combined is 1,058 tonnes in New Zealand fisheries waters. This level of harvest is considered to be sustainable by MFish.
- 9 The majority of illegally harvested paua is believed to be used either by the PBM trade within New Zealand e.g. in restaurants, or it is exported offshore, primarily to Asia. PBM activities have been identified to be the key risk to the paua fishery. The illegal take severely threatens the sustainability of paua stocks in New Zealand. In many cases overseas where abalone stocks are prone to PBM activity, for example South Africa, they have largely collapsed.
- 10 Any paua that is not taken using a commercial permit or a customary authorisation is, by default, subject to the legislation governing the amateur harvest of paua (the Amateur Regulations). Regulation 19(1) of the Amateur Regulations provides that the maximum number of paua that may be taken or possessed by a person on any day is 10.
- 11 Under the Amateur Regulations, initial offences incur infringement fees and are ramped according to the size of the offence. For repeated or serious offending, a person:
- commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 if the person, on any day, takes or possesses more than the daily limit of paua, but not more than 3 times the daily limit [r 29(1)],
 - commits a serious non-commercial offence and is liable on summary conviction to a fine not exceeding \$20,000 if the person, on any day, takes or possesses more than 3 times the daily limit of paua [r 29(2)].
- 12 There is a defence available in r 29(3) of the Amateur Regulations:

“ 29 Offences and penalties

...

- (3) In the case of any person charged with being unlawfully in possession of more than the maximum number of any species of finfish, shellfish, or aquatic life to which the person is entitled, it is a defence if that person satisfies the court that the number of finfish, shellfish, or aquatic life in excess of the

¹ Total Allowable Catches have only been set in three of the ten paua fishstocks.

maximum was not taken in breach of these regulations.”

- 13 This defence allows a person to be in possession of more than the daily limit of paua if they satisfy the court that the paua were taken legally over a number of days.
- 14 Currently, there are no specific restrictions on the personal export of paua. PBM activity can exploit the current export situation to aid their illegal activities.
- 15 Under s 175C(1)(b)(iii) of the Customs and Excise Act 1996 (C&E Act), a customs officer has the power to seize and detain goods (in this case, paua) where the officer has cause to suspect on reasonable grounds that the paua is evidence of an offence committed under s 232 or s 233 of the Fisheries Act 1996 (the Act) – this will include offences under the Amateur Regulations. Paua detained by a customs officer under s175C(1)(b)(iii) must be delivered, as soon as practicable, into the custody of a fishery officer. The fishery officer will, in turn, investigate whether the paua has been taken in contravention of the Act or any regulations made under the Act.
- 16 The powers of a customs officer under s 175C(1)(b)(iii) can be used to support an accumulation limit.

Summary of Options

Initial Proposal

- 17 The IPP proposed the following options:
 - (i) *Option one - status quo* (no action): Under this option, the existing management controls would continue. The existing daily limit of 10 paua will still apply, and there will be no limit on the amount of paua that one person can accumulate in their possession at any one time, subject to the defence provision in r 29(3) of the Amateur Regulations.
 - (ii) *Option two: Accumulation and Personal Export Limits*. In order to address issues of excessive possession of paua, MFish’s preferred option is to:
 - Set an accumulation limit on the amount or equivalent meat weight of paua that a person can have in their possession at any one time; and
 - Work with Customs to restrict the personal export of paua to the accumulation limit or the daily limit. Within this option MFish sought submissions from tangata whenua and stakeholders on the different impacts on these persons where the:

- (i) accumulation limit for paua is set at 1, 2, or 3 times the daily limit of paua, and
- (ii) personal export limit is set at the accumulation limit, or set at 1 times the daily limit.

Final Proposal

18 MFish recommends that you agree to amend the Amateur Regulations, for all New Zealand fisheries waters except for the Fiordland (Te Moana o Atawhenua) Marine Area², to limit the amount of paua that one person can have in their possession at any one time, by setting an accumulation limit at:

- 1 TWO (2) times the daily limit of paua (20 paua);
- 2 OR the equivalent meat weight of paua (2.5 kg of paua);

WHICHEVER is the **lesser** amount.

