

## **option4 Submission to the IPP (Fisheries Management Proposals) - 26/7/02**

### **8. PAUA 5D**

#### ***8.1 History of the Fishery***

##### **8.1.1 Origins**

The commercial fishery for paua dates from the mid 1940's where the shell was sold and the meat was dumped. Markets were found for the meat in the late 1950's. Originally PAU 5D was part of a larger management area, PAU 5, which encompassed the three sub areas PAU 5A, 5B, and 5D.

##### **8.1.2 Introduction of the QMS**

Quotas were introduced for the whole of PAU 5 in 1986/87. A provisional quota of 390 tonnes was determined by the Ministry of Fisheries to be the sustainable yield from this fishery and this amount was allocated for the whole area. The PAU 5 quota management area included Stewart Island where at least 50% of the PAU 5 commercial catch was taken at the time. Stewart Island may have still been in the fish down phase at this time.

##### **8.1.3 Appeals to the Quota Appeal Authority**

PAU 5 fishers who were dissatisfied with their quota allocations successfully appealed to the Quota Appeal Authority (QAA) and quota for the PAU 5 area ballooned from 390 tonnes to 485 tonnes by 1990-91.

Instead of the Ministry reducing the quota back to the sustainable 390 tonne quota level determined by its own research, and reallocating the available commercial harvest among commercial fishers, it allowed the QAA to circumvent the intent of the QMS to limit commercial catches to sustainable levels, and allowed the extra to be caught. Cumulatively a total of 561 tonnes of additional commercial harvest in excess of the initial quota was taken by commercial fishers in PAU 5 between 1986-87 and 1994-95 through successful appeals to the QAA.

##### **8.1.4 PAU 5 Subdivided into Three Equal Areas.**

On the 1<sup>st</sup> of October 1995 PAU 5 was divided into three QMA'S. The PAU 5 TACC of 443 tonnes was subdivided equally (expediently) into three quota areas of 148 tonnes each. It is widely considered that this division led to a large redistribution of catch from Stewart Island (5B) where more than half the PAU 5 quota had been historically taken, to the Fiordland (5A) and Catlins/Otago (5D) coasts thereby increasing commercial catch in areas 5A and 5D and reducing the commercial catch in 5B.

##### **8.1.5 Voluntary Reductions in TACC**

Concerns about the status of the PAU 5 stock as a whole led to a voluntary 10% reduction of the TACC in 1994/95 (49 tonnes). However in 5D this minor reduction absorbed less than half the extra quota granted by the QAA. It did nothing to address the increased pressure that the migration of effort into the area would bring. This is

clearly in line with the Ministry management philosophy of “too little, too late.” Sound familiar?

To put it more simply, in their efforts to mitigate obvious over fishing in PAU 5B and to maintain the commercial catch and quotas at the inflated TACC, MFish decreased fishing effort in area 5B and transferred the excess into the PAU 5A and 5D areas.

Apparently this was done with little or no regard to the effect that the additional exploitation would have on the other two stocks, particularly area 5D or how this would affect the access rights of other legitimate users of the fishery, customary Maori and other non-commercial users.

The reason this fishery is in trouble is obvious to everyone except MFish and the fishing industry. PAU 5A and PAU 5D have had to absorb an unprecedented and obviously unsustainable onslaught as commercial fishers strove to catch their redistributed TACC and carry the burden of unsustainable QAA decisions.

Allowing that 50% of the historic catch came from Stewart Island (PAU 5 B) the initial 1986 quota allocation effectively set a sustainable quota of 195 tonnes for what was to become PAU 5A and 5D combined. If we assume that PAU 5A and 5D had an equal historic catch, the sustainable harvest from 5D should have been around 97 tonnes, one quarter of the total PAU 5 Quota. Instead, and as a result of poor fisheries management decisions, this fishery has been expected to sustain a commercial catch of 149 tonnes annually since 1995-96 – an increase of 50% over the initial MFish TACC allocations.

When 25% of the cumulative commercial catch taken because of the pre 1995-96 QAA decisions are added to the cumulative effects of catch redistribution since the 1995-96 area subdivision we see that area 5D has had 440 tonnes of extra commercial catch taken above that intended when the provisional quotas were set in 1986-87.

The current exploitation rates in area 5B are considered to be in the range of 15% to 21% while in area 5D the current exploitation rate is in the range of 51%-64% of the spawning and recruited biomass.

