

AKAROA HARBOUR TAIĀPURE – RECOMMENDATION TO MAKE REGULATIONS – FINAL ADVICE



Figure 1: Map showing the Akaroa Harbour Taiāpure-Local Fishery.

Executive Summary

- 1 Section 185 of the Fisheries Act 1996 (the Act) allows a taiāpure-local fishery management committee to recommend to the Minister of Fisheries the making of certain regulations for the conservation and management of fish, aquatic life, or seaweed in the taiāpure-local fishery.
- 2 The Akaroa Taiāpure Management Committee (the Committee) is concerned about key fisheries stocks within the Akaroa Harbour Taiāpure (the Taiāpure – see Figure 1) that they consider are in a depleted state. To reduce fishing pressure and encourage the recovery of these key stocks, the Committee is recommending to you the making of certain recreational fishing regulations for the Taiāpure.
- 3 In February this year, you agreed to consult on the Committee's initial

proposal to recommend the making of regulations (refer attached paper). The initial proposal was to:

- (a) Reduce the maximum daily bag limits in the Taiāpure for certain species, as follows:

<u>Species</u>	<u>Existing bag limit</u>	<u>Proposed bag limit</u>
Blue cod	30	3
Blue moki	15	3
Butterfish	15	3
Catseye	50	20
Cockles	150	20
Red cod	10 ¹	3
Rock lobster	6	3
Sea perch	no limit	3
Trumpeter	15	3

- (b) Reduce the maximum combined finfish daily bag limit for the Taiāpure from 30 to 10;

- (c) Prohibit the taking or possessing of seahorses and oysters from the Taiāpure; and

- (d) Prohibit the taking or possessing of shellfish from the Onawe Peninsula area (see Figure 2).

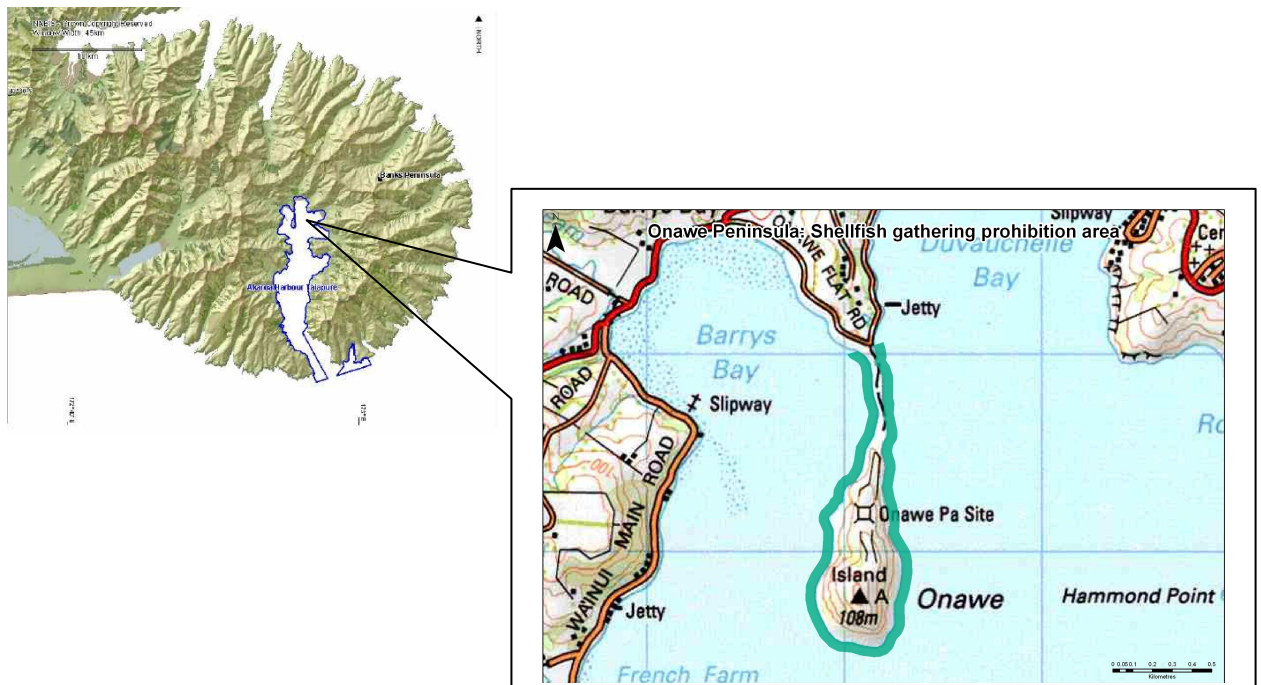


Figure 2: Onawe Peninsula area

¹ The initial proposal refers to a bag limit of 30. The daily bag limit for red cod in the South-East fisheries management area was reduced on 1 April 2008 from 30 to 10, while consultation on this proposal was underway.

4 Consultation on the Committee's initial proposal has been completed, with submissions showing a mixture of support for and opposition to the proposal. The Committee has amended its recommendation so that its final proposal takes into account submissions received by no longer prohibiting the taking of oysters from the whole Taiāpure. The Ministry of Fisheries (MFish) will also work with the Committee on the wording around taking and possession in reference to the daily bag limits to improve enforcement of the regulations for the Taiāpure.

5 The final recommendation is endorsed by all the members of the Committee.

6 MFish recommends that you approve the final recommendation from the Akaroa Taiāpure Committee to:

(a) Set the maximum daily bag limits at **3** each for blue cod, blue moki, butterfish, red cod, rock lobster, sea perch, and trumpeter, and **20** each for catseye and cockles from the Taiāpure;

(b) Set the maximum combined finfish daily bag limit at **10** from the Taiāpure;

(c) Prohibit the taking or possessing of seahorses from the Taiāpure; and

(d) Prohibit the taking or possessing of shellfish from the Onawe Peninsula area of the Taiāpure.

