



Proposed recreational harvest regulations for the Maketu Taiāpure

MPI Regulatory Impact Statement

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Regulatory Impact Statement

PROPOSED RECREATIONAL HARVEST REGULATIONS FOR THE MAKETU TAIĀPURE

Agency Disclosure Statement

This Regulatory Impact Statement has been prepared by the Ministry for Primary Industries (MPI). It provides an analysis of options to amend recreational harvest regulations within the Maketu Taiāpure as proposed by the Maketu Taiāpure Committee (the Committee). The Maketu Taiāpure encompasses a 60 kilometre stretch of the Bay of Plenty coastline centred on Okurei Point.

Under section 185 of the Fisheries Act 1996, the Committee has recommended changes to the recreational fisheries regulations for the Minister for Primary Industries to consider. The Committee's objective is to reduce fishing pressure on local paua and green-lipped mussel populations within the Maketu Taiāpure and encourage recovery and growth of these key fish populations.

MPI's regulatory change proposal is aimed at addressing the Committee's concerns around the recreational use of local green-lipped mussels and paua resources, and balancing this against sector resource access and suitability objectives.

The analysis for this proposal is based on information supplied by the Maketu Taiāpure Committee, local knowledge and other stakeholders (including survey work by the Bay of Plenty Polytechnic). MPI holds limited scientific information on green-lipped mussel and paua populations in the Maketu area. The available information needs to be considered carefully due its cursory, limited and/or anecdotal nature.

The proposals do not override any fundamental common law principles, impair property rights or impose additional costs to stakeholders. These proposals will directly affect the harvest limits of recreational fishers harvesting within the Maketu Taiāpure.

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Status quo and problem definition

1. The Maketu Taiāpure, situated mid way along the Bay of Plenty coastline between Wairakei in the west to Ōtamarākau in the east, was established in 1996, and is governed by the Maketu Taiāpure Committee (the Committee). The Committee is made up of representatives from Ngāti Makino, Ngāti Whakahemo, Te Awhe, Ngāti Whakaue ki Maketu, Tapuika, Waitaha and inland hapū.
2. Okurei Point, within the taiāpure represents the only major rocky reef system between Mt Maunganui and Whakatane, providing the best source of green-lipped mussels and paua stock in this area
3. The analysis undertaken by the Committee concluded that there has been an unsustainable decline in both green-lipped mussels and paua resources within the taiāpure. The Committee considers that current recreational limits for green-lipped mussels and paua, and intensive recreational activity from people coming from outside the local area, are contributing to these observed declines.
4. Currently, under the Fisheries (Auckland and Kermadec Areas Amateur Fishing) Regulations 1986, recreational fishers may collect a daily bag limit of up to 50 green-lipped mussels with no restriction on size. Up to 10 paua can be collected that are above the minimum size limit of 125 mm.
5. These concerns are based on local knowledge of customary fishers, as well as unreviewed surveys carried out by students of the Bay of Plenty (BoP) Polytechnic students in 2008 (and earlier) that suggest green-lipped mussels and paua stocks are not as plentiful as they once were. MPI holds no information or MPI-reviewed population surveys on the local populations of green-lipped mussels and paua within this area. While MPI notes the research carried out by the BoP Polytechnic is the only data available around this issue, it should be taken into account cautiously due to its limited and cursory nature.
6. The Committee has previously attempted to use traditional, non-regulatory tools to reduce the fishing pressure in this area. In 2001 a rahui (local voluntary closure) was placed on the taiāpure prohibiting the harvesting of mussels and paua. However, the Committee believe that people from outside the local community did not adhere to the closure and that voluntary measures cannot effectively reduce the perceived recreational fishing pressure.
7. The committee considers that regulatory restrictions on recreational harvest would be more effective. Section 185 of the Fisheries Act 1996 (the Act) allows a taiāpure management committee to recommend to the Minister for Primary Industries (the Minister), the making of regulations for the conservation and management of fish, aquatic life or seaweed in the taiāpure local fishery.

