



**Fisheries New Zealand**

Tini a Tangaroa

# Consultation on whether to enable Annual Catch Entitlement carry forward for rock lobster

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by Fisheries New Zealand

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# 1 Executive Summary

1. Fisheries New Zealand is consulting on whether to enable uncaught rock lobster Annual Catch Entitlement (ACE) to be carried forward into the next fishing year (which begins on 1 April 2020).
2. The outbreak of the Coronavirus has led to the collapse of demand for live rock lobster in the Chinese market, during the Chinese New Year period. This is typically a period of high live rock lobster demand and high prices. China is the leading export market for live New Zealand rock lobster, accounting for 98-99% of all exports.
3. As of 14 February, Fisheries New Zealand estimated that around 458 tonnes of rock lobster ACE remained uncaught (17% of total ACE). Fisheries New Zealand estimates the value of this uncaught rock lobster at around \$52 million, based on submissions from industry and typical export prices. Industry report that some fishers will be severely impacted if unable to catch and sell their uncaught ACE.
4. It is uncertain how long low demand for Chinese exports will continue, or whether industry will be able find alternative markets before the end of the fishing year.
5. There are opportunities to provide relief to rock lobster fishers unable to catch and sell their remaining ACE, in conjunction with measures they can take themselves to mitigate market impacts, without impacting sustainability.
6. For most other species managed within the Quota Management System, ACE holders are able to carry forward 10% of their individual total ACE holdings at the end of the fishing year. However, for all rock lobster stocks ACE cannot be carried forward under the current rules.
7. Fisheries New Zealand is consulting on three options concerning the carry forward of rock lobster ACE, as follows:
  - A. Retaining the status quo – making **no changes** to the Fisheries Act 1996, and not enabling ACE carry forward;
  - B. Enabling carry forward of **up to 10%** of the total ACE held by individual fishers, if uncaught (by removing rock lobster from Schedule 5A of the Act via Order in Council); or
  - C. In addition to Option B, enabling the **one-off** carry forward of **all** uncaught rock lobster ACE, beyond 10% (which would require a legislative amendment to the Act).
8. Fisheries New Zealand's preliminary preference, pending consultation feedback, is **Option B**. This option best meets the assessment criteria, would provide rock lobster fishers with the same catch flexibility as most other

fisheries, would not pose additional sustainability risks, and would provide flexibility to address future market fluctuations.

## 2 Submission Information

9. Fisheries New Zealand welcomes written submissions to inform decisions on the proposals contained in this Discussion Paper. All written submissions must be received by Fisheries New Zealand, no later than **12pm, Monday 24 February 2020**.
10. Written submissions should be emailed to: [FMSubmissions@mpi.govt.nz](mailto:FMSubmissions@mpi.govt.nz)  
or sent to:  
  
Inshore Fisheries Management  
Fisheries New Zealand  
P O Box 2526  
Wellington 6140.
11. All submissions are subject to the Official Information Act 1982 and can be released (along with the personal details of the submitter) under that Act. If you have specific reasons for wanting to have your submission or personal details withheld, please set out your reasons in the submission. Fisheries New Zealand will consider those reasons when making any assessment for the release of submissions if requested under the Official Information Act.

### 3 Purpose

12. Fisheries New Zealand seeks views on proposals to provide relief for rock lobster fishers highly exposed to the unexpected market impacts of the Coronavirus outbreak, without creating sustainability risks. This will be in conjunction with measures that fishers can take themselves to mitigate financial impacts.
13. Specifically, Fisheries New Zealand is consulting on whether to enable individual fishers' uncaught rock lobster Annual Catch Entitlement<sup>1</sup> (ACE) to be carried forward into the next fishing year (which begins on 1 April 2020).
14. Currently the Fisheries Act 1996 prevents uncaught rock lobster ACE from being carried forward and any change to the status quo would require amending provisions of the Act or its regulations.