7 The Committee's recommendation is made under s 185 of the Act. The regulations would be implemented under s 297(1)(a) through amendments to the Fisheries (South-East Area Amateur Fishing) Regulations 1986.

Background

8 The object of Part IX of the Act is to make better provision for the recognition of rangatiratanga and of the right secured in relation to fisheries by Article II of the Treaty of Waitangi. Among other things, it provides for the establishment of taiāpure-local fisheries and, once established, for the appointment of a management committee. Any such committee has the power (under s 185 of the Act) to recommend to the Minister of Fisheries the making of regulations for the conservation and management of the fish, aquatic life, or seaweed in the taiāpure-local fishery.

9 The Ōnuku, Waiwera, and Koukourārata application for a taiāpure-local fishery was gazetted as the Akaroa Harbour Taiāpure in February 2006 and the Committee appointed in December 2006. The Committee includes rūnanga members, along with representatives from local commercial and recreational fishing groups, and charter and tourist operators.

10 The Committee's main focus has been on how to reduce the pressure on the fisheries resources of the Akaroa Harbour and rebuild those resources. This is the first time the Committee has recommended regulations for the Taiāpure.

11 Under s 185 of the Act, a taiāpure-local fishery management committee may recommend to the Minister of Fisheries the making of regulations for the conservation and management of the fish, aquatic life, or seaweed within the taiāpure-local fishery.

Existing regulations

12 Recreational fishing in the area is controlled through the Fisheries (South-East Area Amateur Fishing) Regulations 1986 and the Fisheries (Amateur Fishing) Regulations 1986. Bag limits are the primary means of managing recreational take. Relevant existing bag limits are:

<u>Species</u>	<u>Existing bag limit</u>
Blue cod	30
Blue moki	15
Butterfish	15
Catseye	50
Cockles	150
Red cod	10 ²
Rock lobster	6
Sea perch	no limit
Trumpeter	15

13 There is a bag limit of 50 for dredge oysters,³ a minimum size of 58 mm, and a closed season from 1 September to the end of February applies, unless oysters are taken by handgathering (in which case there is no limit as to size or season). There are no existing recreational regulations that apply to seahorses within the Taiāpure.

The Issue

14 The Committee is concerned about pressure on, and the depleted state of, fisheries resources within the Akaroa Harbour. In particular, it has identified issues with the state of stocks of blue cod, red cod, butterfish, blue moki, trumpeter, sea perch, catseye, and seahorse. It is also concerned about shellfish stocks in the Onawe Peninsula area of the Taiāpure. Through its own enquiries and the commercial representative on the Committee, the Committee understands that there is minimal commercial fishing in the Taiāpure. Therefore, the Committee's main concern is with the impact of recreational fishing.

Summary of Options

Option 1 – Status quo

15 The status quo is that the Fisheries (South-East Amateur) Fishing Regulations 1986 and the Fisheries (Amateur Fishing) Regulations 1986 will apply as they currently stand to fishing within the Taiāpure (see *Existing Regulations* above).

² The daily bag limit for red cod in the South-East fisheries management area was reduced on 1 April 2008 from 30 to 10 (see footnote 1)

³ Regulation 19 of the Fisheries (Amateur Fishing) Regulations 1986. Other types of oyster are not known to exist in the South-East fisheries management area

Option 2 – Code of Practice

16 The Committee have considered a voluntary code of practice to reduce fishing pressure as an alternative to regulations. It could cover such things as use of hooks appropriate to the target species, line fishing best practice, net use, returning large breeding fish to the water, and reporting of recreational catch.

Option 3 - Final Proposal

17 Taking into account the submissions received after the completion of the consultation process, the Committee's final proposal is for recreational fishing regulations for the Taiāpure that:

- (a) Set the maximum daily bag limits at **3** each for blue cod, blue moki, butterfish, red cod, rock lobster, sea perch, and trumpeter, and **20** each for catseye and cockles;
- (b) Set the maximum combined finfish daily bag limit at **10**;
- (c) Prohibit the taking or possessing of seahorses from the Taiāpure; and
- (d) Prohibit the taking or possessing of shellfish from the Onawe Peninsula area of the Taiāpure.

18 The Committee's final proposal takes into account submissions received by no longer prohibiting the taking of oysters from the whole taiapure.

Consultation

19 Consultation on the Committee's proposal was undertaken by MFish and the Committee on your behalf. The proposal was notified in The Press and Akaroa Mail, sent to interested parties and posted in full on MFish's website. The Committee also took the proposal to the groups they represent and received endorsement by them.

Submissions Received

20 Submissions regarding this proposal were received from:

- Akaroa Civic Trust
- Akaroa Harbour Marine Protection Society Incorporated
- Akaroa Harbour Marine Recreational Fishing Club (feedback provided to the Committee)
- David Brailsford (resident of French Farm Valley, recreational fisher and diver)
- Vince Burke (telephone conversation with Nigel Scott (Environmental Advisor, Te Rūnanga o Ngāi Tahu) 15 May 2008)

- Department of Conservation (Mike Cuddihy, Conservator, Canterbury Conservancy)
- Tony Dobbie
- Friends of Banks Peninsula Incorporated
- Alan Hemsley
- Mainland Fishing Adventures (Roger Withel – telephone conversation, with Nigel Scott (Environmental Advisor, Te Rūnanga o Ngāi Tahu) 15 May 2008)
- Wayne Leslie Morgan (local Maori from Onuku, recreational fisher)
- Wilma Morgan (Onuku resident for 6 years)
- Chris Muirhead (resident of Duvauchelles and recreational fisher)
- Royal Forest and Bird Protection Society of New Zealand Incorporated
- Evan Still (charter boat operator and recreational fisher)
- Evan Still & 31 others (Akaroa Recreational and Charter Fishing Association)
- Paddy Stronach
- Kathleen Tarpey-Ward, and
- Desmond Ward.

