

24 July 2019

Sustainability Review 2019,  
Fisheries New Zealand,  
Ministry of Primary Resources,  
PO Box 2526,  
Wellington 6140.  
By email: FMSubmissions@mpi.govt.nz

## **Response to Chatham Islands PAU 4 Sustainability Review Proposals for 2019/20**

Tena koe

This letter is provided on behalf of the Ngāti Mutunga o Wharekauri Iwi Trust and its Asset Holding Company. In PAU4, Ngāti Mutunga o Wharekauri own:

15.020 tonnes of Settlement Quota  
22.000 tonnes of Normal Quota  
37.020 tonnes of Total Quota

PAU4 is an important source of revenue to support the charitable activities of the Iwi Trust (second only to crayfish). Iwi PAU4 ACE is all allocated to 10 Chathams resident divers who are affiliated to Ngāti Mutunga o Wharekauri.

The letter below and attachment contains our response to Fisheries New Zealand's initial proposals for the review of sustainability measures for the 2019/20 fishing year. Our comments are limited to proposed options for the PAU4 fishery.

Four Options have been presented. All four options have the same customary and recreational allowances at the current levels of 3 tonnes each. Our view is that these customary and recreational allowances appear to be appropriate for present and immediately foreseeable needs.

The four options for the Total Commercial Catch Limit (TACC) are:

1. No change (326.0 tonnes)
2. 10% cut (293.4 tonnes)
3. 20% cut (261.0 tonnes)
4. 30% cut (228.2 tonnes)



We note that all of these options generate a higher catch limit than has already been achieved through a voluntary shelve of 40% (195.6 tonnes) – now in its third year. The shelve is a central element of a PAU4 Fishery Management Plan approved by the Minister on 13 February 2019. This Plan was developed by PauaMAC4 on behalf of all PAU4 quota owners and harvesters, and with the involvement and support of Iwi, Imi and the Chatham Islands community. It was approved by the Minister on the basis that the Plan has objectives, strategies, measures and rules that support the purposes and principles of the Fisheries Act 1996. The existence of this approved Plan (and its provisions including shelving) is a mandatory consideration in this TACC review.

For reasons previously presented to the Ministry at length (see attached affidavit), we are strongly of the view that the shelving and fine-scale management measures contained in the Plan far better achieve the Purpose of the Fisheries Act 1996 than the traditional approach employed by the Ministry (a single TACC for PAU4 and National Minimum Size Limit of 125mm) that produced the dire outcome that the Plan is seeking to reverse. The Plan is intended to apply flexible fine-scale measures to manage harvesting effort spatially and to reduce and increase total catch depending on the condition of the fishery.

We are mindful of the historical resistance of the Ministry to the PAU4 Plan initiative that required us to reluctantly resort to litigation in order to finally achieve Ministerial support and approval for that Plan. This process revealed that earlier advice to the Minister on shelving in the context of a Fisheries Plan was flawed. The correction of this historic policy/legal stance was central to the eventual approval of the Plan by the Minister. In turn, that approval provided the foundation for the consent memorandum we entered into with the Crown to set aside our PAU4 proceedings.

In these circumstances, any action by the Crown to undermine the effective implementation and evolution of the Plan and the development and implementation of rules and measures that are needed to address the risks and opportunities in the fishery as they present themselves over time would be considered by us to be an act of bad faith that is inconsistent with both the Ministerial approval of the Plan and the memorandum contingent upon that approval.

There is no doubt in our mind that if some of the TACC options presented for comment are implemented, then such an act of bad faith will have occurred.

The TACC cuts proposed achieve no sustainability benefit because they establish a higher catch limit than that achieved by the Plan. They have two negative effects with no countervailing sustainability benefit:

1. First, they disrupt and undermine the process of achieving a timely 40% voluntary shelve for 2019/20. It is difficult to get people to agree to a 40% shelve when the rival prospect of a softer 30% TACC reduction is on the table. Nevertheless, and in spite of this 'sabotage', we fully expect to achieve a similar level of support for the shelve than in the previous three years.
2. Second, although they achieve no sustainability impact now when it is needed, the TACC cuts proposed make a rebuild process hostage to future sustainability rounds – rather than the decision rules and mechanisms of the Plan itself.



