



## Paua Industry Council 2017 Proposal for the Extension of the Commodity Levy on Paua

### Information Booklet

*Please read this Information Booklet carefully before voting.*

**You may vote in one of two ways:**

#### **E-vote**

Follow the instructions on your voting paper to make an on-line vote.

**OR**

#### **Postal vote**

Complete and return your voting paper in the envelope provided to the Returning Officer. The Returning Officer is:

Warwick Lampp  
electionz.com Ltd  
PO Box 3138  
Christchurch 8140

Whichever voting method you use, your vote **must** be received by the Returning Officer **before the close of voting at:**

**12 noon on 11 August 2017**

This is a referendum to determine the support for the extension of the compulsory levy on paua which is used to fund the activities of the Paua Industry Council Limited (“PIC”). The levy, which is set annually, is governed by the Commodity Levies (Paua) Order 2013 (“**the Order**”). The referendum is being conducted under the Commodity Levies Act 1990 (“**the Act**”). If the outcome of the referendum supports the extension of the levy, the Order will be extended by Order in Council for 5 years.

**This information booklet is in three parts:**

#### **Part A**

Description of the proposal to extend the levy.

#### **Part B**

Useful information for voters.

#### **Part C**

Further information on setting levy rates – this section describes the consultation that occurs before PIC sets or adjusts annual levy rates. These consultation requirements are set out in PIC’s constitution.

## A Description of the proposal to extend the levy

This referendum is being conducted under the Act and the following matters are specified in accordance with the Act.

### 1 Who is the levy paid to and who is entitled to spend it?

The levy is payable to PIC and PIC imposes, collects and is accountable for expenditure of the levy.

### 2 Is it compulsory?

The levy is not voluntary – it is compulsory for all persons liable to pay the levy.

### 3 What commodity is subject to the levy?

The commodity that is subject to the levy is wild-caught paua (*Haliotis iris*, *Haliotis australis*).

### 4 Who is primarily responsible for paying the levy?

The levy is paid by paua quota owners. In all cases the levy is paid by the persons primarily responsible for paying it.

### 5 On what basis is the levy imposed?

The levy is based on the “quota weight equivalent” of paua quota shares owned by levy payers. Quota weight equivalent is defined in the Fisheries Act as, in relation to any quota share, the figure in kilograms arrived at by dividing by 100,000,000 the Total Allowable Commercial Catch for the stock to which the quota share relates. Consequently, the quota weight equivalent of a parcel of shares is the quota weight of one share multiplied by the number of shares in the parcel. The levy rate is expressed in dollars per tonne of quota weight equivalent.

### 6 Can a different levy rate be set for different paua stocks?

A different rate can be set for each paua stock (as defined in the Fisheries Act). As described in Part C of this booklet, the levy for each stock is made up of two components – the PIC core services levy and a stock specific levy requested by a PauaMAC. While the stock specific component may vary across different paua stocks, the core services levy rate is in most cases the same across each stock. However, PIC may reduce the core services levy for a stock in two circumstances provided for in PIC’s constitution. Please refer to Part C of this booklet for further details.

### 7 How is the levy invoiced and collected?

Quota owners are invoiced one-twelfth of the annual levy each month. The levy is invoiced to and payable by the person who owns the quota at the close of the first day of each month. This is the due date for payment. The latest date for payment is the 20th of the month in which it is invoiced. Any payment of less than \$50 (exclusive of GST) for any month can be held over and paid in the subsequent month, but payment must not be made at greater than quarterly intervals.

### 8 What happens if someone doesn’t pay the levy on time?

PIC may require the levy payer to pay an additional levy of up to 10% of the unpaid amount.

### 9 What is the levy period?

The levy is set annually for the 12 month period commencing on 1 October each year.

### 10 Is there a maximum rate of levy?

The maximum total levy rate is \$3,100.00 per tonne of quota weight equivalent (exclusive of GST).

### 11 How is the annual levy rate set?

PIC sets or alters the levy rate (up to the maximum) after completing the consultation process described in PIC’s

constitution. Please refer to Part C of this booklet for further details.

### 12 How is the levy rate notified?

PIC notifies the rates for the levy year in the Gazette and also notifies all levy payers directly in writing prior to the start of the relevant levy year.

### 13 What is the levy used for?

PIC spends the levy money on:

- Research and development, including obtaining science and technical services;
- management of paua fisheries;
- policy issues affecting the paua industry;
- promotion of the paua industry;
- education and training; and
- day to day administration of PIC.

The levy cannot be used to fund commercial or trading activities.

### 14 Are there any exemptions?

The only person exempt from paying the levy is the Crown.