Consultation

19 In developing the proposal contained in the IPP, the setting of limits on the accumulation and personal export of paua were discussed with MFish customary and recreational fishing forums. These discussions assisted in the development of the proposal that was formally consulted on.

20 The IPP was released for general public consultation on 23 February 2009 and was available on the MFish website. Those having an interest in the paua stock, including Maori, environmental, commercial and recreational interests were notified of this proposal.

Submissions Received

21 Submissions regarding this proposal were received from:

- Bill Hartley, recreational fisher (Mr Hartley);
- Paua Industry Council Limited (PIC);
- PauaMac4 Industry Association Incorporated (PauaMac4);
- New Zealand Recreational Fishing Council (RFC);
- New Zealand Rock Lobster Industry Council (RLIC);
- Seafood Industry Council (SeaFIC);
- Tasman and Sounds Recreational Fishers' Association (Tasfish);
- Te Ohu Kai Moana Trustee Limited (Te Ohu); and

² This area has an existing 'no accumulation' limit.

- Top of the South Recreational Forum (TSRF).
- 22 Submissions at a pre-consultation stage in developing this proposal were received from MFish customary and recreational fishing forums:
- Northland Recreational Forum;
 - West Coast (North Island) Regional Forum;
 - South-East Coast (North Island) Recreational Forum;
 - Waihao Customary Forum;
 - South Recreational Forum;
 - Araiteuru Customary Forum; and
 - Murihiku Customary Forum.

MFish Discussion

Accumulation limit

- 23 All submitters support MFish's preferred option of setting an accumulation limit (Option 2).
- 24 Submissions from recreational interests favour setting the accumulation limit higher than 1 times the daily limit. RFC, Tasfish, and Mr Hartley support setting the accumulation limit at 3 times the daily limit per person. RFC also support setting an equivalent processed weight for paua not found whole. They consider that setting the accumulation limit at this level allows for amateur fishers to store paua for future use while not allowing for abuse of the right to harvest.
- 25 The customary and recreational forums suggested various limits, starting at 2 times the daily limit and higher for the accumulation limit, but generally they provide no specific reasons for the various limits suggested, apart from that they considered the suggested level to be fair and reasonable.
- 26 Te Ohu recommends setting the accumulation limit at 3 times the daily limit, or an equivalent meat weight of paua.
- 27 Commercial industry submissions support setting both the accumulation and personal export limits at 1 times the daily limit. As amateur fishers themselves, they consider this quantity is reasonable and will satisfy most amateur fishers. If more paua are required for some reason, the fisher only need take along a few more family members or friends on any day to be able to take more paua so long as they all assist in the harvesting. Or on special occasions, when larger quantities of paua are required, they consider an amateur fisher is entitled to approach a local kaitiaki to ask for a customary authorisation to cover the proposed catch.