This introduces a very unhelpful asymmetry to the Plan that undermines support for it. The costs of saving and rebuilding the fishery are carried by the Plan but the benefits of the rebuild will only be accessible to those people who achieved the rebuild at the discretion of the Minister and his advisers.

In short, the TACC cuts potentially 'gut' the future upside of the Plan. Furthermore, a TACC reduction crystallizes the 28N issue averted by the approved Plan (see attached affidavit).

### **The Dragonfly Report**

This May 2019 Report is worthless as a basis for Fisheries Management Decision making including TACC setting. The attached affidavit points out the dangers of using aggregate Catch per Unit Effort (CPUE) measures as a basis for assessing the condition of paua fisheries. However, even in ideal conditions, CPUE can only be used as a rough and ready measure of fisheries abundance when Effort is constant. Effort is not constant in PAU4 for 2 reasons:

1. The Plan. The increased local size limits and sub area effort spreading measures in the Plan both increase effort. Divers are now leaving behind paua they would otherwise have taken. By definition, effort spreading displaces effort from the favoured areas reducing average catch rate.
2. Market changes. Traditionally, Chathams paua was canned. During the period of the shelf (the last three years) supplementary paua markets have developed on the Chathams for live and Individually Quick Frozen (IQF) whole paua in the shell. Both of these markets have a narrower specification especially for quality, clean shell, uniform size and limited quantity. Divers supplying this product essentially fish to order, generally with smaller landings than would have been made for the canning market.

It is a major deficiency of the Dragonfly Report that neither of these developments and their impacts on CPUE analysis are discussed.

### **Conclusion:**

**We support Option 1.** This is the only Option that does not undermine the Approved PAU4 Fishery Management Plan. The options progress to larger and larger adverse impacts with larger and larger proposed cuts to the TACC. Arguably, these adverse impacts (undermining the Plan and undermining the percentage of Maori Settlement quota through the activation of quota transfers to meet section 28N commitments) are relatively modest with Option 2. The truth is that the long-term potential of PAU4 under effective fine-scale management is not known and will not be known until it is tried.

The PAU4 Plan is an integrated package of objectives, decision rules and mechanisms that will best achieve the Purpose of the Fisheries Act 1996 and, as such, our expectation is that the Minister's Sustainability Round decisions will avoid any adverse impact on that Approved Plan.

Naku noa na,



John Kamo, Chair

**Ngāti Mutunga o Wharekauri Iwi Trust**



Joseph Thomas, Chair

**Ngāti Mutunga o Wharekauri AHC**

Under:                   Judicial Review Procedure Act 2016  
between:               **PauMAC 4 Industry Association  
Incorporated**, a duly incorporated society  
                              having its registered office at 135 Victoria  
                              Street Wellington  
                              First applicant  
and:                     **Te Ohu Kai Moana Trustee Limited**, a duly  
                              incorporated company having its registered  
                              office at 48 Mulgrave Street, Wellington and  
                              carrying on business as a trustee  
                              Second applicant  
  
and:                     **Minister of Fisheries**, Parliament Buildings,  
                              Wellington  
                              *First respondent*  
and:                     **Chief Executive** of Ministry of Fisheries,  
                              Wellington  
                              *Second respondent*



I, Thomas McClurg, of Wellington, Director, swear:

