

# INITIAL POSITION PAPER – CARRY FORWARD OF UNDER CAUGHT PAUA ACE

---

## Executive Summary

1 This Initial Position Paper (IPP) proposes to remove all paua stocks from Schedule 5A of the Fisheries Act 1996 (the Act). This would provide for up to 10% carry forward of uncaught paua Annual Catch Entitlement (ACE) to the following fishing year. The Ministry of Fisheries (MFish) received this request from the fishing industry to allow for utilisation of fish stocks in a way that provides for maintenance of value.

2 The proposed amendment will need to be in place prior to the start of the next fishing year (1 October 2009).

3 The allocation of up to 10% carry forward entitlement will only be given to those persons who hold ACE for a paua stock at the close of the ACE register for the fishing year, as calculated under section 67A(2) of the Act.

## Background

4 MFish introduced paua to schedule 5A in 1999 thereby removing the ability of fishers to carry forward uncaught ACE. The reasoning behind this introduction was that the under and over run entitlement was not considered necessary for the paua fishery. Due to the specificity of paua harvesting, MFish considered that there was no need to manage unexpected catch at the end of the fishing year.

5 In March of 2009 the commercial paua industry advised MFish they were currently having difficulty finding value in the paua fishery. Current unusual economic circumstances have caused a collapse in market demand and they are unable to sell their product. For most paua stocks more than 30%\* of the available ACE is currently un-fished, which is a larger amount of un-fished ACE than this time last year and MFish assumes that ACE will remain unfished at the end of the year.†

6 Removal of paua from Schedule 5A will provide the commercial paua industry some flexibility to defer some catch with the expectation that market demand improves.

## Proposed change

7 Schedule 5A of the Act lists stocks to which section 67A does not apply, as follows:

---

\* Fisheries Information System (FIS) data as of 2 April 2009.

† NB: this is an indicative assumption only. There may still be outstanding fishing returns not filled for March.

*67A Allocation of additional annual catch entitlement in case of underfishing*

*(...)*

*(2) If the amount of annual catch entitlement referred to in subsection (1)(a) is greater than the reported catch referred to in subsection (1)(b), the chief executive must –*

*(a) Calculate the difference between that annual catch entitlement and that reported catch; and*

*(b) Subject to subsection (5), allocate to the person an amount of annual catch entitlement for the stock for the fishing year after the first fishing year (“the second fishing year”) that is the lesser of the following:*

*(i) The amount calculated under paragraph (a);*

*(ii) 10% of the amount of annual catch entitlement referred to in subsection (1)(a).*

8 Section 67B of the Act provides for stocks to be added or omitted to Schedule 5A as follows:

*67B Amendment to Schedule 5A*

*(1) The Governor-General may from time to time, by Order in Council made on the recommendation of the Minister, amend Schedule 5A by –*

*(...)*

*(b) Omitting 1 or more stocks from that schedule.*

9 The commercial paua industry has requested that this provision be used to remove all stocks of paua from Schedule 5A. The industry has indicated the change would need to be in place by 1 October 2009 to be effective.

10 An Order in Council issued under section 67B of the Act will be required to remove the paua stocks from Schedule 5A of the Act.

## **Implications of removing paua from Schedule 5A**

11 The implications of removing paua from Schedule 5A of the Act are as follows:

- Any Total Allowable Commercial Catch (TACC) decreases for paua stocks will result in underfishing rights for the relevant stocks being lost. Section 67A(3)(b) of the Act provides that underfishing rights will only be generated where the TACC has not been decreased (note that no TACC changes are planned for the 2009/1020 fishing year beginning 1 October 2009).
- Persons who only own quota will not receive an uncaught fishing entitlement. The entitlement will only be allocated to those persons who hold ACE for the relevant stock at the close of the ACE register for the fishing year.

- The proposed change is likely to decrease fishing effort in the current fishing year, but will allow for an increase of up to 10% fishing effort next year. MFish considers that the proposed carry forward of catch will have little or no impact on the health of the aquatic environment, and, given the biological dynamics of the paua fishery, little impact on the sustainability of paua stocks. In the short-term, leaving paua in the water for a further year could result in an increased spawning biomass for the following year. However, because recruitment of juvenile paua is highly variable between and within years, it is unknown if leaving a small amount of adults in the water for a year could offer any significant advantages to stock sustainability.
- Compliance and enforcement costs should be similar to present level. However, the administrative costs to give effect to this change are estimated to be at least \$17,400 plus GST, but possibly greater depending on degree of change required to FishServe reporting systems. The additional administrative cost will be borne by the paua industry.
- Removing paua stocks from Schedule 5A will give a small measure of economic flexibility to the paua industry if the market for paua improves next year.

