

# REGULATORY IMPACT STATEMENT

## East Otago Taiapure – Regulatory Interventions

### Agency Disclosure Statement

1. This Regulatory Impact Statement has been prepared by the Ministry of Fisheries (the Ministry).
2. It provides an analysis of proposed regulations aimed at reducing fishing pressure and increasing fish population levels in the East Otago Taiāpure. The East Otago Taiāpure Management Committee (the Committee) has recommended introducing the regulations.
3. There is limited scientific information about actual fish populations in the Taiapure. Accordingly, the analysis is based mainly on the Committee's knowledge of the populations and fishing pressure.
4. Although the preferred option will limit the spatial extent of potential commercial cockle harvesting, it has the support of all cockle quota holders and does not change the status quo in regard to areas that are currently commercially harvested. The preferred option will not override fundamental common law principles.



Gavin Lockwood  
**Deputy Chief Executive – Fisheries Management**

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### Executive Summary

The East Otago Taiāpure Management Committee (the Committee) is concerned that key fishery populations within the East Otago Taiāpure (the Taiāpure) are in a depleted or severely depleted state and that the current level of harvest is not sustainable. To reduce fishing pressure and provide for a rebuild of fishery populations, the Committee is recommending the following regulatory changes to the Minister of Fisheries (the Minister):

- (a) Reduction of amateur bag limits for paua and kina
- (b) Reduction of combined amateur bag limits for shellfish (including crayfish) and finfish (including long-finned eels)
- (c) Limiting the spatial extent of commercial cockle fishing in the Taiāpure; and
- (d) Temporarily closing the waters around Huriawa Peninsula to paua fishing.

The Ministry considers that the Committee's recommendations will have no financial impact on commercial fishing. The Ministry considers that the recommendations will limit some recreational fishing activities within the Taiāpure. This impact is deemed to be minor, and the Ministry considers that it will be outweighed by the long run benefits of enhanced fish populations, including better fishing.

There are other accessible fishing areas in close proximity to, but outside, the Taiāpure. Therefore, the Ministry considers the proposed regulations would have little or no impact on tourist and charter operators. Any impact is also likely to be outweighed by the long run benefits of improved fish populations which would provide more and better opportunities for fishing. No submissions were received from these groups.

### Adequacy Statement

This Regulatory Impact Statement has been approved by the Ministry's Regulatory Impact Analysis Review Group and is considered adequate according to criteria agreed by Cabinet.

### Status Quo and Problem

The Fisheries (Commercial Fishing) Regulations 1986 and the Fisheries (South-East Area Commercial Fishing) Regulations apply to commercial fishing within the Taiāpure. The Fisheries (South-East Amateur Fishing) Regulations 1986 and the Fisheries (Amateur Fishing) Regulations 1986 apply to recreational fishing within the Taiāpure.

The relevant existing amateur bag limits that apply within the Taiāpure are 10 for paua; 50 for kina; 30 for finfish, combined; and 50 for shellfish, combined.

The Committee is concerned that key fishery populations within the Taiāpure are in a depleted or severely depleted state and that the current level of harvest is not sustainable. The Committee includes tangata whenua, recreational and commercial fishing representatives. This makeup ensures that members are well placed to assess changes in fishing pressure in their local area. Independent information to

support their qualitative assessment is limited, but surveys for paua and other shellfish species, undertaken by the University of Otago<sup>1</sup> suggest populations of kina and paua are reduced from what they once would have been, particularly in the more accessible parts of the Taiāpure.

Section 185 of the Fisheries Act 1996 (the Act) allows a taiāpure-local fishery management committee to recommend to the Minister the making of regulations for the conservation and management of fish, aquatic life, or seaweed in the taiāpure local fishery.

The Taiāpure was gazetted in 1999 and the Committee appointed in 2001. This is the second time that the Committee has recommended the making of regulations<sup>2</sup>.

## Objectives

The fisheries management objectives being addressed by this proposal are:

- Better provision for the recognition of rangatiratanga and of the right secured in relation to fisheries by Article II of the Treaty of Waitangi (Part IX of the Fisheries Act 1996)
- The general objectives for the Taiāpure, including the sustainable utilisation of fisheries resources in the Taiāpure; and
- The value of the resource is maximised for the local community and management of the resource is credible.

## Alternative Options

### (e) *Status quo*

The alternative to the proposed regulations is that the Minister does not accept the Committee's recommendations and the proposals do not proceed. This option could potentially undermine the purpose of the Taiāpure and appointment of the Committee, and the Committee's concerns about the current state of fish populations in the Taiāpure would not be addressed.

### (f) *Voluntary measures*

Under the status quo, the Committee would need to rely on voluntary measures to address their concerns about the state of fish populations in the Taiāpure. As most fishers are not resident in the area and the risks of non-compliance with voluntary measures are high, the Ministry does not consider that this would be effective in meeting the objectives of the Taiāpure.

### (g) *Section 186B closure*

As an alternative to a regulatory closure of the Huriawa Peninsula under section 297 (via a recommendation under section 185) of the Fisheries Act 1996, a closure under section 186B was considered. However, section 185 is specifically designed for taiāpure purposes; and the Ministry considers it is preferable to use this section (and section 297) to achieve the committee's aims, rather than section 186B. The Committee concurs with this assessment.