(A) Qualifications and experience

- 1 I am a director of Toroa Strategy Limited in which capacity I offer independent business and strategic advice to organisations operating in a range of sectors, particularly organisations concerned with seafood, fishing and fisheries management. I founded Toroa Strategy Limited in 2009 and (amongst others) have carried out contracts for the New Zealand Seafood Industry, Aotearoa Fisheries Limited, Te Ohu Kai Moana Trust Limited, the World Bank, the Forum Fisheries Agency, the Parties to the Nauru Agreement Office and Te Tumu Paeroa (the Maori Trustee).
- 2 In the preparation of advice to fisheries clients, I draw upon over twenty- five years' experience gained through employment with government, Maori and private sector organisations within the fisheries sector. In the course of this experience, I have developed a detailed understanding of the operation of the Quota Management System (QMS), the valuation of Individual Transferable Quota (ITQ) and the challenges of managing integrated fishing and seafood businesses.
- 3 My qualifications and experience relevant to fisheries management and the economics of fishing businesses within the framework provided by the QMS are as follows:
  - 3.1 I have a Master of Science Degree with first class honours in Natural Resource Management from the Centre of Resource Management at Canterbury University and Lincoln College (1986);
  - 3.2 Between 1991 and 1994, I was Manager Strategic Policy for MAF Policy where my role was to supply advice to the Minister of Fisheries on policy and legislative reform, particularly as it related to the operation and evolution of the QMS;
  - 3.3 Between 1994 and 1999, I was General Manager of Policy and Operations at the Treaty of Waitangi Fisheries Commission (Te Ohu Kai Moana). I was responsible for the day to day management of commercial assets including the leasing of Commission fishing quota and ensuring Fisheries Act compliance. I was a founding director of the Seafood Industry Council, alternate director on the Board of the Sealord Group and a director of Prepared Foods Limited (the paua processing and exporting joint venture subsidiary of Te Ohu Kai Moana).
  - 3.4 Between 1999 and 2004, I was a Principal, Corporate Finance with Ernst & Young. In addition to conventional valuation and corporate finance work, I evolved a service comprising a mix of strategic management/economic advice and regulatory advice to clients. This client base comprised vertically integrated natural resource companies (seafood and dairy), network businesses (telecommunications and energy reticulation) and public sector. I led a major merger analysis (Sealord/Sanford) including oversight of the construction of comprehensive business modelling of both businesses and advising the Sealord side.
  - 3.5 Between 2004 and 2008, I was General Manager Strategy and Planning for Aotearoa Fisheries Limited. In addition to managing a raft of establishment issues for this new entity, I was responsible for designing multi-year ACE agreements with iwi, identifying and prioritising opportunities for growth and providing investment analysis of fishing businesses and quota parcels available for purchase. I was a director of Deepwater Group Limited.
  - 3.6 Between 2009 to the present, in addition to the activities above, I am the Chair of Commercial Fisheries Services Limited (Fishserve) (director since



2010), a director of Ngāti Mutunga o Wharekauri Asset Holding Company Limited (since 2010), Port Nicholson General Partnership (since 2012), Koura Inc General Partnership (since 2015) and Nga Kai Tautoko Limited General Partner (2016). In 2016 I was appointed Lead Negotiator by Ngāti Mutunga o Wharekauri Iwi Trust to negotiate a settlement of Treaty of Waitangi claims with the Crown on behalf of Ngāti Mutunga o Wharekauri.

4 I give this evidence having regard to my academic qualifications and 25 years public and private experience and expertise in New Zealand and international fisheries management, fisheries economics, natural resource management and economics, commercial fisheries including Maori Seafood Sector business development, Treaty of Waitangi claims, resolution and settlements, including the 1992 Deed of Settlement for Maori fisheries claims. I am Ngāti Mutunga o Wharekauri.

- i. I acknowledge the provisions of the Code of Conduct for expert witnesses under Schedule 4 of the High Court Rules and in particular:
- ii. my overriding duty to assist the Court impartially on relevant matters within my expertise;
- iii. I have read the Code of Conduct and agree to comply with it;
- iv. I have stated my qualifications in the preceding paragraphs;
- v. The issues I address relate to the effective management of paua fisheries under the framework of the New Zealand Quota Management System and the Deed of Settlement; and I believe that my evidence is within the area of my expertise;
- vi. In my evidence, I state the facts, assumptions and propositions on which I base my opinions; and I state the reasons for my opinions;
- vii. I will willingly and readily confer with any other expert witness as (if) directed by the court under clauses 6 and 7 of the Code of Conduct. I have read the Code of Conduct for expert witnesses and agree to comply with it. The evidence I give in this affidavit is within my area of expertise.