- 28 Industry opinion, in light of the current economic climate, is that there are increased incentives for people to turn to paua poaching to supplement their income. Industry also submitted that recent enforcement successes show that there has been a shift to providing illegal product in the local domestic market, and they suspect that this is resulting in smaller but more frequent paua poaching operations.
- 29 In the IPP, MFish's preference was for an accumulation limit of 3 times the daily limit, or less, as the available information suggests that offences involving the taking of more than 3 times the daily limit of paua comprise the major component of the total illegal harvest. In many instances, the illegal take is far in excess of 3 times the daily limit. MFish acknowledges that the declining economic climate and improved enforcement activity may result in a shift in PBM activity towards lower catch levels.
- 30 On the other hand, the lower the accumulation limit, the greater the impact is on the ability of legitimate recreational fishers to collect more than 1 times the daily limit of paua over a number of days. A balance has to be made between restricting PBM activity and being unreasonable to legitimate recreational fishers. It is apparent from the customary and recreational submissions that they consider an accumulation limit set at 1 times the daily limit is unreasonable. Having too low a limit also creates incentives for people who are normally law-abiding to adopt undesirable practices, such as re-labelling of catches with other family members names even though they were not involved in taking the paua.
- 31 MFish does not favour setting the accumulation limit at 3 times the daily limit. Regulation 29(2) of the Amateur Regulations creates a serious non commercial offence for a person who, on any day, takes or possesses more than 3 times the daily limit of paua. The industry support a tiered scale of offending to be applied to the accumulation limit, whereby the penalty is ramped according to the seriousness of the breach of the accumulation limit.
- 32 MFish considers setting the accumulation limit in terms of daily limits is more straightforward for fishers to understand and remember.
- 33 MFish considers, in light of submissions received, that a balance between combating PBM activity and allowing for legitimate recreational fishing is achieved by setting the accumulation limit at 2 times the daily limit.
- 34 In the IPP, MFish advocated setting both the accumulation and the personal export limits in terms of an equivalent processed meat weight of paua. RFC support setting an equivalent processed weight (for paua not found whole). Industry suggested using the conversion factor of 2.5 meat weight to green (whole paua) weight. However, recreational fishers are not required to weigh their catches (unlike commercial fishers), and there is little available information on average weights of recreational catches to be able to apply conversion factors. MFish considers that an appropriate level, equivalent to 2 times the daily limit, is 2.5 kilograms meat weight of paua. This weight has been developed for the intent of addressing scenarios when people process their paua, for example, by slicing or mincing. The weight limit is not intended

for product that has been ‘treated’ further such as being dried. If a person is found with 2.5 kilograms of dried paua in their possession, further action will rely on scientific rationale and evidence as to whether that paua would have originally weighed 2.5 kilograms before being dried.

- 35 RFC, TSRF, and industry submissions note the potential for amateur fishers to use customary authorisations for special occasions. RFC requested MFish to amend the customary regulations so that all New Zealanders have the ability to take advantage of this system. As noted in the IPP, customary authorisations under the Fisheries (Kaimoana Customary Fishing) Regulations 1998, Fisheries (South Island Customary Fishing) Regulations 1999, or Regulation 27A of the Amateur Regulations were developed to give effect to the Crown’s obligations to the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992. Tangata Tiaki/Kaitiaki may authorise any individual to take fish for customary food gathering. But Tangata Tiaki/Kaitiaki are the arbiters of who and what they authorise. MFish does not consider it is appropriate to seek to amend this Treaty settlement.

Personal export

- 36 RFC and Tasfish support a limit on personal export of paua of 1 times the daily limit. RFC support this limit as they recognise that personal export of paua is an avenue PBM have exploited. Mr Hartley supports setting the personal export limit at 2 kg. The customary and recreational forums proposed other limits, with one forum recommending that there be no personal export.
- 37 Industry submitted that the limit on accumulation and personal export of paua should be set at the same level for simplicity and to avoid confusion for amateur fishers. MFish agrees that it is desirable for the accumulation limit and the personal export of paua to be at the same level.
- 38 As noted in the IPP, MFish has had discussions with Customs about the most appropriate way to implement an export restriction. Customs and MFish have agreed that there is no need for a personal export limit to be set in the Amateur Regulations. Under s 175C(1)(b)(iii) of the C&E Act, a customs officer may seize and detain goods – in this instance, paua – if he or she has cause to suspect on reasonable grounds that the goods are evidence of the commission of an offence under s 232 or s 233 of the Act – including offences under the Amateur Regulations. A customs officer’s powers under s 175C(1)(b)(iii) will apply to a breach of an accumulation limit set in the Amateur Regulations. In such circumstances, the customs officer must, as soon as practicable, deliver the paua into the custody of a fishery officer under s 175C(2) of the C&E Act. It follows that MFish will be responsible for undertaking further investigation into the alleged offending.
- 39 Mr Hartley and the South Recreational Forum submitted that the export of amateur caught paua should be restricted to New Zealand citizens holding a New Zealand passport. The Amateur Regulations and s 175C of the C&E Act apply in respect of all persons and are not restricted to New Zealand citizens.

MFish does not consider it is appropriate to restrict the export of paua to New Zealand citizens.