21 The submissions, together with the Committee’s responses, are discussed below.

Bag Limits

22 **Evan Still and 31 others** believe that there should be reductions, but that these need to be “realistic, manageable and enforceable”. They refer to anecdotal evidence from Picton that reducing blue cod bag limits has resulted in high-grading by fishers. To avoid this, they suggest a “more reasonable” bag limit of 5 cod (blue or red), 5 moki, 5 sea perch, and 5 trumpeter. They encourage a reduced (sic) bag limit of 30⁴. **Alan Helmsley** also submits that bycatch and high-grading will still occur if the bag limits are reduced.

23 **Wayne Morgan and Wilma Morgan** agree that there has been a decline in fish stocks and consider there are a number of factors causing this, not just fishing. They recommend the bag limits be set at: 5 for all types of finfish; 50 mussels; 50 cockles; 5 paua; 20 kina; 3 rock lobsters; nil for seahorse, catseye, and oysters; and a

⁴ The combined bag limit for listed finfish species is already 30 in this area. It is unclear if the submitters intended to propose a different limit, or were unaware this is the existing limit.

combined daily bag limit of 10 for finfish. **Chris Muirhead** also submits the bag limit for all finfish species should be 5.

24 **Kathleen Tarpey-Ward** and **Desmond Ward** object to lowering the bag limits, stating they will have to go outside the harbour to catch enough fish. **Desmond Ward** states that “there are plenty of fish in the harbour one just needs to know where they are”.

25 The **Akaroa Harbour Marine Protection Society Incorporated (AHMPS)** submits that the limit for red cod be set at zero until the stocks have sufficiently recovered.

26 **Mainland Fishing Adventures** supports the proposed change to the blue cod bag limit, but suggests the reduction should apply to the whole South Island.

27 **Desmond Ward** states that there are lots of large rock lobster. **Chris Muirhead** states that rock lobster stocks are plentiful and that a reduction in the bag limit is not justified. **Evan Still and 31 others** quote evidence from local divers that there is a surplus of rock lobster beyond the heads. Although they see the need to reduce rock lobster fishing within the harbour limits, they do not see any reason to change the limits outside the harbour.

28 **Tony Dobbie** states that paua are far more depleted than any other shellfish, and that he is surprised they are not included in the proposals.

29 The **Royal Forest and Bird Protection Society of New Zealand Incorporated (Forest & Bird)** and **Friends of Banks Peninsula Incorporated (FBP)** are concerned about lack of a timeframe for the duration or review of the proposed regulations and lack of information about monitoring their effectiveness.

30 **Forest & Bird**, the **AHMPS**, and the **FBP** are concerned about the lack of information about current take of fish or scientific basis for the proposed catch limits. They submit that if the proposed limits are higher than current catches the aim of the proposal will not be achieved. **AHMPS** submits the Committee should wait for the results of research by a PhD student in the harbour (due to be completed in June 2009) before the proposed regulations are taken further.

Committee's Response

31 The Committee has received and discussed these submissions and comments that it would have liked to have completed some population studies, but did not have funds available for the work. The Committee has signalled it will seek funding from MFish to conduct population studies.

32 The Committee does have some new data on recreational fishing thanks to a Te Runanga o Ngai Tahu (TRoNT) funded survey (see *Who is catching what? A survey of fishing effort and success on the Akaroa Taiapure*; and *Dan Rodgers Reef: Preliminary Results from Akaroa Recreational Fishing Survey 2007-2008*, both presentations for the Committee from the School of Biological Sciences, University of Canterbury). This is a baseline study to enable changes in fishing activity and stocks to be tracked over time. It has only become available since consultation on the

proposed regulations commenced, and results are preliminary. The results, from a relatively small sample⁵, show:

- (a) A roughly 50:50 split in people fishing inside and outside the harbour;
- (b) Recreational fishing effort concentrated more towards the outer harbour, particularly around Dan Rodgers Reef (23% of all recreational fishing trips and 41% of trips inside the harbour were in this area);
- (c) The majority (>75%) of recreational fishers fish by rod and line from boats;
- (d) More than 50% of recreational fishers are Christchurch residents, with less than 10% resident in Akaroa township and a similar amount from Banks Peninsula;
- (e) The most common target species was blue cod; and
- (f) The most frequently taken species inside the harbour (by number) was mussel, with paua the next most frequent. Blue cod and flounder were the most frequently taken finfish.

The fishing survey is to continue over the summer of 2008-09, with final results due around mid 2009.

33 Although the Committee acknowledges the concerns about lack of scientific information, it notes that a taiāpure is a local fisheries tool to empower customary rights and local knowledge. The Committee considers it has based its recommendation on the best available information including local knowledge.

34 The Committee states that local knowledge and scientific monitoring (if funds are available) will determine how long the changes stay in place. It suggests some changes to recreational fishing rules may be permanent.

35 The Committee argues that the bag limits it is recommending are enough for “an adequate feed.” It states that the Akaroa Harbour Recreational Fishing Club agrees that it is adequate for finfish. It considers it inappropriate to set the red cod bag limit at zero as this would place very significant pressure on blue cod stocks. It also considers a combined daily bag limit of 30 to be inappropriate for such a small fishery. The Committee notes that Ngāi Tahu is lobbying for bag limit reductions for blue cod (and other finfish and shellfish species) across the South Island.