(B) Purpose of evidence

5 The purpose of this evidence is to identify the negative impacts of the Total Allowable Catch decision for the Paua 4 Fishery of the Chatham Islands (PAU4) made by Hon Nathan Guy on 21 August 2017. I illustrate the nature and extent of these effects by using my intimate knowledge of the Ngāti Mutunga o Wharekauri Asset Holding Company Limited in its capacity as quota owner and wholly owned subsidiary of Ngāti Mutunga o Wharekauri Iwi Trust Limited which is a Mandated Iwi Organisation (MIO) under the Maori Fisheries Act 2004. To the extent that those effects have impact on Ngāti Mutunga o Wharekauri Asset Holding Company Limited in its capacity as quota owner, those effects apply proportionately to all PAU4 quota owners. To the extent that those effects have impact on Ngāti Mutunga o Wharekauri Iwi Trust in its capacity as a MIO, those effects also apply to Hokotehi Moriori Trust as the other Chatham Island MIO.

6 The negative effects identified in this affidavit were not properly identified within the advice presented to the Minister and that failure resulted in a decision that was deficient to the extent that it was based upon recommendations that; in rejecting the shelving/management plan approach presented by iwi/imi and industry through PauaMAC4 in favour of a Total Allowable Commercial Catch (TACC) cut, did not clearly identify to the Minister the well-known inadequacies of an approach to paua fishery management with excessive reliance upon use of the TACC alone, nor did it identify the fact that the recommended approach would, in fact, result in a dilution of the Settlement quota right in PAU4 that would thereby breach the understandings in the Deed of Settlement.

(B) Ngāti Mutunga o Wharekauri Interest in PAU4.

7 Paua is a very important part of the Ngāti Mutunga o Wharekauri fisheries settlement. It received 15 tonnes of PAU4 quota in its fisheries settlement (less than 5% of all PAU4 quota). Moriori received the same quantity of settlement quota. Ngāti Mutunga o Wharekauri AHC makes this quota available to 10 Ngāti Mutunga o Wharekauri divers. Diver payments are currently \$7 per kg greenweight on Wharekauri for them. Although small in volume, the sale of PAU4 Annual Catching Entitlement has accounted for a significant proportion of revenues for the Asset Holding Company and its PAU4 quota holding (pre-cut) is as follows:

- Settlement Quota: 15,020kgs
- Normal Quota: 22,000kgs  
37,020kgs

The paua gross revenue vs total gross revenue from AHC's fisheries based assets for the last 7 years is as follows:

Financial Year	Paua Revenue (\$'000s)	Total Fisheries Based Revenue (\$'000s)	Paua Revenue to Total Fisheries Revenue
2010-11	\$378	\$1,203	31%
2011-12	\$312	\$1,354	23%
2012-13	\$336	\$1,726	19%
2013-14	\$328	\$1,866	18%
2014-15	\$144	\$1,804	8%
2015-16	\$324	\$1,929	17%
2016-17	\$400	\$2,051	20%
<b>7 Year Totals</b>	<b>\$2,222</b>	<b>\$11,933</b>	<b>19%</b>

(C) Managing PAU4 by Shelving/Management Plan versus TACC Cut

8 In their advice paper to the Minister (para.410) the Ministry informs the Minister that "Due to their sedentary nature, high levels of fishing pressure in localised areas makes paua populations susceptible to overfishing and depletion. Overfishing of a localised population can affect spawning success, in turn hindering overall productivity of the fishery." Indeed, localised (or serial depletion) of the most accessible paua beds is the biggest threat to paua fishery sustainability and the development and imposition of a fine-scale management regime for paua fisheries that can prevent local depletion is essential for the successful management of productive paua fisheries.

9 It is remiss of the Ministry that the Minister was not explicitly informed of the fact that the recommended TACC cut would not address this fundamental problem of paua fisheries management in that, after the TACC cut, harvesters would still continue to concentrate harvesting on 'better' areas. Furthermore, adoption by the Ministry of a management objective for the fishery of achieving biomass of 40% of virgin biomass ( $B_0$ ) also does not address local and serial depletion threats. In para 470, the Minister was advised that a compared to a 30% TACC cut, a 40%TACC cut (Under Option 2) *will increase the probability that the fishery will stabilise and rebuild in a shorter time frame*. What the Minister was not told was that, Option 2 is significantly inferior to an (initial) shelf of 30% combined with a suite of fine-scale management measures.