MFish assesses the current recruited biomass in PAU 5D to be only 329 tonnes. We have to ask, What would the PAU 5D biomass be now if fishery managers had had the intestinal fortitude required to stick to what their research had told them, constrained commercial catches to sustainable limits and prevented the commercial sector from taking of the 440 tonnes of additional paua? Surely the biomass would be at least double what it is now!

It is abundantly clear that the cumulative effects of the Quota Appeal Authority decisions inflating the TACC by 26% with no regard to the impacts that this would have on the sustainability of this fishery, and the further increase caused by the migration of effort from 5B into 5D has caused the decline of this fishery and are the primary reasons that we are in this current situation.

## **8.2 Harvesting Mortality**

We also note that there may be an issue with catch mortality of undersized paua by commercial fishers. Taylor et al (1994) reports that 14% of paua removed from the reef by commercial divers are undersized. Pirker (1992) reported that in some fisheries, as much as 54% of the paua removed from the reef may be undersized. These reports conclude that up to 13% were damaged in some way and field estimates suggest that up to 80% of these may die. We note that commercial handling mortality is not addressed in this assessment.

We would further note the “vicious cycle ” effect of harvesting a TACC in a declining fishery where an ever-increasing proportion of the fish being removed from the reef will be undersized.

## **8.3 Changes in Quota Ownership**

We would also note that the ratio of quota owners harvesting their allowance and thus bringing some “husbandry” to the fishery is also declining with the advent of corporate involvement in the business of owning quota in order to secure supply for their increasingly sophisticated foreign market development focus. Increasingly the job of removal of the paua from the reef goes to those willing to do the work for the lowest price – more haste, less care, more mortality as a result of handling more small paua. Where does that effect get factored into the fisheries management equation?

## **8.4 Catch Rates**

The clearest signal that this fishery has been on a hiding to nothing is the CPUE index of the commercial divers themselves. It has declined from 353 kg per diver per day in 1982/83 to 108 kg per diver per day in 2000/01 - a decline of 70%. The Ministry’s research indicates that in 1973 the recruited biomass was approximately 1800 tonnes. In 2001 it is has fallen to around 330 tonnes – a decline of over 80%!

The well-documented decline in biomass and CPUE caused by commercial over-fishing has been so steady, smooth and obvious that one can only feel contempt for the lack of timely management decision making in this fishery. Is this yet another example of industry/ministry collusion to carry on regardless? Did the Chatham Island crayfish and Orange Roughy fiasco teach us nothing – are we again travelling down the path of not letting an incorrect stock assessment or two interfere with the “*development of an economically significant commercial fishery*”?

Simple logic tells us that if the public harvest had been allowed for and the fishing industry had been constrained to the sustainable harvest of the remainder, not only would this fishery be in good health, the industry quota owners would today enjoy the security they so desire and New Zealand citizens would not be being asked to reduce their food gathering activity in this fishery to ensure some foreign restaurateur can feed our paua to his customers.

## 8.5 IPP Analysis

The Ministry of Fisheries in its Management Proposal wishes to ensure that the recreational catch remains within the recreational allowance and in particular they want to discuss with recreational fishers reduced daily bag limits, closed seasons and/or closed areas. Does this mean MFish will not be discussing management options with customary interests? What proposals are designed to reduce the significant level of mortality in this fishery? At 20 tonnes this mortality is almost equal to the *significant* 22 tonnes of total public harvest MFish wants to allocate to the public.

The Ministry also acknowledge that the recreational catch has the potential to fluctuate yearly depending on factors such as weather conditions.

The Ministry estimate that the public harvested 22 tonnes of paua in PAU 5D in the 1995/6 fishing year and contend that it is likely that the public's harvest has subsequently increased.

Apparently the Ministry has already determined that the public are proportional shareholders in the paua fishery and that their proportion has been allocated at 22 tonnes. Obviously we need to see the documents that formally made the public proportional shareholders in the PAU 5D fishery. When was this done and by who?

We have little faith that a single assessment done in 1995/96 is representative of the public's demand for paua and the public's fishing patterns over time. Was it a good year or was it bad one? Who knows, as we have no data to quantify these assertions?

What we do know is that the execution of the 1995/96 telephone/diary survey was seriously flawed and that it grossly underestimated the prevalence of marine recreational fishers in New Zealand. The Recreational Working Group has reviewed and accepted data from pilot surveys for the 1999/2000 project that show that fisher prevalence is close to 50%, not the 14% as estimated in 1995/96. The Ministry cannot support the claim that the 1996 harvest estimates are "the best available information" as required by Section 10 of the Fisheries Act (1996). The Ministry is in possession of the new harvest estimate from the 1999/2000 national marine recreational fishing survey. Why have these estimates not been referred to?

