

IN CONFIDENCE

In Confidence

Office of the Minister for Oceans and Fisheries

Chair, Cabinet Legislation Committee

Fisheries (Alteration of Quota Management Area – Pāua Kaikōura Coast) Order 2021

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the attached Order in Council to subdivide the Kaikōura/Canterbury pāua quota management area (PAU 3) into two smaller areas.

Policy

- 2 On 24 March 2021, the Cabinet Economic Development Committee agreed an Order in Council to subdivide the PAU 3 quota management area into two smaller quota areas and to consequential amendments to fisheries regulations to give effect to the subdivision (DEV-21-MIN-0051).
- 3 The proposal to subdivide comes at the request of PAU 3 quota owners under section 25A of the Fisheries Act 1996 (the Act) which allows the Minister for Oceans and Fisheries to recommend a subdivision with the quota owner's agreement.
- 4 The PAU 3 quota management area will be subdivided at the Conway River into PAU 3A (Kaikōura) and PAU 3B (Canterbury) to support finer scale management of this key regional fishery which was significantly affected by the 2016 Kaikōura earthquakes. This will allow the northern earthquake-affected part of the fishery (PAU 3A) to be separately managed to ensure pāua stocks rapidly rebuild, while sustainable use of the southern unaffected portion of the fishery (PAU 3B) continues.
- 5 To give effect to the subdivision the attached Order in Council has been drafted. It amends Schedules 1 and 8 of the Act to include geographic descriptions of PAU 3A and PAU 3B and to carry over the existing requirement for PAU 3 fishers to hold a minimum amount of annual catch entitlement before fishing for pāua into the new quota management areas.
- 6 Similar amendments to the Fisheries (Quota Management Areas, Total Allowable Catches, and Catch Histories) Notice 1986, the Fisheries (Amateur Fishing) Regulations 2013, and the Fisheries (Over-Fishing Thresholds for Quota Management Stocks) Order 2001 will also be made. These substitute "PAU 3A" and "PAU 3B" in those parts that currently refer to "PAU 3".
- 7 Total Allowable Catch, Total Allowable Commercial Catch, and recreational and customary fishing allowances for PAU 3A and PAU 3B will be set in September 2021 following public consultation and input from tangata whenua.

Timing and 28-day rule

- 8 The subdivision will come into force on 1 October 2021, which is the start of the next fishing year for pāua. Under section 25 of the Act the Order in Council must be made no fewer than 90 days before it comes into force. To comply with this requirement, it must be made by 1 July 2021.

Compliance

- 9 The regulations comply with:
 - 9.1 the principles of the Treaty of Waitangi;
 - 9.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 9.3 the principles and guidelines set out in the Privacy Act;
 - 9.4 relevant international standards and obligations; and
 - 9.5 the Legislation Guidelines (2018 edition).
- 10 Sections 25 and 25A of the Act also set out prerequisites that must be met before the Minister can make a recommendation to subdivide a quota management area, including obtaining agreement from quota owners holding at least 75 percent of quota shares. These prerequisites have been met (90 percent of quota owners support subdivision).

Regulations Review Committee

- 11 There are no grounds to draw the regulations to the attention of the House of Representatives under Standing Order 327.

Certification by Parliamentary Counsel

- 12 The attached Order in Council has been certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

Impact Analysis

- 13 The Regulatory Quality Team at the Treasury has determined that the regulatory decisions sought in this paper are exempt from the requirement to provide a Regulatory Impact Assessment, due to the minor impact on individuals, businesses and not-for-profit entities.

Publicity

- 14 The Ministry for Primary Industries' website will be updated to include the subdivision decision. Quota owners, tangata whenua, stakeholders and those who made submissions during public consultation on the proposal will be directly advised.

Proactive release

- 15 I propose to release the entire paper proactively.

Consultation

- 16 Pre-consultation with tangata whenua and stakeholders along with five weeks of formal public consultation on the proposal was undertaken in 2019 and 2020.
- 17 Tangata whenua and commercial pāua fishing representatives supported the proposal. Of the 17 written submissions received, 12 supported the proposal and four submissions (from recreational fishers) did not state a position. One submission from a recreational fisher had concerns about the consultation process and was unresponsive.

Recommendations

I recommend that the Cabinet Legislation Committee:

1. Note that on 24 March 2021, the Cabinet Economic Development Committee agreed to the subdivision of the PAU 3 quota management area into two smaller areas, and to the consequential amendments to fisheries regulations to give effect to the subdivision (DEV-21-MIN-0051);
2. Note that the Fisheries (Alteration of Quota Management Area – Pāua Kaikōura Coast) Order 2021 will give effect to the decision referred to in paragraph 1 above;
3. Authorise the submission to the Executive Council of the Fisheries (Alteration of Quota Management Area – Pāua Kaikōura Coast) Order 2021; and
4. Note that the Fisheries (Alteration of Quota Management Area – Pāua Kaikōura Coast) Order 2021 will come into force on 1 October 2021 which is the start of the next fishing year for pāua, and that this requires the Order in Council be made by 1 July 2021.

Authorised for lodgement

Hon David Parker
Minister for Oceans and Fisheries