Objectives

8. The Committee's overall objective can be found in their vision statement: "Te Waka o Te Arawa will exercise control over the marine resources of our traditional rohe...to enhance and manage the coastal resources of the Te Arawa in a sustainable manner for the benefit of present and future users".
9. The Committee aims to reduce fishing pressure and encourage recovery and growth of these key shellfish populations with the following changes to the recreational harvest regulations within the taiāpure:
 - a reduction in the maximum amateur daily bag limit of green-lipped mussels from 50 to 25 within the taiāpure;

- a minimum size restriction of 90 mm for the amateur harvest of green-lipped mussels within the taiāpure; and
- a yearly notified seasonal closure on the amateur harvest of green-lipped mussels and paua within the taiāpure.

10. MPI is committed to ensuring the sustainability of New Zealand's fisheries resources and the access to these resources by customary and recreational stakeholders. As such, each of the of the Committees regulatory recommendations is assessed to gauge how it might impact on:

- the enhancement and management of the fisheries resource;
- the sustainability of the fisheries resource;
- sector utilisation and the ongoing access to the fisheries resource; and
- regulatory and ongoing monitoring and compliance costs.

11. MPI is also committed to meet the objectives set out in section 174 of the Act under which the Maketu taiāpure was established in 1996, 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.

12. The recommendation to make these regulatory changes has been considered by the Minister under section 297 of the Act. An Order in Council is necessary to implement this recommendation. It is proposed that the change will become effective on 1 October 2013 simply for administrative and practical reasons.

Regulatory impact analysis

Option 1 – Status quo

13. Option 1 would retain the existing recreational regulations for green-lipped mussels and paua within the Maketu Taiāpure.

14. Continuing with the status quo would fail to address the Committee's concerns about the depletion of green-lipped mussel and paua populations within the taiāpure.

15. Local knowledge and some studies suggest local populations of green-lipped mussels, have been depleted. Unaddressed, the population could decline to a point where the community is unable to utilise these key fisheries resources in the future. However, as noted by submitters, the increasing prevalence of paralytic shellfish poisoning¹ events around the Bay of Plenty area may have reduced the level of recreational fishing pressure in the last few years, significantly altering the current situation in respects to both resource abundance and recreational harvest rate.

16. Under Option 1, the Committee would continue to rely on traditional voluntary measures to address their concerns. Recreational fishers would continue to use the fisheries resources as they currently are. No additional compliance costs would be incurred.

¹ Paralytic shellfish poisoning is caused by blooms of algae that produce various naturally occurring toxins. These toxins can accumulate in filter feeding shellfish such as green-lipped mussels and other marine organisms. The consumption of shellfish that have high levels of these toxins may cause numbness and tingling around the mouth, face or extremities; difficulties in swallowing or breathing; dizziness, double vision and in severe cases, paralysis and respiratory failure. Levels of these toxins in certain shellfish are tested periodically in the Bay of Plenty, and bans on all harvest imposed when the amount of toxins exceeds acceptable levels.

Option 2 – implement all of the Committee’s proposals to manage the harvest of green-lipped mussels and paua

17. Option 2 would result in all of the Committee’s recommendations being implemented as follows:

- a. the maximum amateur daily bag limit of green-lipped mussels would be reduced from 50 to 25 within the taiāpure;
- b. a minimum size restriction of 90 mm for the amateur harvest of green-lipped mussels would be set within the taiāpure; and
- c. a yearly seasonal closure on the amateur harvest of green-lipped mussels and paua within the taiāpure would be notified.

18. Under this option the Committee’s concerns about the level of take of green-lipped mussels and paua within the taiāpure are addressed. However, MPI considers some of these regulations would be problematic to administer, and are not currently supported by available information.

Reduce the amateur daily bag limit of green-lipped mussels

19. This would likely reduce the overall harvest by recreational fishers, and therefore decreasing pressure on the green-lipped mussel population. This will help ensure the sustainability and availability of this fisheries resource into the future. However, not all recreational fishers fully utilise their daily bag limits when harvesting shellfish. Thus, the impact will be limited to those that regularly collect their daily bag.

20. A decreased bag limit would incur additional MPI compliance costs for advertising and informing the public on changes in the bag limits for green lipped mussels. New signage and updated brochures will be needed.

Minimum size limit for green-lipped mussels

21. This regulation will reduce the number of smaller green-lipped mussels harvested and would likely reduce the amount that a recreational fisher could reasonably harvest in a single fishing event. This would ensure that green-lipped mussels have ample opportunity to spawn before being harvested, and aid in the re-growth of the local stocks. However the impact that this would have on the recruitment potential of the resources is unknown. Sexual maturity of green-lipped mussels occurs within 1 year of settlement at between 27 and 40 mm in shell length.