36 The Committee acknowledges the comments about rock lobster. However, they wish to rebuild stocks further and consider the proposed bag limit for rock lobster is also “an adequate feed”. The Committee is unclear whether the area referred to as “beyond the heads” is outside the Taiāpure. It states that the areas of the Taiāpure that are outside the heads (Haylocks Bay and Damons Bay) are very small areas.

⁵ 141 intercept interviews, and 60 trip records (completed by 23 participants)

37 The Committee has had lengthy discussions about paua and feels no action is warranted at present, but it will take measures in future if required.

38 The Committee has not made any changes to its recommendations on bag limits as a result of these submissions.

MFish Comment

39 Section 10 of the Act requires fisheries management decisions to be based on the best available information. It also states that the “absence of, or any uncertainty in, any information should not be used as a reason for postponing or failing to take any measure to achieve the purpose of” the Act.

40 The best available information is included in this assessment of management options. Where there are uncertainties in that information these are identified and discussed. Those uncertainties make it difficult to accurately quantify the costs and benefits of the proposed regulations.

41 MFish considers that the Committee has based its recommendations on the best available information, including local knowledge of the fisheries resources of the Akaroa Harbour and the information that is available so far from the TRoNT funded survey. The lack of scientific information or information on the amount of recreational take would not justify delaying implementation of the proposed regulations.

Oysters and Seahorses

42 **Desmond Ward** states that few people take oysters and that “there are hundreds of oysters” where he gets them. He does not see the need to ban taking oysters.

43 The **AHMPS**, **Wayne Morgan**, and **Wilma Morgan** support the ban on the harvesting of oyster and seahorse. **Wayne Morgan** and **Wilma** would also prohibit the harvesting of catseye. **AHMPS** is concerned about the lack of information on how long the prohibitions would last. **David Brailsford** believes the prohibition should apply to all species, not just shellfish, and cover a larger area to protect more habitats.

44 **Paddy Stronach**⁶ and **Alan Hemsley** want clarification of the proposal in regard to which oysters are intended to be included. Oysters are defined in the Fisheries (Amateur Fishing) Regulations 1986: “includes the kinds of molluscs known as *Saccostrea glomerata* (formerly known as *Crassostrea glomerata* or *Saxostrea glomerata*) and *Crassostrea gigas*, commonly known as the rock oyster and Pacific oyster respectively; and *Tiostrea chilensis* (formerly known as *Ostrea lutaria*), commonly known as the dredge oyster”.⁷

6 Paddy Stronach asks what the limit is for mussels. The daily limit for mussels is 50 per person. The Committee is not recommending that the bag limit change for mussels.

⁷ All oysters within the Taiāpure are dredge oysters (*Tiostrea chilensis*), even though they are often found on rocks. Dredge oysters exist in different ecomorphs, ie attached to rocks or free standing on the substrate, and so can look quite different even though they are the same species.

45 The **Akaroa Harbour Marine Recreational Fishing Club** notes that in many areas it is not possible to collect mussels without the bycatch of oysters. **Paddy Stronach** asks what happens if he accidentally collects a mussel with an oyster attached.

46 **Wilma Morgan** suggests that stock for seahorse and oyster farming be brought in from elsewhere so as not to impact the local populations. This submission is not applicable to the proposed regulations and the Committee has made no comment on it.

Committee's Response

47 The Committee have amended the proposal in response to submissions and there is no longer to be a prohibition on collecting oysters in the Taiāpure. The Committee agreed with the concern about bycatch of oysters when harvesting mussels, and this was part of the rationale for amending the proposal. Oysters will, however, be included in the prohibition on shellfish gathering from the Onawe Peninsula area.

48 The Committee has not amended its recommendation to include prohibiting the harvest of catseye, and has kept its recommendation for a daily bag limit of 20 per person.

MFish Comment

49 If there were to be a prohibition on taking oysters, and should oysters be taken as a bycatch of mussels, fishers would be able to return oysters to the water under regulation 28 of the Fisheries (Amateur Fishing) Regulations 1986.

Onawe Peninsula - Shellfish

50 The **AHMPS**, **David Brailsford**, and **Wilma Morgan** support the ban on shell fishing on the Onawe Peninsula. The **AHMPS** suggests also prohibiting shellfish harvesting in Barrys Bay, Duvauchelle, or Robinsons Bay.

51 **Chris Muirhead** wants the public to be able to access rock oysters on and around Onawe Peninsula.

52 **FBP** asks if the regulations for Onawe Peninsula will apply to all shellfish or only those currently covered by fishing regulations. The prohibition on taking shellfish would apply to all species that fall within the definition of shellfish in the Fisheries Act 1996: “includes all species of the phylum Echinodermata and phylum Mollusca and all species of the Class Crustacea at any stage of their life history, whether living or dead”.

Committee's Response

53 The Committee considered recreational fishing of paua, kina, and mussels and agreed not to address them through the proposed regulations. It considers that setting a daily bag limit for cockles at 20 should be enough to protect stocks elsewhere in the

Taiāpure. The Committee will take further measures in future if required, but has not changed its recommendation to prohibit taking or possessing shellfish from the Onawe Peninsula area.

Marine Reserve

54 **Forest & Bird**, the **AHMPS**, the **FBP**, and **David Brailsford** submit that the proposed regulations should not be approved until a decision is made on the application for a marine reserve in the Dan Rodgers area. They submit that bringing in the regulations before a marine reserve is established would result in increased fishing pressure on the Dan Rodgers area. The **AHMPS** and **FBP** believe that the proposed marine reserve (and, in the case of **FBP**, the effectiveness of the Taiāpure) would be compromised as a result. **FBP** does not consider voluntary methods could be relied on to reduce fishing pressure until a decision on the marine reserve proposal is made.

