

REGULATORY IMPACT STATEMENT

Akaroa Harbour Taiapure – Proposed Regulations

a. Executive Summary

The Akaroa Harbour Taiapure Management Committee (the Committee) is concerned about stock levels of finfish, shellfish, and seahorses within the Akaroa Harbour Taiāpure (the Taiāpure). To address these concerns and increase key fisheries resources, the Committee is recommending to the Minister of Fisheries the making of regulations aimed at reducing pressure from recreational fishing. The regulations would be implemented through amending existing regulations and would:

- (a) Reduce the daily bag limits for certain finfish and shellfish species within the Taiāpure;
- (b) Prohibit the taking or possessing of seahorse from the Taiāpure;
- (c) Prohibit the taking or possessing of shellfish from the Onawe Peninsula area of the Taiāpure; and
- (d) Reduce the combined finfish daily bag limit.

There was no objection from the tourist or charter operators on the basis of lost profits. There would be insignificant cost imposed as there are other opportunities for tourist and charter operators within the Harbour and in the immediate coastal areas. There would be no impact on commercial fishing.

b. Adequacy Statement

This Regulatory Impact Statement has been approved by the Ministry of Fisheries' (MFish) Regulatory Impact Analysis Steering Group and is considered adequate according to the criteria agreed by Cabinet.

c. Status Quo and Problem

The Fisheries (South-East Area Amateur Fishing) Regulations 1986 and the Fisheries (Amateur Fishing) Regulations 1986 apply to recreational fishing within the Taiāpure. These regulations include bag limits for certain species. For those included in the proposal to change bag limits, existing limits are:

<u>Species</u>	<u>Maximum Daily Limit</u>
Blue cod	30
Blue moki	15
Butterfish	15
Catseye	50
Cockles	150
Red cod	30
Rock lobster	6
Sea perch	no limit stated
Trumpeter	15

There is a current combined daily bag limit for finfish of 30.

The Taiāpure was gazetted in February 2006, and the Committee appointed in December 2006. The Committee has not previously recommended the making of any regulations for the Taiāpure.

The Committee has observed a steady decline in fisheries resources in the Taiāpure. Consequently, the Committee is concerned about the impact of fishing pressure within the Taiāpure on all finfish stocks, but particularly on blue cod, red cod, butterfish, blue moki, trumpeter, and sea perch, as well as on rock lobster, catseye, and cockle stocks. Bag limits are the primary mechanism used to reduce the levels of recreational fishing.

The Committee is also concerned about oyster and seahorse stocks throughout the Taiāpure, and shellfish stocks around the Onawe Peninsula area of the Taiāpure. Area closures are the method that the Committee considers will address these concerns.

d. Objectives

The fisheries management objectives applicable to the proposed regulations are –

- providing for utilisation while ensuring sustainability^[7]; and
- providing for recognition of rangatiratanga and of the right secured in relation to fisheries by Article II of the Treaty of Waitangi^[8].

“Utilisation” includes conserving, using, enhancing and developing fisheries resources to enable people to provide for their social, economic and cultural well being. “Ensuring sustainability” means avoiding, remedying or mitigating any adverse effects of fishing on the aquatic environment.

e. Alternative Options

The Committee considered a code of practice as an alternative to regulations. A code of practice could include:

- a) Use of fish hooks appropriate to the target species;
- b) Line fishing best practice;
- c) Net use;
- d) Returning large breeding fish to the water; and
- e) Reporting of recreational catch.

Submissions reflected 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, which would be voluntary, are likely to be quite high. The Committee concluded that, as many fishers are not resident in the area, this may also increase the risks of non-compliance with a code of practice. Therefore, the only effective way to make changes that must be adhered to for benefit of the fishery and fishers is through regulation.

The Committee has not included commercial fishing in its proposal as there is little such fishing in the area of the Taiāpure.