Rationale for Management Options

- 40 MFish sought submissions from tangata whenua and stakeholders on the different impacts on these persons of an accumulation limit set at 1, 2, or 3 times the daily limit of paua, and a personal export limit set at the accumulation limit, or set at 1 times the daily limit.
- 41 Restricting personal export of paua was one of the high priority recommendations to the previous Minister of Fisheries from Joint Paua Fishery Working Group³ (the Working Group) in 2005. The previous Minister established the Working Group as a result of concerns about paua poaching. The Working Group proposed restricting personal export of paua, unless persons can prove the paua have been legitimately sourced from a commercial source.
- 42 In the submissions received, no submissions supported the *status quo* option of not imposing an accumulation limit. The discussion then is about what is an appropriate level for setting the accumulation limit.
- 43 The rationale for setting an accumulation limit is to provide a mechanism for curbing the illegal harvest of paua, especially to limit the ability to store and transport large amounts of paua. The rationale for proposing an accumulation limit supported by a personal export restriction is to reduce the amount of illegally harvested paua being exported from New Zealand. Examination of the rationale for each option has been discussed in the previous section of this paper.
- 44 If the accumulation limit is implemented, paua will only be able to be exported in two states; whole paua (with or without shell, but not processed any further), or processed meat weight.
- 45 As noted in the IPP, the proposal is to set an accumulation limit for all New Zealand fisheries waters, except for the Fiordland Marine Area. The Fiordland Marine Area has an existing ‘no accumulation’ limit. The Fiordland Marine Area is therefore excluded from this proposal to set an accumulation limit at 2 times the daily limit (20 paua) or the equivalent meat weight (2.5 kg of paua).

Assessment of Management Options

Option 1 – Status Quo

Impact

- 46 The *status quo* does not effectively address the illegal harvest of paua, therefore the sustainability of the paua fishery remains under threat.
- 47 The current compliance strategy is not able to meet the management objective of ensuring the sustainable harvest of paua resources.

³ A joint working group of commercial industry and MFish representatives.

Costs

- 48 The availability of the defence provision in r 29(3) of the Amateur Regulations and the absence of a restriction on the personal export of paua is currently exploited by PBM activity.
- 49 If the *status quo* continues, there is an exceedingly high risk that paua resources will decline, as has happened in other countries. The decline in availability of paua will inevitably result in increased public pressure to provide sufficient resources to effectively combat the illegal harvest of paua.

Benefits

- 50 The current defence in r 29(3) of the Amateur Regulations allows for legitimate recreational fishers to legally collect more than 10 paua over a number of days.
- 51 There is currently no restriction on the personal export of paua.

Option 2 – Accumulation and Personal Export Limits Set at 2 Times the Daily Limit

Impact

- 52 MFish's preference is for the accumulation limit to be set at 2 times the daily limit (20 paua). The available information suggests that offences involving the taking of more than 3 times the daily limit of paua in breach of r 19(3) of the Amateur Regulations comprise the major component of the total illegal harvest. These offences will continue to be addressed as serious non-commercial offences under r 29(2) of the Amateur Regulations.
- 53 An accumulation limit set at 2 times the daily limit (20 paua) is a new measure that will apply throughout New Zealand fisheries waters for paua, with the exception of the Fiordland Marine Area where a 'no accumulation' limit (i.e. an accumulation limit of 10 paua) already applies.
- 54 If an accumulation limit is implemented, paua will only be able to be exported in two states; whole paua (with or without shell, but not processed any further), or processed meat weight.
- 55 The Amateur Regulations currently provide that initial offences incur infringement fees and are ramped according to the size of the offence. For repeated or serious offending, a person:
- commits an offence and is liable on summary conviction to a fine not exceeding \$10,000 if the person, on any day, takes or possesses more than the daily limit of paua, but not more than 3 times the daily limit [r 29(1)],
 - commits a serious non-commercial offence and is liable on summary conviction to a fine not exceeding \$20,000 if the person, on any day, takes or possesses more than 3 times the daily limit of paua [r 29(2)].