### 15 What about conscientious objectors?

A person who objects on conscientious or religious grounds to paying the levy in the manner provided for in the Order may pay the amount to the Chief Executive of the Ministry for Primary Industries, who must ensure that it is paid to PIC.

### 16 What records must be kept?

PIC must keep records of the following information and retain the records for seven years:

- The amount of levy paid to PIC in a year, and for each payment: (i) the amount; (ii) the date on which it is received; and (iii) the name of the person who paid it;
- How (if at all) the levies paid to it in that year were invested;
- How, and when, all levies spent by it were spent.

### 17 How is confidentiality maintained?

People or organisations who gather information as a result of the levy order cannot divulge those details unless required to by law. This does not affect or prevent:

- The use and disclosure of such information for statistical or research purposes provided the information will not be published in a form that can identify any individual or will only be published with the consent of all identifiable individuals;
- Using such information to assist in the invoicing and collection of levies;
- The production of records or accounts under section 17(1) of the Act (which relates to the rights of the Minister to have accounts audited);
- The production of statements under section 25 of the Act (which relates to annual reports and statements);
- Disclosing or using information necessary in the giving of evidence in any legal proceedings taken under or in relation to the levy order under the Act;
- The disclosure of information to, and the use of any such information by, the Returning Officer to determine the voting entitlement and to count the votes of persons primarily responsible for paying the levy.

### **18 Who is entitled to vote?**

All potential levy payers (i.e., all current owners of pawa quota as at 1 July 2017) are entitled to vote in this referendum. The Crown is not entitled to vote as it is exempt from the levy.

If you are a natural person, two or more persons or legal entities operating as a partnership, a body corporate or a trust, you are entitled to cast one vote only per legal entity. The name of the entity entitled to vote is shown on the voting paper.

### **19 What level of support is required to extend the levy?**

Before the levy order can be extended, the Minister for Primary Industries must be satisfied that there is majority support for it by the levy payers, as shown by this referendum. The referendum must therefore be supported by:

- a) More than 50% by number of those voting; and
- b) More than 50% of the combined quota weight equivalent owned by those voting.

Where a voting paper is returned to the Returning Officer not completed or completed incorrectly it will be treated as being a NO vote in accordance with the Act.

### **20 What is the basis for voting?**

The basis for voting is the same as the basis on which the levy is imposed (see paragraph 5 above). The Voting Paper specifies the share of your vote in terms of quota weight equivalent for all pawa stocks you owned on 1 July 2017. You have only one vote that covers all elements of the levy. It is not possible to vote in favour of one element of the levy only.

### **21 How do I vote?**

You may vote in one of two ways:

- **e-vote:** follow the instructions on your voting paper to make an on-line vote; OR
- **postal vote:** complete and return your voting paper in the envelope supplied to the Returning Officer. The details of the Returning Officer are provided at the front of this booklet.

Whichever voting method you use, your vote must be received before 12 noon on 11 August 2017.

Please note that the last day for posting voting papers so that they reach the Returning Officer by the close of voting should be Monday 7 August 2017.

### **22 What if I believe the details in the voting paper are wrong?**

The voting paper contains details of the quota you owned as at 1 July 2017. If you believe there is a mistake, you should advise the Returning Officer at least five days prior to 11 August 2017. The Returning Officer will verify the details and if incorrect forward a new voting paper to you.

### **23 How will information in the voting papers be treated?**

The information contained in the voting papers will be used by the Returning Officer to ascertain the level of support for the extension of the pawa commodity levy. The voting papers will be destroyed by the Returning Officer immediately upon the extension of the Order being confirmed by Order in Council, or upon this referendum failing to obtain the required level of support. The information in the voting paper will be provided to PIC for statistical and research purposes in a form that does not identify any individuals.

### **24 How will the results be notified?**

Everyone who receives a ballot paper will be notified of the results by PIC by means of a newsletter as soon as practicable after the results are known to PIC.

### **25 What if I need more information?**

Further information on the current levy and on the proposed extension is available from PIC at the contact address below. This Information Booklet and other consultation material related to the proposed levy are on the PIC website at [www.pawa.org.nz](http://www.pawa.org.nz). For any inquiries about the election process you can ring the electionz.com Helpline on 0800 666 048.