### 4 Problem Definition

15. The commercial rock lobster fishing industry is experiencing severe and unexpected market disruption due to the Coronavirus impacting on live rock lobster exports to China during the Chinese New Year period. This is a period of high demand when live rock lobster prices are high. Measures taken by China with respect to restrictions on transport and people movements have led to wide scale cancellation of rock lobster orders.
16. China accounts for 98-99% of all live exports of rock lobster. As of 14 February, Fisheries New Zealand estimates that around 458 tonnes of rock lobster ACE remains uncaught (17% of total ACE). Fisheries New Zealand estimates the value of this uncaught rock lobster at around \$52 million, based on submissions from industry and usual export prices.
17. It is uncertain how long the low demand for Chinese exports will continue, or whether industry will be able to find alternative markets that could take the remaining volume of rock lobster, before the end of this fishing year (which ends on 31 March 2020).
18. There are approximately 260 permit holders with ACE holdings across ten rock lobster stocks. There will be variation between rock lobster fishers in terms of economic impact. Fishers who have large volumes of ACE unfished and are now unable to secure markets for rock lobster, will incur the greatest financial impacts.

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<sup>1</sup> ACE is the catch right, which gives the holder the right to take a certain weight of a fishstock during a fishing year.

19. Fishers do not have the flexibility to carry forward rock lobster ACE into the next fishing year, unlike most other species. Section 67A of the Act provides that at the start of each fishing year, individual ACE holders are provided with either:
  - a. Up to 10% of their total ACE holdings at the end of the previous fishing year before catch balancing; or
  - b. The amount of ACE which was not caught, whichever is the lesser.
20. However, section 67A does not apply if:
  - a. The fishstock is listed on Schedule 5A of the Act; or
  - b. If the specific stock has been subject to a Total Allowable Commercial Catch<sup>2</sup> (TACC) reduction from the previous year.
21. All rock lobster stocks are listed on Schedule 5A of the Act, and are therefore exempt from ACE carry forward provisions. At the time the Schedule was developed it was considered there would be no need to manage unexpected rock lobster catch at the end of the fishing year, due to the precise nature of rock lobster harvesting. Under the Act, an Order in Council is required to remove stocks from Schedule 5A.
22. Section 67A of the Act limits the proportion of ACE that can be carried forward for stocks not listed on Schedule 5A to 10%. Enabling the full amount (estimated by Fisheries New Zealand as currently up to 17% in total) would require a legislative amendment to remove or increase the 10% limit for rock lobster.
23. Fisheries New Zealand is not consulting on enabling changes to rules preventing carry forward for stocks with TACC reduced from the previous year (Section 67A(3)(b)). This would risk placing additional fishing pressure on stocks that already require catch reductions.

#### *Existing measures to provide relief for fishers*

24. Fisheries New Zealand is allowing industry to release rock lobster currently held in holding pots, under the supervision of Fisheries Officers and subject to biosecurity and survivability criteria. Fisheries New Zealand has also extended mental wellbeing support to fishers (that is currently being provided as part of the Hector's and Maui Threat Management Plan), including the Guard Safety phonenumber (0800 237 438). The New Zealand Trade and Enterprise infosite includes information to help New Zealand exporters plan, prepare and mitigate impacts of the Coronavirus outbreak (see the following link).  
<https://www.nzte.govt.nz/coronavirus>
25. Financial impacts from low demand for live lobster exports to China could be offset through increased frozen or domestic sales, or finding other export markets. Industry considers the economic viability of domestic alternatives to be low, given the large volume of uncaught ACE. Industry also considers that

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<sup>2</sup> The Total Allowable Commercial Catch (TACC) is the amount of fish that can be caught by commercial fishers, for specific fish stocks within a fishing year.



export opportunities are limited by the short timeframe to the end of the fishing year and an international glut of live lobster due to other lobster-producing countries being similarly exposed to Chinese trade pressures.

26. Fisheries New Zealand understands that some fishers are taking steps to mitigate financial impacts themselves, including ACE trading between fishers to reduce individuals' ACE liabilities.