- 56 The proposed accumulation limit will require a separate offence and penalty provision from r 29(1) and r 29(2) of the Amateur Regulations which relate to unlawful taking or possession of paua. The proposed accumulation limit will relate solely to the unlawful possession of paua. The associated penalties will be set to maintain consistency with the existing amateur penalties, whereby the penalty is ramped according to the seriousness of the breach of the accumulation limit.

Costs

- 57 In order to address serious offending, an accumulation limit of 2 times the daily limit of paua is sought. MFish acknowledges an accumulation limit at this level will impact on the harvesting activity of many legitimate non-commercial fishers.

Benefits

- 58 The implementation of an accumulation limit is likely to have a significant impact on illegal harvesting of paua, and prevent people from accumulating large quantities of paua at any one time. This would enable MFish to focus effort on other parts of illegal activity involving paua and efficiently deal with breaches of the agreed accumulation limit.
- 59 The main benefit of restricting the personal export of paua is to limit a major exit point that can be used for PBM activity. This option should make the export of paua by poachers more difficult, that may potentially result in some poachers ceasing to send paua offshore, or being forced to use alternative, higher risk methods for exporting.
- 60 With an accumulation limit set at 2 times the daily limit (20 paua) the limit is less likely to be considered unreasonable and generate undesirable outcomes, such as fishers acting illegally to bypass the limit.

Statutory Considerations

- 61 In forming the management options, the following statutory considerations have been taken into account:
- (a) **Section 8 of the Act** describes the purpose of the act as being “*to provide for utilisation of fisheries resources while ensuring sustainability*”. The *status quo* option does not meet the utilisation or sustainability requirements of s 8. No submissions supported continuing the *status quo*. If illegal harvesting continues at the current rate unabated the inevitable result will be that the Minister will have to make further TAC reductions in order to try to achieve sustainability. Ultimately, as has occurred in other countries, the Minister may be forced to close the paua fishery. A series of TAC reductions and/or closure of the paua fishery will not ensure that the utilisation and sustainability requirements of s 8 are being achieved to meet the needs of future generations.

- (b) **Section 10 of the Act** requires the Minister to base decisions on the best available information. The illegal nature of this activity means that there is no official documentation of catches. As such, MFish has to estimate the size of the illegal harvest. MFish considers that the illegal harvest has been reduced in recent years as a result of MFish prioritising resources to combat illegal harvesting. MFish considers that, while there is some uncertainty over the actual quantities taken, the scale of illegal harvest is of a sufficient size to threaten the sustainability of paua stocks therefore justifies the implementation of management actions to curb this illegal activity.
- (c) A further uncertainty in the information is whether the proportion of the different types of breaches of the daily limit detected reflects the actual trends in offending. MFish considers a reasonably high weighting can be given to the indications that breaches in excess of 3 times the daily limit contribute a major proportion of the total illegal harvest of paua, and this is likely to continue to be the case.
- (d) **Section 12 of the Act** requires that, in considering the setting of sustainability measures, there is an obligation to undertake consultation. MFish has consulted Maori, environmental, commercial and recreational interests on the proposals in the IPP. Pre-consultation with recreational and customary forums helped to shape the options presented in the IPP. Taking into account the submissions received, the recommendations set out in this FAP have sought to achieve a balance between restricting PBM activity and being unreasonable to legitimate recreational fishers. Measures within this document will not alter or affect customary fishing rights as noted below in this paper.
- (e) **The Fisheries (Southland and Sub-Antarctic Areas Amateur Fishing) Regulations 1986** provides a ‘no accumulation’ limit for paua taken from within the Fiordland (Te Moana o Atawhenua) Marine Area. The proposals in this paper do not propose to change the no accumulation limit in the Fiordland Marine Area. Section 26 of the Fiordland (Te Moana o Atawhenua) Marine Management Act 2005 requires MFish to “take into account” any such advice or recommendations from the Guardians. MFish has notified the Guardians about these proposals, but no submission has been received.
- (f) Other statutory considerations are set out in the Appendix.