22. Of the three proposed regulations, the introduction of a minimum size limit would cause the biggest increase in MPI compliance costs. Monitoring and enforcing a minimum size limit would be onerous and time consuming, slowing down the inspection process and reducing the number of inspections fisheries officers can effectively carry out. Increased staffing would be required to maintain current inspection levels. Additionally, measuring devices and other resources would be required to educate fishers with the introduction of a size limit. Providing such devices in a relatively small area is cost-prohibitive.

Yearly notified seasonal closure on the amateur harvest of green-lipped mussels and paua

23. Closure of the green-lipped mussel and paua fisheries to recreational harvest within the taiāpure during the peak spawning season would significantly decrease fishing pressure, as it would coincide with the period of maximum usage by recreational fishers. The introduction of a closed season would have the greatest impact on recreational harvesters of green-lipped mussels.

24. However, the impact of a seasonal closure on recreational paua harvest may not be as significant. Anecdotal evidence suggests that due to environmental factors, paua in the Maketu area cannot be found in great numbers above the 125 mm size limit. This suggests that legal recreational take in this area is already limited, and a majority of legal harvest of paua in this area might take place under customary permit where no size limit restriction applies. This assertion has been backed up by discussions with MPI Compliance Officers and the Mai I Ngā Kuri Whārei ki Tihirau Fisheries Forum. Thus, MPI considers a closure on the recreational take of paua may have only limited impact on the paua populations within the taiāpure, and unduly impact recreational fishers utilising this resource.

25. The resources and time needed to review and implement a yearly notified seasonal closure annually are prohibitive. Unlike a fixed date seasonal closure, a yearly notified seasonal closure would require advice to the Minister, public consultation, and a subsequent Gazette notice. Public communication of any closure period would also be required. MPI does not consider such intensive management is required. The alternative of a fixed seasonal closer was raised with the Committee, however, no response was received before final advice to the Minister was presented.

26. Additionally, closures over the summer period which coincide with the period of high recreational fishing effort may unduly affect recreational fishers.

Option 3 – implement one of the Committee’s proposals to manage the amateur harvest of green-lipped mussels and paua

27. Option 3 would implement only the first of the three proposed recreational regulatory changes put forward by the Committee: *Reduce the amateur daily bag limit of green-lipped mussels.*

28. The impact, cost and benefit for this proposal remain as set out under Option 2. Overall, MPI believes that reducing the daily bag limit would be the most effective of the Committee’s three recommendations at reducing the pressure on green-lipped mussels. This option does not address the Committees concerns around local paua resources within the taiāpure. However as stated above, MPI believes that current recreational take may be limited due to environmental factors impacting on the size of paua in the Bay of Plenty area.

Analysis of options ²

Summary of Options	Objective 1: Enhance and manage fisheries resources	Objective 2: Ensure fisheries sustainability	Objective 3: Sustain resource access for customary and recreational users		Objective 4: Minimise regulatory and compliance costs	Key cost or benefit
			Customary	Amateur		
Option 1 – Status quo						
Retain the existing recreational regulations for green-lipped mussels and paua within the Maketu Taiāpure.	✘	✘	✘	✓	✓	Fails to address the Committee's concerns around the over use of local fisheries resources.
Option 2 – Implement all of the committee's proposals to manage the harvest of green-lipped mussels and paua						
The maximum amateur daily bag limit of green-lipped mussels would be reduced from 50 to 25 within the taiāpure.	✓	✓	✓	✘	✓	Will effectively lower recreational harvest within the taiāpure. Minimal monitoring and compliance cost.
A minimum legal size restriction of 90 mm for the amateur harvest of green-lipped mussels would be set within the taiāpure.	–	–	✓	✘	✘	Undue cost associated with monitoring and enforcement of a minimum legal size restriction. Uncertainty on the impact of the local population as green-lipped mussels reach maturity at between 27 and 40mm.
A yearly notified seasonal closure within the taiāpure on the amateur harvest of:						Undue cost associated with year notification and establishment of closure dates. Local paua populations may only have limited benefit from a seasonal closure due to environmental factors already limiting recreational harvest.
- green-lipped mussels; and	✓	✓	✓	✘	✘	
- paua.	–	–	✓	✘	✘	

² KEY: ✓ = option supports objective; ✘ = option does not support objective; – = neutral/minimal/unknown impact.