10 Ngāti Mutunga o Wharekauri and PauaMAC 4 recognise that the Chathams paua fishery is not a single stock that can be managed with a single biomass target and associated TACC. That is why they have divided the fishery into 57 reporting areas and are collecting information on commercial catch from each of these reporting



areas. That information can provide the foundation for management and conservation measures appropriate for each sub-area that would be adjusted by *ex-ante* harvest control decision rules set out in a management plan.

11 A draft of that Industry Management Plan was attached to the PauaMAC 4 submission. That submission and associated plan has the full support of Ngāti Mutunga o Wharekauri who also support the process of developing the Industry Management Plan into a community-endorsed plan that provides the fine-scale responsive management of the PAU4 fishery. Shelving and the management plan are an integrated package. The level of shelve would be adjusted up or down annually depending upon the data collected and analysed from the fishery in that year according to the decision rules contained in the plan.

12 A TACC cut (or increase) operates through a separate statutory process that (at present) does not operate in response to such decision rules. TACC reviews are few and far between. As footnote 33 explains in the Ministerial advice "*The TACC for PAU4 was set at 261 t in 1986 when PAU 4 entered the QMS. Between 1986 and 1995 the TACC was increased four times following Quota Appeal Authority Appeals resulting in the current TACC of 326 t, which has remained unchanged since.*" In recent years MPI has reviewed the TAC/TACC of around 10 fish stocks per annum out of the 638 fishstocks currently in the QMS.

13 In other words, this is the first TACC review of PAU4 in 31 years notwithstanding the fact that within the first 9 years of the QMS (by 1995) the PAU 4 TACC had been inflated to 25% above the original 'sustainable TACC of 261 tonnes. A TACC cut is not only a blunt paua fishery management instrument (as explained above) it is also an instrument that has not been used in a timely fashion. Given current Ministry practices and resourcing of stock assessment reviews, it is most unlikely that future TACC adjustments will be made with the timeliness good paua fishery management requires. This is an important reason why Ngāti Mutunga o Wharekauri favour shelving.

14 In their advice to the Minister, the Ministry suggest that a TACC cut (instead of shelving) and an industry management plan can be advanced as a package. In para 468 "*...it (a 40% TACC cut) would have the greatest likelihood of allowing the fishery to stabilise or rebuild while a more robust assessment of stock status and an Industry Management Plan are developed*". There are two problems with this advice:

- i. As officials were aware, a draft industry management plan had already been developed and provided to them.
- ii. As officials were aware, shelving was a central feature of the draft industry management plan and could not just be excised from it at their whim.

15 A 40% TACC cut will undermine the operation of the desperately needed plan; it is not compatible with it - as suggested by officials. Their support for the Plan contained in para 441 of their advice is therefore disingenuous.

16 The other reasons why shelving is supported by Ngāti Mutunga o Wharekauri were very well summarised in the PauaMAC 4 submission as follows:

PauaMAC 4 considers that shelving is **a valid and legally appropriate mechanism** to reduce the commercial harvest of PAU 4 by at least 30%. Furthermore, the shelving and fine-scale Industry Management Plan outlined in this submission are matters that the Minister is obliged to take into account when setting a TAC and TACC for PAU 4. In particular:

- When deciding whether to exercise his discretion under section 11 to set or vary a TAC, the Minister must take into account the effects of fishing on any stock (s11(1)(a)), which necessarily includes the effects (present and future) of shelving and industry fine-scale effort spreading on the stock; and



- Sections 13(2), (2A) and (3) together provide an obligation on the Minister to move a stock towards/above  $B_{MSY}$  and when deciding on the ways and rates (i.e., timeframes) to achieve that statutory objective, the Minister must consider all relevant social, cultural and economic factors. The Minister is obliged to take into account PauaMAC 4's shelving and fine-scale effort spreading when considering these section 13 provisions because:
  - Shelving can constitute a "**way**" in which, and affects the "**rate**" at which, a stock can be moved towards/above  $B_{MSY}$ ;
  - Shelving also affects whether (and the way and rate) a TAC at any given level enables the level of the stock to move towards/above  $B_{MSY}$  and;
  - Social, economic and cultural factors may support a shelving arrangement in place of a TAC/TACC reduction for the purposes of section 13(3).