55 The **AHMPS** submits that the marine reserve “will be of significant benefit to the success of the taiapure”. **Forest & Bird** and **FBP** see taiāpure and marine reserves as complementary. They see the marine reserve as a benchmark or baseline against which to measure the success of other management methods in the harbour.

56 **Wayne Morgan** and **Chris Muirhead** do not support the proposed Dan Rodgers marine reserve. **Evan Still** and **31 others** believe the proposed marine reserve is in the wrong place and suggest an alternative area that they believe would encourage restocking of fish and encourage Hector's dolphins further into the harbour. They also suggest it needs to be in an area with greater access to the public.

Committee's Response

57 The Committee considers that the fishery requires urgent action, and notes the marine reserve may not be established. The Minister of Conservation has indicated she will make a decision on the proposed marine reserve later this year⁸.

MFish Comment

58 Fishing effort may increase in the area of the proposed marine reserve as a result of the proposed regulations. MFish notes the TRoNT funded survey suggests fishing effort is already higher in the Dan Rodgers area than other areas of the harbour. Any increase in fishing pressure is likely to be temporary as, if the marine reserve is approved, the area will become a no take area. Alternately, the Committee has previously indicated an intention to apply to extend the Taiāpure into this area if the marine reserve does not proceed. In the latter case, any regulations applying to the Taiāpure could then apply to this area. MFish notes that the Committee has indicated opposition to the marine reserve.

Boundaries of the Taiāpure and Pohatu Marine Reserve

59 The **AHMPS** and **FBP** note that there is currently around 260m between the boundary of the Taiāpure and the boundary of the Pohatu Marine Reserve. They

⁸ from correspondence quoted in the AHMPS submission

suggest this creates problems for compliance and boundary identification and needs to be addressed with urgency.

MFish Comment

60 MFish is aware of this issue and is working on rectifying it.

Enforcement

61 **Tony Dobbie**⁹, **Wayne Morgan**, and **Wilma Morgan**¹⁰ submit that the limits should apply to all fish landed within the Taiāpure because of the difficulty in proving where fish has been taken. **Evan Still and 31 others**¹¹ submit that all fish being landed in the Taiāpure should have to comply with the regulations, regardless of where they are caught. **FBP** and **David Brailsford** consider that there would be problems with enforcement as it would be difficult to prove where (in the Taiāpure or the proposed Dan Rodgers marine reserve) fish were caught.

62 **Tony Dobbie** states that MFish has allowed the area to be stripped of shellfish and cannot be relied on to ensure compliance. He submits that the Committee would have to enforce the proposed regulations. **Wayne Morgan** and **Wilma Morgan** want an increased presence of Fishery Officers. **Evan Still and 31 others** feel that current levels of policing by MFish are “grossly inadequate”, and that any change will require increased policing. They believe there should be an extra 10 Honorary Fishery Officers.

63 **Wilma Morgan** submits that there needs to be extensive publicity about any changes.

Committee’s Response

64 The Committee has indicated it will lobby for further Honorary Fishery Officers to be appointed in the area. The Committee will use the opportunity of the survey over the summer of 2008/09 to educate people on the rules. There will be press releases and public notifications of any new regulations.

MFish Comment

65 To assist with enforcement, the Committee and MFish will look to refine the wording around taking and possession in reference to the daily bag limits specified in the regulations.

66 MFish notes that it is a defence to a charge of possession of more than the maximum daily number of fish if a fisher can satisfy the court that the excess fish were not taken in breach of the regulations (regulation 8(3) of the Fisheries (South-east Area Amateur Fishing) Regulations 1986). This defence would be available where fish had been taken outside the Taiāpure and were being landed through the

⁹ With the exception of charter boats fishing offshore

¹⁰ Wayne and Wilma Morgan would exclude commercial boats from the regulations

¹¹ Two submissions were received from Evan Still. These are largely identical, though one is signed by 31 others. The only difference is reference to ‘Customary rights’ in the group submission. “Evan Still and 31 others” refers to both submissions

Akaroa Harbour.

67 Signage will be erected advising of the rules in the Taiāpure and relevant printed recreational fishing information will be updated. Monitoring and enforcement will occur through existing programmes and activities carried out in the area.

68 Fishery Officers and Honorary Fishery Officers (HFOs) will educate fishers about the rules that apply in the Taiāpure. They will also encourage voluntary compliance.

69 Indicators of compliance levels show that offending is relatively low in the Akaroa Harbour area. Therefore, MFish considers that it is not necessary (based on risk of offending and given limited resources) to increase the current allocation of enforcement resources in the area. However, MFish is continuing attempts to recruit more HFOs for the area.

Commercial Fishing

70 **Chris Muirhead** and **Paddy Stronach** submit that the regulations should apply to commercial fishers as well as recreational fishers. **Alan Helmsley** submits that commercial fishing needs to be included to protect the fishery against future abuse. **Forest & Bird** also submit commercial fishing needs to be controlled as it contributes to depletion of stocks.

71 **Evan Still and 31 others** agree that there is limited commercial fishing in the harbour and that it does not need to be included in the proposed regulations. However, they are concerned about fishing outside the harbour and consider that overfishing in that area is the main cause of the current state of the fishery inside the harbour and Taiāpure. They consider this issue needs to be addressed if fish stocks are going to recover to acceptable levels.

Committee's Response

72 There is limited commercial fishing within the Taiāpure. However, the Committee intends to monitor the situation and address issues in the future if necessary.

MFish Comment

73 The Committee's power under the Act to recommend the making of regulations is limited to the area of the Taiāpure. Therefore it cannot address concerns about commercial fishing outside the harbour in the same way as inside the Taiāpure. But, the Committee may choose to raise these issues with MFish or you if it is concerned.