Not only do we totally and utterly reject the philosophy of setting a finite proportion of the paua fishery for the public, we also reject that the allowance for public harvest should be based exclusively on what we harvested in one year under the pretence that it will remain constant. Furthermore this assessment was done after commercial activity had fished down the resource to 30% of its 1970 biomass in the commercially fished areas. (77% of the area fished by the public is open to commercial exploitation). It is not surprising that the advice paper states that recreational fishers report that they are finding it increasingly difficult to find PAU of harvestable size.

To suggest that the recreational catch is increasing seems to have no basis in fact. The report states that in 1991/92 the public harvested 39 tonnes, almost double the amount caught in 1995/96. This clearly demonstrates that the catch can fluctuate markedly.

We must remember that this is not a “*sport fishery*” - the paua can’t run, nor can they hide – people simply gather them for food.

The argument that this is an extremely valuable commercial fishery only adds to our case. Most New Zealanders can no longer afford to buy paua and the only opportunity many families have to enjoy paua is by exercising their right to harvest their own seafood. It must also be recognized that while this catch is constrained by an individual bag limit it is essentially a family bag limit, given the arduous and total commitment required to get to the reef, get into the often as not frigid waters, and secure a rare treat when the weather and conditions allow.

It must also be recognised that through mismanagement of the commercial sector our CPUE has also plummeted– it is now three times harder for us to catch paua. This effect will cause our catches to be suppressed and could lead to our allowance being underestimated and set at less than historical levels because of the unavailability of the shell-fish.

Because of the lack of definition of the public’s right in this fishery we know that when our bag limits go down, they will stay down and the savings generated will be used to prop up an unsustainable commercial fishery (fulfilling an insatiable demand for this delicacy worldwide) until the next time they come back and ask for more of our fish.

Our opinion is that this fishery is a classic example of the Ministry and fishing industry failing, yet again, to manage the “fish down” phase until the fishery is in a seriously depleted state. Then, instead of the Ministry and industry acknowledging their failure to manage according to the sustainability provisions of the Fisheries Act, they now seek to penalise and punish the public by reducing the public’s right.

## **8.6 International Obligations**

We note MFish is not aware of any issues arising under Section 5 of the Fisheries Act 1996 – International obligations.

As our interest in this fishery is exclusively about citizens of a Nation State gathering food from that nation’s natural resources in a well established traditional and customary manner, we formally request that the Ministry states how these considerations have been given management effect in this paper.

The Human Rights Conventions, and the Maastricht Guidelines that NZ is a signatory to, clearly outline the importance that must be accorded to such food gathering activities and direct governments that have privatised these resources to the detriment of their citizens, to undo such effects.

## **8.7 Customary Catch**

The advice paper states:

*“Customary harvest in the PAU 5D fishery is estimated from harvest returns to be approximately 1 tonne.”*

MFish **general criteria** suggest that where the resource is of importance to customary fishers, the allowance for customary should be set at the level of the recreational allowance. However, the criteria are guidelines only. In this instance, it is not believed there is substantial customary harvest in PAU 5D. Therefore, MFish proposes to set an allowance of 3 tonnes for customary harvest for the 2002–03 fishing year.

We were unaware of these general criteria. Because of the enormity of the implications in fisheries that are considered important enough to Maori for these general criteria to be given management effect, we formally request under the Official Information Act to know where these fish will come from. Specifically, will they be deducted from the TACC or will they be deducted from the public allowance?

## **8.8 “Significance” of the Public Catch**

We are amused to read that the 22 tonne of public catch (11% of the TAC) is a “significant amount” yet the 20 tonne that MFish compliance estimate is taken illegally rates only a brief mention, with no comment on its significance, never mind the glaring lack of, even in passing, addressing ways of to resolving this most undesirable activity

If estimates of catch rates are to be compared using all available information then surely the catch rates for the non-commercial and commercial sector should be examined for the same year. To use catch rates for the recreational sector from 1995/96 and 2000/01 for Maori Customary does not reflect the paua population fluctuations and the influence of the weather conditions that year, so must be discounted as reflection of fishery state.