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<sup>1</sup> Work completed by the University under a FRST 'Te Tiaki Mahinga Kai' project suggests less than 1% of paua above the size limit in some of the more accessible parts of the Taiāpure. However, this work has not been completed nor reviewed by MFish

<sup>2</sup> The first recommendation related to the use of setnets in the Taiāpure and a regulation was introduced as a result

## Preferred Option

The preferred option is to make changes to regulations as recommended<sup>3</sup> by the Committee:

- Reduce the amateur maximum daily bag limit of paua from 10 to 5, and kina from 50 to 10 within the Taiāpure;
- Set the amateur maximum combined daily limit to 50 shellfish within the Taiāpure<sup>4</sup>;
- Reduce the amateur maximum combined finfish daily bag limit from 30 to 10 within the southern part of the Taiāpure<sup>5</sup>;
- Prohibit the commercial take of cockles outside of the 'non-sanitation areas' within Waitati Inlet;
- Temporarily prohibit the commercial or amateur harvest of paua from the waters around Huriawa Peninsula for two years.

This option is endorsed by the tangata whenua, recreational and commercial fishing representatives on the Committee. Consultation suggests the community and most stakeholders are comfortable with the Committee's proposal, although there are differences in view in terms of some specific details.

The main impact of the proposed regulations is on recreational fishing. The proposed bag limits for shellfish and finfish reduce the maximum amount of fish and shellfish recreational fishers would be able to take on a daily basis. However, the reduced state of many of these populations means current catch limits are likely to be unobtainable. Consequently, the Ministry considers impacts are minor, and outweighed by the long run benefits of enhanced fish populations, including better fishing.

The Ministry considers this option will have no significant cost in terms of commercial fishing within the Taiāpure. Although the southern side of Huriawa Peninsula is open to commercial paua fishing, no paua has been commercially taken within the relevant statistical area in the last five years.

Cockles are commercially harvested from within the taiāpure area but the proposal to limit the spatial extent of harvesting to currently fished beds is fully supported by cockle quota owners.

The proposals are expected to have no cost in terms of commercial fishing for finfish within the Taiāpure. The recommended regulations do not relate to commercial finfish fishing. The Committee is in discussion with commercial trawlers to look at ratifying the existing voluntary agreement within the Taiāpure.

There are other accessible fishing areas in close proximity to, but outside, the Taiāpure. Therefore, the Ministry considers the proposed regulations would have little or no impact on tourist and charter operators. Any impact is also likely to be outweighed by the long run benefits. No submissions were received from these groups.

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<sup>3</sup> Section 185 of the Fisheries Act 1996 allows a taiāpure-local fishery management committee to recommend to the Minister of Fisheries the making of regulations for the conservation and management of fish, aquatic life, or seaweed in the taiāpure local fishery.

<sup>4</sup> For the purpose of this proposed regulation the definition of 'shellfish' includes rock lobster.

<sup>5</sup> For the purpose of this proposed regulation the definition of 'finfish' includes long and short finned eels.

Additional compliance costs would be incurred under this option. Specific recreational bag limits for the Taiāpure will require additional effort to educate recreational fishers and enforce the reduced limits within a localised area. Direct costs of up to \$10,000 are anticipated for new signage and amendments to brochures. Implementation of the preferred option is discussed in more detail in the following section.

## **Implementation and Review**

The Committee had originally requested the measures be in place for the 2009/2010 summer. The Ministry proposes that these amendments take effect as soon as practical.

Recreational fishers will be notified of changes via the Ministry's Southern Recreational Fishing network, signage, pamphlets, and material posted on the Ministry's external website and through contact with Ministry staff. There are a limited number of affected commercial fishers and they are already aware of the proposed changes.

The Committee has indicated it will take a proactive approach to support education within the local community about the need for the new rules. For example, the Committee is running a 'Kids as Tangata Tiaki' programme in association with local schools.

Monitoring of compliance, and where necessary enforcement of the proposed regulations would be carried out by Fishery Officers, and for recreational aspects, supported by Honorary Fishery Officers.

The commercial closures will be implemented through amendments to the Fisheries (South-East Area Commercial Fishing) Regulations 1986. The changes to bag limits and amateur closure will be implemented through amendments to the Fisheries (South-East Area Amateur Fishing) Regulations 1986. There will be consequential changes to the Fisheries (Infringement Offences) Regulations 2001, with penalties at a level that are consistent with the current regime.

The Committee proposes to survey the area for the next two years<sup>6</sup>. This would enable the Committee to review the effectiveness of these proposals in light of information from the surveys.

## **Consultation**

The Ministry assisted the Committee to undertake consultation on their proposed recommendations on your behalf. The proposal was notified in The Otago Daily Times and the East Otago Review, placed on local notice boards sent to interested parties and posted in full on the Ministry's website. The Committee also took the proposal to the groups they represented and received endorsement by them.

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<sup>6</sup> The Committee works with the University of Otago through the Te Tiaki Mahinga Kai project to monitor the fish populations within the Taiapure.