PauaMAC 4 considers that shelving and a fine-scale management plan better achieves the purpose of the Act (i.e., providing for utilisation while ensuring sustainability) than a TACC reduction. The available science provides no certainty on trends of PAU4 stock abundance and the fishery still supports good CPUE by New Zealand standards. There is no evidence to suggest that PAU 4 has fallen below the soft limit in MPI's harvest strategy standard ( $20\%B_0$ ) which would trigger a rebuilding strategy.

- 17 None of this careful analysis appears to have been included in the advice from MPI for consideration by the Minister.
- 18 MPI are clear that only anecdotal information is available as the basis for the Minister's TACC decision. ...there is insufficient data to quantify the biomass of PAU 4 and its relation to the target biomass, and the soft and hard limits. (para 422) and as current biomass ( $B_{current}$ ) and  $B_{MSY}$  are unknown for PAU 4... (para 426). Ngāti Mutunga o Wharekauri agree that the Minister has to use the best available information when exercising responsibilities under the Fisheries Act. Sometimes (as in this case) that information is very poor. However, it is generally accepted good management practice that decisions based upon poor information should take a reversible form that can be modified quickly when new information arrives. This has not been done. A dramatic and inflexible action (40% TACC cut) has been implemented on undeniably poor information when a more flexible and effective option (shelving) was already in place.

(D) Under-estimate of Economic Impacts

- 19 A 40% TACC cut to PAU4 has very significant economic implications for Ngāti Mutunga o Wharekauri. These take the form of reduced employment, reduced revenue to the AHC and (as the AHC funds the distributions of the Iwi Trust) reduced capacity to support distributions to deliver social and cultural benefits to the iwi. In these circumstances, these costs and impacts need to be accurately estimated for careful Ministerial consideration. The MPI estimate of the *short-term economic impact to the commercial sector under this option is expected to lie between \$1,553,904 and \$2,335,652 per annum, taking into account current and previous ACE shelving efforts.* (para 488).
- 20 It is not at all clear how MPI have calculated these numbers. Elsewhere in the Ministerial advice paper, economic impact has been equated with loss of revenue but it is unclear whether this true for the PAU 4 section. An average port price of \$23.98/kg in PAU4 has been used. This is too low in our experience. In the case of PAU4 it is therefore not possible to know what the Minister was expected to make of this economic impact advice.
- 21 An easy and conservative way of calculating loss of revenue from a cut is to use the simplest paua product form as a revenue benchmark. That is whole frozen paua (currently selling for \$US45 to US\$48 per kg). At a current exchange rate of 0.72, \$US45 translates to \$62.50/kg (\$62,500 per green weight tonne of paua).

On this basis, a 40% cut represents a loss of revenue to the Chatham's paua fishery of \$8,125m and the difference between a 40% TACC cut and 30% shelfe represents a loss of revenue of \$2,031,250 per annum. As the owner of 11% of PAU 4 quota these economic impacts translate to a loss of potential annual revenue of \$920,000 and \$223,437 respectively.

(E) Section 28N Rights and the Deed of Settlement.

- 22 In paragraphs 443 to 452 of their advice to the Minister, officials draw attention to the fact there are 19.7 tonnes of 28N rights in PAU 4 and that therefore the first 19.7 tonnes of any future increase in the TACC would go to 28N right holders rather than to the quota owners (including Ngāti Mutunga o Wharekauri) who had their quota tonnages reduced by the cut.
- 23 In their submissions, the Paua Industry Council (PIC) and Ngāti Mutunga o Wharekauri Asset Holding Company noted that a TACC reduction followed by an increase will dilute the number of quota shares, including Settlement shares held by iwi. In other words, the introduction of 28N quota shares into a fishery has the effect of reducing Settlement quota from the notional 10% to something lower.
- 24 MPI have advised the Minister that *the degree to which shares are affected will depend on the level of the TACC increase* (para 450). This is a very poor explanation of the mechanism. Because 28N rights have a priority, it will only take an increase of the post-cut TACC from 196 tonnes to 216 tonnes for the full extent of the dilution to occur. The impact of such a dilution on Ngāti Mutunga o Wharekauri is shown below:

	AHC PAU4 Quota	Current TACC	AHC % of Current TACC	Proposed TACC	AHC PAU4 Quota Post TACC Cut	% of TACC Post Cut	S28N Rights	New TACC	AHC % of New TACC	Dilution % Due to S28N Rights	AHC PAU4 Quota If Nil S28N Rights	AHC Quota Loss	Value of Quota Loss at \$500k/mt
Settlement Quota	15,020		4.6%		9,015	4.6%			4.2%	-0.4%	9,922	-906	-\$453,070
Normal Quota	22,000	326,543	6.7%	196,000	13,205	6.7%	19,700	215,700	6.1%	-0.6%	14,532	-1,327	-\$663,619
Total Quota	37,020		11.3%		22,220	11.3%			10.3%	-1.0%	24,454	-2,233	-\$1,116,689

- I. Based on the current TACC of 326,543kgs, AHC's Settlement Quota holdings equate to 4.6% of TACC and 6.7% for Normal Quota holdings, a combined total of 11.3%.
- II. Given the impact of the TACC reduction is proportionate to quota holdings, these same percentages are maintained at the new 196,000kgs TACC.
- III. If we assume the TACC is subsequently increased by the amount of the S28N rights, i.e. – the full 19.7mt TACC increase would go to the S28N right holders, AHC's Settlement Quota holding percentage would fall from 4.6% to 4.2%, its Normal quota holding percentage from 6.7% to 6.1% and the combined total from 11.3% to 10.3%. The resulting quota ownership dilution being 0.4% for Settlement and 0.6% for Normal combining to a total 1% dilution.
- IV. Had there been no S28N rights and the TACC was increased 19.7mt, AHC's Settlement quota would have increased to 9,922kgs from 9,015kgs and Normal quota to 14,532kgs from 13,205kgs combining to 24,454kgs from 22,220kgs. The quota volume loss from the impact of S28N rights is therefore 906kgs of Settlement quota and 1,327kgs of Normal quota being a total 2,233kgs.
- V. At a \$500/kg PAU4 quota value (post recovery), the 2,233kgs lost because of S28N rights would equate to a value loss of \$1.1m.

(F) Process and Communication



- 25 The advice to the Minister over-stated the extent of support for a 40% TACC cut. The fact is that 98.2% of all PAU4 quota ownership supported a 30% shelve and had completed the necessary shelving documents with Fishserve before the beginning of the 2017 fishing year. For instance, Tuhoe Te Uru Taumatua were described as supporting Option 2 when it actually shelved quota.
- 26 Most annoyingly, para 484 includes the following advice: Both Ngāti Mutunga o Wharekauri and Moriori, who represent tangata whenua of the Chatham Islands were approached to discuss their view on PAU 4. Collectively, both iwi/imi agreed that the TACC for PAU 4 needed to be decreased by at least 30%...At no time has Ngāti Mutunga o Wharekauri supported a TACC cut in PAU 4. Its support for a catch reduction achieved through shelving has been repeatedly and consistently communicated to MPI. The wording above is at best extremely careless and at worst designed to give the Minister an impression that TACC cuts and shelves are close substitutes in our mind. This is definitely not the case.
- 27 Finally, I note that the Minister signed this decision paper on 21 August 2017. It was not released for nearly a month. I received a copy of the Minister's letter on the evening of 19 September and down-loaded the advice paper on 20 September. Affected parties have had a week to read and analyse the decisions, communicate with each other, and formulate a response before the TACC decision is implemented. Given that affected parties are scattered between the New Zealand mainland, Chatham Island and Pitt Island, this is an inadequate amount of time that left one day for the preparation of this affidavit.

**SWORN** at Wellington by the abovenamed deponent this twenty-ninth day of September 2017 before me:

.....  
A Solicitor of the High Court of New Zealand

In the High Court of New Zealand  
Wellington Registry