Customary Rights

74 **Evan Still and 31 others** state there is anecdotal evidence of abuses of the customary rights system which they state "should become an enforcement issue for the governing body." **Vince Burke** would like tangata tiaki/kaitiaki to be bound by the same rules. **Chris Muirhead** wants the recreational rules to apply to local runaka

and an outside community member to be involved with issuing of customary fishing permits.

Committee's Response

75 The Committee advises that tangata tiaki/kaitiaki do not currently issue authorisations for species included in the proposed bag limits. It states it is cultural practice not to fish Onawe Peninsula. It notes tangata tiaki/kaitiaki cannot be bound by other fisheries regulations in the way suggested.

MFish Comment

76 Regulation 11 of the Fisheries (South Island Customary Fishing) Regulations 1999 (the Customary Regulations) empowers tangata tiaki/kaitiaki to authorise the taking of fish, aquatic life, or seaweed for customary food gathering purposes. Regulation 4 states that, where there is any inconsistency between the Customary Regulations and any other regulations made under the Fisheries Act 1983 or the Fisheries Act 1996, the Customary Regulations prevail. Therefore, the proposed changes to the recreational fishing regulations cannot override tangata tiaki/kaitiaki authorisation powers.

Safety & Cost

77 **Kathleen Tarpey-Ward** and **Desmond Ward** submit that decreasing the bag limits will mean that people have to go further out to sea to fish. They argue that this, combined with the increased cost of fuel, will make it too expensive for ordinary people to take their boats out. They submit that there is a safety issue for small boats in going further out to sea, and ask what extra safety measures and how many rescue boats will be available. **Chris Muirhead** states that weather and sea conditions outside the harbour often result in smaller craft only being able to fish within the harbour. **Chris Muirhead** and **Desmond Ward** also raise cost as an issue for rock lobster fishing if limits are reduced.

78 **Evan Still** and **31 others** state that the area of the proposed marine reserve is a safe fishing environment for small craft in certain conditions. They suggest that the marine reserve would cause fishers to go beyond the harbour entrance and that this carries an increased risk to fishers.

Committee's Response

79 The Committee considers that the proposed limits are “an adequate feed”.

MFish Comment

80 A shift in fishing effort and associated issues are potential costs of the recommended regulations, and are relevant considerations in your decision on whether to approve the Committee's recommendation. However, where stocks are depleted, fishers also have to venture further to catch existing bag limits. The preliminary data from the TRoNT funded survey show around a 50:50 split between people fishing recreationally inside and outside the harbour

81 Should fishers get into difficulties at sea, the Rescue Coordination Centre New Zealand (part of Maritime New Zealand) or the Police are responsible for co-ordinating rescues.

Nets

82 **Alan Helmsley** suggests reducing net length and increasing mesh size to minimise catch of juvenile fish and maximise the chance of survival for fish released after being caught in nets. The Committee were aware of the Hector's Dolphin Threat Management Plan when developing these proposals, and consequently avoided the issue of nets. You have decided to prohibit set-netting within the Akaroa Harbour with the exception of designated flounder areas in the upper harbour.

Code of Practice

83 The **Department of Conservation** supports the proposed regulations. The Conservator of the Canterbury Conservancy (Mike Cuddihy) suggests that "the proposed regulations are an excellent first stage...towards re-building the harbour's resources." He feels that a voluntary Code of Practice would be effective to support the regulations and encourages the Committee to explore this option later. The Committee intends to look at a Code of Practice as part of an educational pamphlet.

General Comments

84 The **Akaroa Civic Trust** did not comment specifically on the proposed regulations which it felt extended beyond its brief. However, it states it "supports general conservation efforts including those which may add a degree of public awareness and protection for the Akaroa Harbour Basin."

Consultation and the Make-up of the Committee

85 **Evan Still and 31 others** are concerned that there has been no local public forum, debate, or involvement with the development of the proposal for regulations.

86 The **AHMPS** state that "[it] appears that there is a deliberate intention of excluding marine reserve interests from the planning". It bases this on the fact that some community organisations were provided with a copy of the proposed regulations, but it was not. It also submits "that Canterbury residents have not been adequately informed about the proposal". **David Brailsford** states the "...Committee appears to have only consulted amongst itself".

87 The **FBP** and **David Brailsford** are concerned at the lack of reference to the proposed marine reserve in the consultation documents.

88 **Alan Hemsley** submits that there needs to be more amateur fishers' representation on the Committee. **Evan Still and 31 others** suggest that the Committee has a "negative local bias" because its members largely do not reside in the Taiāpure area. **David Brailsford** states that the Committee "is not representative of the wider community or of conservation interests." The **AHMPS** and **FBP** raise concerns about the lack of an environmental representative on the Committee. **FBP** states, to its knowledge, no local environmental groups have had communication from

the Committee. It also states that the "...Committee has not made itself accessible to the local community and to conservation interests in particular." **FBP** asks for local environmental and conservation representation on the Committee.

MFish Comment

89 **MFish** considers that the consultation process was appropriate for this proposal. The Committee discussed the proposal with local groups prior to the formal consultation process. The proposal was publicly notified in the main daily newspaper in the Canterbury region (The Press) and a local Akaroa publication (the Akaroa Mail). The proposal was available on the **MFish** website (www.fish.govt.nz), and at **MFish** offices. **MFish** mailed copies of the proposal upon request.

90 The Maori Land Court commented on the proposed make-up of the Committee at the time it made its recommendation in regard to the Taiāpure. Wainwright J stated "we think that the balance of the committee membership properly represents the interests and opinions presented to us." At that time, the proposed membership included one representative of local environmental interests. However, the Act is silent on who should be represented on a management committee for a taiāpure-local fishery. It states only that the committee "shall be appointed on the nomination of persons who appear to the Minister to be representative of the local Maori community". Accordingly, the Act has been complied with in the case of this Committee.