Other Management Issues

- 62 As noted in the IPP, MFish confirms that customary authorisations under the Fisheries (Kaimoana Customary Fishing) Regulations 1998, Fisheries (South Island Customary Fishing) Regulations 1999, or Regulation 27A of the Amateur Regulations will not be affected by the accumulation limit. Tangata Tiaki/Kaitiaki will be able to issue authorisations for non-commercial customary taking of paua as they currently do. The personal export of customary catch above the accumulation limit will need to be accompanied by the customary authorisation issued at the time of harvest.

- 63 The personal export restriction will not apply to commercially-caught paua being exported, subject to the provisions of the Fish Export Processing Regulations 1995.

Appendices

Other Statutory Considerations

- 64 **Section 5(a) and (b) – Application of international obligations and Treaty of Waitangi (Fisheries Claims) Settlement Act 1992:** There is a wide range of international obligations relating to fishing (including sustainability and utilisation of fishstocks and maintaining biodiversity). MFish considers issues arising under international obligations and the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 are adequately addressed in the management options for the paua stocks.
- 65 Customary authorisations under the Fisheries (Kaimoana Customary Fishing) Regulations 1998, Fisheries (South Island Customary Fishing) Regulations 1999, or Regulation 27A of the Amateur Regulations will not be affected by the accumulation limit or the personal export limit.
- 66 **Section 8 – Purpose:** The purpose of the Act is “to provide for the utilisation of fisheries resources while ensuring sustainability”. This is a core obligation to heed when considering the management options. This obligation in relation to the management proposals for the paua fisheries is addressed in the main body of the paper.
- 67 **Section 9 – Environmental Principles:** Section 9 has a number of environmental principles that have to be taken into account by decision makers:
- (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.
- 69 Paua are taken by fishers gathering paua by hand, usually involving diving. This targeted fishing means that there is usually no incidental bycatch, or non-harvested species taken or affected by paua fishing. Biological diversity is affected in the paua fishery by the removal of paua. The management recommendations in this FAP seek to ensure the sustainability of paua stocks; this should ensure biological diversity is maintained. Again, because of the hand fishing method used in this fishery, there are usually minimal adverse effects on benthic habitats of significance for fisheries management.
- 70 **Section 10 – Information Principles:** The adequacy, reliability, and certainty of the information on illegal harvest and the weighting given to the effects of daily limit breaches on sustainability of paua stocks is addressed in the main body of the paper.
- 71 Regional Councils are responsible for preparing regional policy statements and resource management plans that relate to the coastal area. Additionally, the Department of Conservation has a conservation management strategy that applies across the paua fishery. MFish is not aware of any relevant provisions in the plans or statements that are contravened by the current fisheries management regime for paua.

- 72 MFish considers that the paua proposals in this IPP are consistent with sections 7 and 8 of the Hauraki Gulf Marine Park Act 2000, and will contribute to good management of the paua resources within the Marine Park.
- 73 Before setting or varying any sustainability measure under this Part or making any decision or recommendation under this Act to regulate or control fishing, the Minister must, under Section 11(2A), take into account-
- (a) Any conservation services or fisheries services; and
 - (b) Any relevant fisheries plan approved under this Part; and
 - (c) Any decisions not to require conservation services or fisheries services.
- 74 Conservation and fisheries services and any decisions to not require such services are adequately dealt with in the body of the paper. There are no fisheries plans in force yet for paua fisheries.
- 75 **Section 297 – General Regulations:** s 297(1) (a) of the Fisheries Act 1996 allows the making of regulations:
- (i) Regulating, authorising, or prohibiting the taking or possession of any fish, aquatic life, or seaweed of any stock or species:
 - (ii) Regulating, authorising, or prohibiting the taking or possession of any fish, aquatic life, or seaweed from any area:
 - (x) Regulating the number or weight of any fish, aquatic life, or seaweed that may be taken or possessed, whether by reference to any period or any other basis whatever; and prohibiting the taking or possession of any number or weight of fish, aquatic life, or seaweed that exceeds the specified maximum number or weight.
- 76 **Fisheries (Amateur Fishing) Regulations 1986** – These are the main regulations that control amateur fishing in paua fisheries. Any new measures the Minister decides upon will be put in place by amendment to these regulations.