^[7] Section 8 of the Fisheries Act 1996

^[8] Part IX of the Fisheries Act 1996

f. Preferred Option

The Committee is recommending to the Minister of Fisheries the making of regulations related to recreational fishing to:

- Amend regulation 3A to set the maximum daily bag limits at three (3) each for blue cod, blue moki, butterfish, red cod, rock lobster, sea perch, and trumpeter, and 20 each for catseye and cockles, and to set the maximum combined finfish daily bag limit at 10;
- Insert a new regulation 6H to prohibit the taking or possessing of seahorses;
- Insert a new regulation 6I to prohibit the taking or possessing of shellfish from the Onawe Peninsula area of the Taiāpure;
- Amend the Fisheries (Infringement Offences) Regulations 2001, to provide corresponding infringement offences; and
- Amend regulation 3 to insert definitions for ‘Akaroa Harbour Taiāpure’, ‘Catseye’, and ‘Onawe Peninsula Area’.

The Committee prefers this option over voluntary measures as it considers that a regulatory approach has the advantage of a wider programme of education, information and enforcement. It considers that the fact that many fishers are not resident in the area would increase compliance over the level provided by a code of practice.

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 the MFish does not have accurate information about recreational take, but may be offset by opportunities outside the Taiāpure, including in the Dan Rogers area within the Akaroa Harbour. A submission from a charter operator suggested that a lower bag limit might encourage high-grading (ie the fisher might put back smaller fish in the hope of catching a bigger one) and suggested a bag limit of (five) 5 rather than three (3) for some species to counter this risk. The Committee considered this, but did not change their final recommendation as they considered a bag limit of three (3) as “an adequate feed”.

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 Harbour is between \$5 and \$15 per trip depending upon the design and power of boat used.

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.

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”.

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.

The proposal also provides for recognition of rangatiratanga and Article Two Treaty rights within the Taiāpure. It enables tangata whenua and other fisheries stakeholder groups to participate effectively in fisheries management.

The proposals include that fishers should be able to enter the Taiāpure with fish caught elsewhere without being in breach of the regulations. This will allow fishers to use Akaroa Harbour landing facilities after fishing external waters. This creates a risk in the ability of MFish to determine breaches of the proposed regulations for the taking and possession of excess or unlawful fish. Infringements or prosecutions for illegal fish would require evidence to prove the fish were taken within the Taiāpure as opposed to other areas of the Fisheries (South East Area Amateur Fishing) Regulations 1986 (the regulations). MFish considers the risk associated with this issue to be high, although there are some mechanisms to assist in managing this risk. As there are indications that the community supports the proposals, it is likely that community pressure will also help reduce the risk.

Some submissions raised concerns about the lack of scientific basis for the proposed bag limits. 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.

The best available information is included in the 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.

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 was available from a Te Runanga o Ngai Tahu funded survey (underway at the time of the recommendations). The lack of scientific information or information on the amount of recreational take would not justify delaying implementation of the proposed regulations.

g. Implementation and Review

MFish proposes that the amendments to the regulations, if approved, will come into effect on 1 October 2009.

Recreational fishers will be notified of changes via MFish’s Southern Recreational Fishing network, signage, pamphlets, and material posted on MFish external website and through contact with MFish staff.

Enforcement of the proposed options would be carried out by Fishery Officers supported by Honorary Fishery Officers.

Minor amendments will also be required to the Regulations in order to:

- Create offences; and
- Set appropriate penalties.

Under the Fisheries (South-East Amateur Fishing) Regulation 1986 we will be creating a new regulation e.g. 3(E). As it will be an offence to exceed the daily bag limit we will need to amend the Fisheries (Offences) Regulation 2001 to include this new regulation in the list. Currently the infringement fee is \$250.

MFish proposes that these amendments will also take effect in 1 October 2009.

h. Consultation

The Committee has undertaken preliminary consultation with the groups represented on the Committee. Full public consultation on the proposal began in March 2008.