Other issues raised

Pollution

91 **Wilma Morgan** considers that pollution has caused the decline in fish stocks. She would like testing of all runoff into the harbour. **Evan Still & 31 others** also see water quality as a major cause for the lack of fish in the harbour. They suggest the causes are storm water inflow, silting from subdivisions, nutrient run off, and sewage.

92 The Committee intends to address water quality issues once fishing regulations are in place. It is working on developing relationships with other agencies (including Environment Canterbury) and local communities groups (such as the Akaroa Harbour Issues Working Party) in order to implement the environmental components of its management plan.

Boat speed

93 **Wilma Morgan** feels there needs to be a minimum speed limit near the shore. She has noticed a decline in sea lettuce over the last 5 or 6 years which she attributes to the wake from large boats.

Seals

94 **Tony Dobbie** submits that the Committee must address the seal population. He states seals are the major problem for inshore fish stocks.

MFish Comment

95 Pollution issues are the responsibility of the regional council (Environment Canterbury). The regional council can also control boat speed through navigational bylaws. Control of seal populations does not fall within the jurisdiction of the Fisheries Act.

MFish Discussion

96 The submissions reflect a mixture of opposition to and support for the proposals. MFish considers that, overall, the submissions are not persuasive against the Committee's recommendation.

97 The Committee has considered the views of the community and stakeholders and amended its recommendation in response. Consequently, the recommendation no longer includes prohibiting the taking of oysters from the whole taiāpure. Also, MFish will also work with the Committee to develop wording around 'taking and possessing' in reference to the daily bag limits to improve enforcement of the regulations for the Taiāpure. The final recommendation is endorsed by all the stakeholder representatives on the Committee.

98 MFish's assessment is that the regulations recommended by the Committee "are for the conservation and management of the fish, aquatic life, or seaweed in the taiapure-local fishery"¹², and are consistent with the Act. On this basis, MFish recommends that you approve the Committee's recommendation.

99 The new provisions will be implemented as amendments to the Fisheries (South-East Area Amateur Fishing) Regulations 1986. Minor amendments will also be required to the Regulations in order to:

- a) Create offences; and
- b) Set appropriate penalties.

100 It is proposed that the penalties would be on the same scale as current penalties for exceeding recreational bag limits.

101 MFish proposes that these amendments will take effect as soon as possible, taking into account constraints on the parliamentary calendar. In effect, this is likely to mean early in 2009.

102 In making a decision, you should take into account the costs and benefits that the status quo presents and the potential costs and benefits of either a code of practice or the making of regulations.

Rationale for Management Options

103 The object of Part IX of the Act is to make better provision for the recognition of rangatiratanga and of the right secured in relation to fisheries by Article II of the Treaty of Waitangi. Among other things, it provides for the establishment of taiāpure-local fisheries and, once established, for the appointment of a management committee. Any such committee has the power (under section 185 of the Act) to

¹² Section 185(1) Fisheries Act 1996

recommend to you the making of regulations for the conservation and management of the fish, aquatic life, or seaweed in the taiāpure-local fishery.

104 The Committee aims to increase key fisheries resources within the Taiāpure that are currently in a depleted or severely depleted state. It is recommending regulations be made aimed at reducing fishing pressure in order to encourage the recovery of these fish stocks.

Assessment of Management Options

Option 1 – Status Quo

Impact

105 The Committee and others have expressed concerns about the state of fish stocks in the Akaroa Harbour. The status quo impacts on all stakeholders and the community.

Costs

106 Maintaining the status quo would not be consistent with the establishment of the Taiāpure and appointment of the Committee. The Committee's concerns about the current state of fish stocks in the Taiāpure would not be addressed. Fish stocks could decline to a point where fishers will have to go outside the harbour to fish, and incur increased costs. There is some evidence (from the TRoNT funded survey) that fishing is already concentrated toward the outer harbour, with slightly less than 50% outside the harbour. The available information including submissions, does not allow the costs of the status quo to be quantified.

Benefits

107 Maintaining the status quo may not alter fishing pressure in the proposed Dan Rodgers marine reserve area. The risks and costs referred to in submissions associated with having to travel further to fish may also be avoided, unless or until stocks become further depleted within the harbour. The benefits are not quantifiable from the available information.

Option 2 – Code of Practice

Impact

108 A voluntary code of practice could apply to all users of the harbour. It would rely on stakeholder and community buy-in and would be unenforceable legally.

Costs

109 Submissions reflect the fact that there is some dispute over the need to change fishing rules. Therefore the risks associated with non-compliance with a code of practice are likely to be quite high. The Committee considered options around a code of practice, but concluded that, as many fishers are not resident in the area, this may increase the risks of non-compliance with a code of practice. MFish concurs with this assessment.

Benefits

110 A code of practice could address issues such as methods, best practice, and reporting of recreational catch. Reporting of recreational catch would provide information that could be used to improve management of the fishery.

111 A code of practice could address non-fishing related issues raised in submissions, and could exist alongside changes to the regulations. MFish will discuss the possibility of developing such a code of practice with the committee.

Option 3 – Regulations

Impact

112 The proposed regulations would impact recreational fishers as well as tourist and fishing charter boat operators who provide services to recreational fishers.

Costs

113 There will be some lost opportunities (in terms of the maximum numbers of fish that can be taken) for those people involved in running tourist and fishing charter boats, and recreational fishing in the short to medium term. This cost cannot be quantified as MFish does not have information about income derived from tourist and charter boats, or accurate information about recreational take, but may be offset by opportunities outside the Taiāpure. MFish concurs with the committee's assessment that fishers are unable, in any case, to catch the current bag limits due to low stock numbers.