## **Regulatory Impact Analysis Requirements**

12 A Regulatory Impact Statement on this proposal has been reviewed by MFish. For more information on the Regulatory Impact Analysis Requirements, please refer to the Treasury website, [www.treasury.govt.nz/publications/guidance/regulatory](http://www.treasury.govt.nz/publications/guidance/regulatory).

## **Preliminary Recommendations**

13 MFish recommends that :

- (i) paua (all stocks) are remove from Schedule 5A of the Act to allow for up to 10% carry forward of paua ACE.

14 Stakeholder views are sought on this recommendation.

# REGULATORY IMPACT STATEMENT

## Allowing for up to 10% carry forward of under caught paua ACE

### a) **Executive Summary**

The IPP proposes to remove paua from Schedule 5A of the Fisheries Act 1996 (the “Act”) to allow for up to 10% carry forward of uncaught paua ACE to the following fishing year.

The allocation of the 10% carry forward entitlement of under caught paua applies to those persons who hold ACE for the relevant paua stock at the close of the ACE register for the fishing year, as calculated under section 67A(2) of the Act.

Removal of paua from Schedule 5A of the Act will provide flexibility to defer some catch until market demand improves.

### b) **Adequacy Statement**

This RIS has been approved by the RIA Review Group according to criteria agreed by Cabinet.

### c) **Status Quo and Problem**

Industry has expressed concerns over their inability to find value in the paua fishery. Current unusual economic circumstances have caused a collapse in market demand and they are unable to sell their product.

In most paua stocks more than 30%<sup>‡</sup> of the available ACE is un-fished, which is a larger amount of un-fished ACE than this time last year.<sup>§</sup>

MFish considers the status quo limits the paua industry’s ability to maximise the value of the fishery.

### d) **Objectives**

In general, the objectives that the proposal is measured against are:

- The sustainable utilisation of the resource.
- The maximisation of the value of the resource.
- The credible management of the resource.

---

<sup>‡</sup> Fisheries Information System (FIS) data as of 2 April 2009.

<sup>§</sup> NB: this is an indicative assumption, as to date there may still be outstanding fishing returns not filled for March.

Specifically, providing for the ability to maximise the value of the resource and sustainably utilise the resource.

**e) Alternative Options**

Because there is no other mechanism to carry forward ACE, as requested by commercial paua industry, a single option is given.

**f) Preferred Option**

Summary of key features of the preferred option:

- Removal of all paua stocks from Schedule 5A of the Act. This will allow for up to a 10% carry forward entitlement of under caught paua ACE.
- Persons who only own quota will not receive an uncaught fishing entitlement. Allocation of the 10% carry forward entitlement will only be given to those persons who hold ACE for a paua stock at the close of the ACE register for the fishing year, as calculated under section 67A(2) of the Act.
- The proposed change is likely to decrease fishing effort in the current year, but will allow for a slight increase in fishing effort next year. This is likely to have little or no impact on the health of the aquatic environment, and, given the biological dynamics of the paua fishery, little impact on the sustainability of paua stocks. In the short-term leaving paua in the water for a further year could result in an increased spawning biomass for the following year. However, because recruitment of juvenile paua is highly variable between and within years, it is unknown if leaving a small amount of adults in the water for a year could offer any significant advantages to stock sustainability;
- Compliance and enforcement costs should be similar to present level. However, the administrative costs to give effect to this change are estimated to be at least \$17,400 plus GST, but possibly greater depending on degree of change required to FishServe reporting systems and Minimum Holding Exemption for Paua. The additional administrative cost will be borne by the paua industry.
- Removing paua stocks from Schedule 5A will give financial relief to the paua industry.

The proposed change is preferred to the status quo because it will provide the flexibility for industry to defer some paua catch until market demand improves.

**g) Implementation and Review**

The changes will need to be in place by 1 October 2009 to be effective. An Order in Council issued under section 67B of the Act will be required to remove the paua stocks from Schedule 5A of the Act.

The proposed change will be communicated to fishers via Paua Industry Council, and all of the PAUAMAC organisations, SeaFIC, TOKM and MFish forums such as Fishplan Advisory Groups.

**h) Consultation**

Given the limited implications of this change (ie, the issue is related to utilisation and, therefore, only affects commercial fishers), MFish propose that consultation be completed by the end of April 2009 and targeted at the commercial sector, only, in order to meet the above time frame.