Summary of Options	Objective 1: Enhance and manage fisheries resources	Objective 2: Ensure fisheries sustainability	Objective 3: Sustain resource access for customary and recreational users		Objective 4: Minimise regulatory and compliance costs	Key cost or benefit
			<i>Customary</i>	<i>Amateur</i>		
Option 3 – Implement one of the committee’s proposals to manage the amateur harvest of green-lipped mussels and paua						
<i>Reduce the amateur daily bag limit of green-lipped mussels.</i>	✓	✓	✓	✗	✓	Will effectively lower recreational harvest within the taiāpure. Minimal monitoring and compliance costs.

Consultation

29. Public consultation took place as part of the development of final advice to the Minister. Tangata whenua and stakeholders from the amateur, commercial, and environmental sectors were invited to make written submissions on the proposal. Four submissions were received on the proposal.

30. Furthermore, pre-consultation discussions on the proposal took place at the Fisheries Management Area 1, Mai i Ngā Whārei ki Tihirau Iwi Fisheries Forum (Bay of Plenty)

31. Submissions were split, with submissions from the recreational sector against all the proposed regulatory changes and those from the customary in favour of the proposed regulatory changes.

32. Recreational submissions argue that recent health warnings for the Bay of Plenty area due the presence of paralytic shellfish poisoning, has reduced the recreational harvest of green-lipped mussels and other species. In the submissions it is claimed that the majority of the current harvest within the taiāpure is customary harvest.

33. MPI agrees that the use of fisheries within the Maketu Taiāpure has in all likelihood declined since the release of a health warning around the risk of paralytic shellfish poisoning and has taken this into account when assessing the available options.

34. Recreational sector submissions disagree with the Committee's claims of reduced prevalence of green-lipped mussels within the taiāpure. These submissions suggest the need for up to date MPI-reviewed research to assess the state of green-lipped mussel and paua populations, before concluding the state of the fisheries resources within the taiāpure. The lack of up to date research is acknowledged by MPI.

35. Submissions in favour of the Committee's recommendations support the proposed regulatory changes on the basis of the recognition of rangatiratanga and customary management of important fisheries resources through the taiāpure committee.

Conclusions and recommendations

36. MPI's preferred option is to approve the recommendation made by the Committee to decrease the daily bag limit for green-lipped mussels from 50 to 25 per person per day.

37. MPI does not support the proposals to introduce a minimum legal size for green-lipped mussels and to enact a yearly notified closed season for the recreational harvest of paua and green-lipped mussels. MPI considers these regulatory changes would result in unreasonable implementation costs and impacts on recreational fishers.

38. Overall, MPI believes that reducing the daily bag limit would be the most effective of the Committee's three recommendations.

Implementation

39. MPI proposes to use of section 297(1)(a) of the Act to amend relevant regulations of the Fisheries (Auckland and Kermadec Areas Amateur Fishing) Regulations 1986, to reduce the daily bag limit of green-lipped mussels within the Maketu Taiāpure to 25 per person. This section allows the Governor-General, by Order in Council (made on the recommendation of the Minister), to make regulations controlling fishing and the possession, processing, and disposal of fish, aquatic life, or seaweed.

40. If approved, it is proposed that the regulatory change would become effective on 1 October 2013. Stakeholders have been notified of the Minister's endorsement of this proposal. Further information would be provided to affected stakeholders closer to the implementation date, should the proposal be approved.

Monitoring, evaluation and review

41. Monitoring of compliance, and where necessary enforcement of the proposed regulations, will be carried out by regional MPI Fishery Officers.

42. Recreational fishers will be notified of changes through signage, pamphlets, and material posted on MPI's external website and through contact with MPI staff.

43. The Committee has a close relationship with the BoP Marine Studies Programme, and on-going surveys to monitor the health of fisheries resources within the taiāpure are planned. This would provide useful data on the impact of the proposed regulatory change on green-lipped mussel populations. Non-peer reviewed studies carried out solely for the completion of course work will continue to be treated with care by MPI. However, where opportunities arise for research to be carried out in collaboration with both the BoP Polytechnic and local iwi, MPI will provide input and will assist in any way possible to ensure high quality research outputs are gained that can inform future management decisions.