### **26 What can I do if I object to the proposed extension of the levy order?**

In addition to voting against the extension of the levy order, any potential levy payer or person potentially affected by the levy can make their objection known to PIC and/or the Minister for Primary Industries. You can write to:

Pawa Industry Council Limited  
Private Bag 24 901  
Wellington 6142  
Attention: Jeremy Cooper; OR  
Minister for Primary Industries  
Parliament Buildings  
Wellington

## C Further Information on Setting Levy Rates

This section is **not** part of the Ballot Paper. It explains the consultation and approval process that PIC is required to follow before it can set the annual levy rates under the paua levy order. These requirements, which are entrenched in the PIC constitution, have been implemented by PIC under the current paua levy order every year since 2013. The same requirements will apply if the levy order is extended. A full copy of the PIC constitution can be obtained from PIC or on the PIC website [www.paua.org.nz](http://www.paua.org.nz)

### 1 What are the components that make up the levy?

While there is only one rate of levy declared for any paua stock, two components make up that rate – i.e., the PIC core services component and, if requested by a PauaMAC, the stock specific (or “2<sup>nd</sup> tier”) component.

*The core services* component funds PIC’s own activities, other paua industry-wide services, and the paua industry share of any services provided for the wider benefit of the seafood industry.

*The stock specific* component funds services and projects that are undertaken at the request of a PauaMAC.

These two components of the levy are added together to get the total levy for a stock.

### 2 Who is accountable for the levy?

The total levy (core services levy and stock specific levy) is paid to PIC and PIC is accountable for its expenditure. However, PIC only imposes a stock specific levy at the request of the relevant PauaMAC and only if the mandate of quota owners has been obtained (see point 5 below). PIC then purchases those services from the relevant PauaMAC (for instance, through a contract, MoU, or letter of engagement). The PauaMAC is required to demonstrate to PIC that it has delivered the services required under that engagement.

### 3 Can the levy be set at variable rates?

Variable rates can be set for different paua stocks. This reflects the variable stock specific component that may apply in different paua stocks. The core services component of the levy is usually the same across each of the paua stocks. However, in two circumstances provided for in the PIC constitution, PIC is able to reduce the core services component of the levy for a particular stock:

- *Alternative funding:* If a PauaMAC has its own funding arrangements in place, or has made alternative arrangements with PIC to meet their share of the cost of the core services, PIC may reduce the core services levy rate for that stock by an amount that is equivalent to an amount no greater than the funds received by PIC under those arrangements with the PauaMAC;
- *Over recoveries:* If there has been an over-recovery in a previous year on a stock specific component of the levy, PIC may reduce the core services levy rate for that stock by an amount that is equivalent to an amount no greater than the funds received by PIC under that over-recovery.

### 4 What consultation must PIC undertake before setting the core levy rate for a year?

The process that PIC must follow when setting annual levy rates is set out in the Fifth Schedule of PIC’s constitution. The two components of the levy are consulted on as follows:

- *Core services levy rate:* Before setting the core levy rate, PIC consults levy payers (i.e., quota owners) through the PauaMACs. Each PauaMAC consults the levy payers in that stock on the proposed PIC core services levy rate. This consultation typically occurs through a general meeting of the PauaMAC but may instead occur through written submissions. All quota owners for that fishery (irrespective of whether they are a member of the PauaMAC) have the right to participate. At least four weeks prior to the consultation, PIC must send a summary of its business plan to all levy payers and post a copy of the full business plan on the PIC website.
- *Stock specific levy rate:* PIC can set a stock specific levy only at the request of the relevant PauaMAC. The PauaMAC rules of association require a PauaMAC to follow a special mandating procedure, which is set out in the Sixth Schedule of the PIC constitution, before requesting PIC to set a stock specific levy.

### 5 What mandate must a PauaMAC have before requesting PIC to set a stock specific levy?

As a basic requirement, the PauaMAC must be a shareholder in PIC (i.e., it must represent the owners of at least 51% of the quota in the paua area) and must be a body corporate (i.e., an incorporated society or a company).

The PauaMAC’s annual project plan, budget, and proposed rate of levy, must be approved either at a specially convened meeting of levy payers or through an equivalent postal ballot of levy payers. All quota owners for that fishery (irrespective of whether they are a member of the PauaMAC) have the right to vote at that meeting or postal ballot. A quorum for the voting is persons holding at least 66⅔ percent of the quota weight equivalent for the fishery. The proposal must have the support of at least 66⅔ percent (by quota weight equivalent) of those voting.

Aside from complying with the process in the PIC Sixth Schedule, a PauaMAC’s rules of association may also specify additional requirements (e.g., approval of the project plan by PauaMAC members and/or a higher threshold for approval).

### 6 How secure are these consultation provisions?

The parts of the PIC constitution that prescribe the procedures governing the setting of the commodity levy rates are entrenched. This means they cannot be altered during the five-year period of the levy order without the approval of the Minister for Primary Industries.

### 7 What other checks and balances apply?

PIC’s constitution requires its auditors to audit the expenditure of the levy money to ensure that money levied for core services and stock specific services has been used for these purposes.