## **8.9 Social, Cultural, Economic Factors**

Furthermore, when analysing the Social, Cultural and Economic Factors we find this section of the paper devoid of any reference to the public or Maori and the effects of the ongoing mismanagement of the commercial fishery on their ability to access this food fishery. Instead it focuses exclusively on how the commercial sector will be affected – almost hinting that the commercial sector is immune or should be made immune to facing the consequences of the rape and pillage mentality that has characterised this fishery for decades.

## **8.10 Proposed Ministry Mechanisms to Constrain the Public Food Gathering**

### **8.10.1 Bag Limit Reductions**

It is ludicrous to suggest that bag limit reductions for the public in the area that the industry fish in can or should form part of the rebuild strategy for this fishery. The only possible outcome of bag limit reductions in the shared areas is to prop up the unsustainable quota allocated to the commercial sector in this fishery by the Quota Appeal Authority decisions and accommodate the extra commercial effort resulting from the subdivision of the area PAU 5.

What is the extent of the paua habitat area that is set aside for non-commercial use? While the Ministry notes that 23% of the non-commercial harvest comes from areas closed to commercial fishing they do not explicitly state what percentage of the paua habitat is closed to commercial fishing. option4 asks for this information. (Please take this as a formal request for this information.)

### **8.10.2 Management Plans**

We would also suggest that the non-commercial sector be directed to form management plans in the portion of the fishery that is inaccessible to the commercial sector. In the absence of any mechanism for recreational fishers to enhance the shared areas of the fishery in a way that ensures that their conservation efforts are retained by them and not used to prop up an unsustainable commercial fishery we advise that the full cost of rebuild should be borne by the fishing industry by way of quota reduction. It is this group who have benefited from the gross over fishing of this area.

## **8.11 Conclusions**

It appears that MFish have used the lowest estimate of the public catch – 22 tonnes (1995/96) on which to base its allowance for the public gathering of paua for the next 5 years.

It has done so at a time when the paua are at their lowest ever recorded biomass, when the commercial CPUE has plummeted 70%, when Customary Maori state clearly that it is increasingly difficult to find legal sized paua in shallow, sheltered reef.

Why does the MFish recommended “allowance” ignore the 1991/92 estimates of 39 tonnes and the 1999/2000 estimates, and then have the audacity to state that our catch is increasing.

Are MFish attempting to “pin down” the public to the lowest ever-recorded public harvest estimate and then attempt to constrain the public to that historically low level of catch?

This is devious and underhand at best and a blatant example of industry having undue influence in the construction of the scientific papers by which our fisheries are supposedly being managed. We do not believe the Ministry has been impartial in its advice to the Minister and believe it is prompting policy for the commercial sector in this instance.

We believe the advice paper is seriously biased in favour the commercial sector and doubt these advice papers could stand up to any independent review on that basis. Why is the simple cause and effect of commercial over fishing and it’s depletion of the paua fishery is not clearly stated? Why are the downstream effects of commercial over fishing eroding the access and harvesting rights of non-commercial users not mentioned?

The obvious mismanagement of this fishery by MFish in allowing the commercial sector unconstrained access to the paua stocks through unrealistic quota allocation is unacceptable. It also contravenes the intent of the Fisheries Act 1996, International agreements and ignores the rights of the public to harvest seafood.

To now ask the non-commercial sector to accept catch reductions is not only contrary to natural justice, it may in fact lead to ministerial decisions which we believe could be legally challenged by the non-commercial fishing sector.

## **8.12 Decisions Sought**

- 1) That the Minister allow for 39 tonne of PAU 5D for public food gathering in the coming year; and,
- 2) That the Ministry fulfil its obligation to manage a sustainable fishery by providing the necessary funding for further research to be undertaken to determine what the actual extent of public harvest is – not only for this year but over the full range of weather influences that this area experiences; and,

- 3) That the non-commercial sector be directed to and resourced fully so they can form Management Plans for the portion of the fishery area that is not available to the commercial sector. In the absence of any mechanism for recreational fishers to enhance the balance of the area of the fishery in a way that ensures that their conservation efforts are retained by them and not used to prop up an unsustainable commercial fishery, we recommend the full cost of rebuild should be borne by the fishing industry by way of quota reduction.

*Note: Please do not make the mistake of construing that this is a request for some form of proportional or explicit, perpetual allowance. This “decision sought” is merely a measure to ensure that decisions made by the Minister and the Ministry are based on the correct interpretation of section 21 of the Fisheries Act 1996 whereby the Minister “shall allow” for the non-commercial interests before setting the TAC, and that correct amount is allowed for each year.*