**Discussion questions:**

1. Do you agree with this characterisation of the problem? If not, why not?
2. In your view, what are the problems with the current regulatory settings?

## 5 Proposed Options

27. Fisheries New Zealand is consulting on three options in relation to enabling carry forward of rock lobster ACE, as follows:
- A. Retaining the status quo – making **no changes** to the Act, and not enabling carry forward;
  - B. Enabling fishers to carry forward **up to 10%** of ACE holdings, if uncaught, by removing rock lobster from schedule 5A of the Act (which prohibits certain species from being carried forward) via Order in Council; or
  - C. In addition to Option B, also enabling the **one-off** carry forward of **all** uncaught ACE, beyond 10% (which would require a legislative amendment to the Act).
28. Option B and C have specific statutory consultation requirements under the Act, which are provided for through this consultation process.

### Criteria

29. The options seek to provide relief for rock lobster fishers highly exposed to the unexpected market impacts of the Coronavirus outbreak, without creating sustainability risks, in conjunction with measures that fishers can take themselves. The following criteria assess how the options meet these objectives:
- a. Level of impact in providing relief to fishers unable to catch and sell uncaught rock lobster ACE;
  - b. Additional risks to environmental sustainability;
  - c. Impacts on iwi and stakeholders with an interest in rock lobster stocks as specified under 67B(3) of the Act *'The Minister must consult with such persons or organisations as the Minister considers are representative of those classes of persons having an interest in the stocks subject to the order, and*
  - d. Costs to the Crown.

### Options Analysis

#### Option A. Retaining the status quo – making no changes to the Act, and not enabling carry forward

30. Under Option A, retaining the *status quo*, rock lobster would remain on Schedule 5A and rock lobster ACE holders would continue to be unable to carry forward any uncaught ACE.

### *Impact*

31. Option A would put the greatest level of responsibility on the commercial rock lobster industry to mitigate impacts of the Coronavirus on their ability to catch and sell their remaining rock lobster ACE within the current fishing year.
32. The status quo would not provide rock lobster ACE fishers with the opportunity to carry forward ACE into the next fishing year, and to reduce the financial impacts of uncaught ACE.
33. Fisheries New Zealand estimates the foregone value of potential live rock lobster exports to be up to \$52 million by the end of the fishing year, based on industry submissions and typical export prices. The opportunity to realise this economic benefit, including flow-on economic benefits to coastal communities (particularly in the regions), would be less than other options.
34. Fishers who are now unable to secure markets for rock lobsters will incur the greatest financial impacts. This is particularly the case for those who have already purchased rock lobster ACE, have unfished ACE and currently would not be able to catch and sell at a profitable margin, or carry forward ACE.

### *Sustainability risks*

35. This option presents the lowest sustainability risk, as there would be no change.

### *Stakeholder impacts*

36. This option has the lowest impact on other stakeholders, as there would be no change.

### *Costs to the Crown*

37. Option A would not incur the administrative resourcing and implementation costs associated with removing rock lobster from Schedule 5A under option B, and amending the Act under Option C.

### **Option B. Enabling fishers to carry forward up to 10% of ACE holdings, if uncaught, by removing rock lobster from schedule 5A of the Act**

38. Under Option B, all rock lobster stocks would be removed from Schedule 5A by an Order in Council made under s 67B(1)(b) of the Act.
39. Rock lobster ACE holders would be able to carry forward up to 10% of rock lobster ACE within a year, to the following fishing year. This flexibility would also be available in future years.

## *Impact*

- 40. This option would provide rock lobster fishers with the same catch management flexibility provided to most other fisheries. In combination with wider Government and industry measures to mitigate impacts of low market demand, enabling up to 10% of ACE to be carried forward would provide some financial relief for the industry, by enabling the value of up to 10% of uncaught ACE to be preserved.
- 41. This option would provide less relief than Option C, which would enable greater than 10% carry forward.