114 There are increased costs in terms of fuel and time for fishers to fish outside the harbour area. There may also be safety issues for small boats venturing outside the relative safety of the harbour. MFish estimates the additional cost of fuel to fish outside of Akaroa is between \$5 and \$15 per trip depending upon the design and power of boat used.

115 There may be increased fishing effort in the area of the proposed Dan Rodgers marine reserve as a result of the regulations. This is likely to be temporary, pending a decision on this marine reserve application. In the event the marine reserve is not approved, the Committee has indicated it would like it included in the Taiāpure (in which case any regulations would also apply to the Dan Rodgers area). Uncertainty exists around the date of a decision on the marine reserve and, therefore, the length of time fishing effort may be increased in the Dan Rodgers area. Likewise, uncertainty exists around the amount of any such increase in fishing effort, particularly as MFish lacks accurate information about recreational take.

116 As there is little commercial fishing in the area and the proposals do not relate to commercial fishing, impacts on commercial fishing are not anticipated. Existing aquaculture areas within Akaroa Harbour are not included in the Taiāpure and the proposed regulations should not impact existing or potential aquaculture in the area.

117 Monitoring and enforcement of the proposed regulations would occur within existing programmes and activities carried out in the area. Publicity and updating of fishery information signs within the Taiāpure will be necessary. If the local community supports the proposed regulations, this will help reduce compliance costs,

particularly as a result of “peer pressure”.

Benefits

118 The proposed regulations will help rebuild the fisheries resources within the Taiāpure by reducing fishing pressure. In this way, the proposed regulations provide for the conservation and management of fish within the Taiāpure. Over the longer term, the proposal will help improve the quality of fishing to satisfy the needs of recreational and customary fishers. It is not known how much improvement will be achieved.

119 The proposal also provides for recognition of rangatiratanga and Article Two Treaty rights within the Taiāpure. Recommending these proposals is an example of tangata whenua and other fisheries stakeholder groups participating effectively in fisheries management.

Statutory Considerations

120 In considering the proposed amendment, you are required to follow relevant statutory criteria contained in the Act. These criteria are set out below.

a) **Section 5(b):** You are required to act in a manner consistent with the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 (the Settlement Act). The Preamble to the Settlement Act at (k) states that, “The Crown recognises that traditional fisheries are of importance to Maori and that the Crown's Treaty duty is to develop policies to help recognise use and management practices and provide protection for and scope for exercise of rangatiratanga in respect of traditional fisheries.” The Settlement Act is stated to be, *inter alia*, an Act “To make better provision for Maori participation in the management and conservation of New Zealand's fisheries”. MFish considers that the approval of the Committee’s recommendation is the option which is most consistent with better providing for Maori participation in the management and conservation of New Zealand’s fisheries, and therefore with the Settlement Act. Due to the limited nature of commercial fishing in the area, the proposed regulations do not negatively impact on commercial stakeholders. The proposed regulations will reduce opportunities for non-commercial fishers, but customary authorisations could still be issued.

b) **Section 8:** None of the management options proposed is contrary to the purpose of the Act, which is to provide for utilisation of fisheries resources while ensuring sustainability. Part of the definition of utilisation is “conserving”, which means providing for the maintenance or restoration of fisheries resources for their future use. The proposed regulations are aimed at restoring and maintaining the fisheries resources of the Taiāpure. The proposed regulations also seek to ensure sustainability of the fisheries resources of the Taiāpure by reducing recreational bag limits for certain species, prohibiting the taking of seahorses, and closing the Onawe Peninsula to shellfish gathering.

c) **Section 9(a)-(c):** None of the management options proposed will negatively impact associated and dependent species or the biological diversity of the aquatic environment, or habitats of particular significance for fisheries management.

d) **Section 10:** You are required to base your fisheries management decisions on the best available information that, in the particular circumstances, is available without incurring unreasonable cost, effort, or time. You should consider any uncertainty in the information available and be cautious when information is uncertain, unreliable or inadequate. But, the “absence of, or any uncertainty in, any information should not be used as a reason for postponing or failing to take any measure to achieve the purpose of” the Act. The best available information has been incorporated into this assessment of management options. MFish considers that the Committee has based its recommendations on the best available information, including local knowledge of the fisheries resources of the Akaroa Harbour. There are uncertainties in the information due to a lack of scientific information, the fact that the amount of recreational take is unknown, and fact that the costs and benefits of the proposed regulations cannot be quantified. You should take into account the views expressed in the submissions as part of the available information.

e) **Section 174** sets out the object of sections 175 to 185 of the Act as, “...to make, in relation to areas of New Zealand fisheries waters (being estuarine or littoral coastal waters) that have customarily been of special significance to any iwi or hapu either—

(a) As a source of food; or

(b) For spiritual or cultural reasons,—

better provision for the recognition of rangatiratanga and of the right secured in relation to fisheries by Article II of the Treaty of Waitangi.”

f) **Section 185** empowers a management committee to recommend to the Ministry of Fisheries the making of regulations for the conservation and management of the fish, aquatic life, or seaweed in the taiāpure-local fishery.

g) **Section 297 (1)(a)** prescribes the power to make regulations to regulate or control fishing and the possession, processing, and disposal of fish, aquatic life, or seaweed. It includes the power to prohibit the taking or possessing of fish from any area and the power to regulate the number of fish that may be taken or possessed.

h) **Regulation 3A of the Fisheries (South-East Area Amateur Fishing) Regulations 1986** sets out the maximum daily number of finfish that may be taken or possessed by an individual in any one day.

i) **Regulation 19 of the Fisheries (Amateur Fishing) Regulations 1986** sets out the maximum daily number of shellfish that may be taken or possessed by an individual in any one day.