## *Sustainability risks*

- 42. Fisheries New Zealand considers that carry forward of up to 10% of ACE would not impact the sustainability of rock lobster stocks, or the health of the aquatic environment. A moderate volume of catch would be deferred and carried forward to the following fishing year, which would not significantly increase fishing effort in the next fishing year.
- 43. A 10% carry forward for rock lobster ACE is consistent with the management of most other stocks managed under the Quota Management System. Consistent with the approach taken for other fisheries, this would not apply to any rock lobster stocks where TACCs are reduced from the previous fishing year. Rock lobster stocks would continue to be closely monitored.

## *Stakeholder impacts*

- 44. A 10% carry forward poses less risk of impacting customary or recreational fishers than Option C, which would pose greater risks of localised depletions if a larger proportion of ACE was carried forward.

## *Costs*

- 45. This option would have some administrative resourcing costs for the Crown, requiring changes to Schedule 5A through an Order in Council process. It would not require legislative changes to the Act through a Bill as proposed under Option C, which would likely be a longer and more resource-intensive process.

## ***Option C. In addition to Option B, also enabling the one-off carry forward of all uncaught ACE***

- 46. Option C proposes amending Schedule 5A of the Act, as with Option B, but also amending the Act to enable carry forward of all uncaught ACE beyond 10%. To avoid increasing sustainability risks in future years and in wider stocks, it is proposed that such an amendment would be specific to addressing the current Coronavirus-related market collapse, and would only apply to carry forward of ACE from the 2019/2020 to the 2020/2021 fishing year.

## *Impact*

47. This option would provide the greatest opportunity to relieve financial pressure on affected fishers, potentially increasing ACE carry forward from 10% to up to 17% in comparison with option B, based on current estimates.

## *Sustainability risks*

48. The proposed carry forward of all uncaught ACE has greater risk than other options of impacting the sustainability of rock lobster stocks, and health of the aquatic environment. Depending on the nature and extent of carry forward, this option could result in a potentially significant increase in fishing pressure in the next fishing year, in some areas. To help mitigate any potential risks in future years, the proposed carry forward would only apply to carry forward of ACE from the 2019/2020 to the 2020/2021 fishing year.
49. Rock lobster stocks would continue to be closely monitored.

## *Stakeholders*

50. This option has greatest risk of placing additional pressure on rock lobster stocks in the 2020/2021 fishing year, and therefore a greater risk of localised depletions that could impact on customary and recreational users of the resource.

## *Costs*

51. This option would bring most costs to the Crown. It would require a change to Schedule 5A through an Order in Council, as with Option B but would also require a longer and more resource-intensive legislative process through a Bill to amend section 67A of the Act.
52. If an Act amendment came into force after 1 April 2020, then this would require complex retrospective ACE balancing if approval was given to progress an amendment that applied retrospectively.

### **Discussion questions:**

1. Do you agree that these are the correct options to consider? If not, why not?
2. What options should we consider to solve the problem (either as identified in this document, or as you identify the problem), and why?

## 6 Preliminary preferred option

53. Fisheries New Zealand's preliminary preference, pending feedback from consultation, is **Option B**. This option best meets the assessment criteria, would provide rock lobster fishers with the same catch flexibility as most other fisheries, would not pose significant additional sustainability risks, and would enable greater catch management flexibility to address future market fluctuations.

### Discussion questions:

1. Which option do you support and why?
2. Do you think there are other issues that should be considered in deciding whether to enable carry forward of rock lobster ACE?

## 7 Next steps

54. Following consultation, Fisheries New Zealand will develop a Decision Document for the Minister of Fisheries, who will decide whether to proceed with enabling ACE carry forward provisions. Any changes would be subject to approval by Cabinet, and any changes will be implemented as soon as practicable –ideally in sufficient time to provide certainty for fishers' catch management decisions before the end of this fishing year.
55. The Minister of Fisheries' decision on the proposals will be posted on the Fisheries New Zealand website and social media pages, and submitters will be notified directly of the decisions.
56. Fisheries New Zealand will continue to closely monitor rock lobster stocks.