



Proposed closures to harvesting pāua at Huriawa Peninsula and Mapoutahi Peninsula, East Otago Taiāpure

Decision Document

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Figure 1: The East Otago Taiāpure including Huriawa Peninsula and Mapoutahi Peninsula

1 Executive Summary

At the request of the East Otago Taiāpure Committee, and supported by scientific survey information, the Ministry for Primary Industries (MPI) has consulted on options to implement sustainability measures (closures) for recreational and commercial harvesting of both black foot pāua (*Haliotis iris*) and yellow foot pāua (*Haliotis australis*) at two locations in the East Otago Taiāpure (Figure 1).

Table 1: Management Options for Huriawa Peninsula and Mapoutahi Peninsula*

Huriawa Peninsula	Option 1 (<i>Status quo</i>)	The current temporary closure will expire on 24 September 2016 and the Huriawa Peninsula will be open to harvesting pāua. ¹
	Option 2 (MPI preferred)	Pāua harvesting around Huriawa Peninsula is closed to harvest under section 11 of the Fisheries Act 1996. The information supporting the closure is to be reviewed within three years.
Mapoutahi Peninsula	Option 1 (<i>Status quo</i>)	The Mapoutahi Peninsula remains open to pāua harvest.
	Option 2 (MPI preferred)	An area around the Mapoutahi Peninsula fishery is closed to pāua harvest under section 11 of the Fisheries Act 1996. The information supporting the closure is to be reviewed within three years.

Three submissions were received. Two submissions supported Option 2 of both proposals, to close these two areas to harvesting pāua. The third submitter does not object to the closures, but does have concerns that the closures do not apply to customary fishing, and that section 11 is not the appropriate instrument to use for the closures.

¹ Bag limit of 5 pāua for recreational fishers (per person per day) as specified in regulation 121 of the Fisheries (Amateur Fishing) Regulations 2013

In relation to this submission, MPI notes that existing provisions relating to customary fishing would not be altered by the closure, and there would be no change to the access available to customary fishing. Tangata tiaki/kaitiaki have already agreed to a rāhui on the issuing of pāua authorisations generally. While the current closure at Huriawa Peninsula is in place under section 186B of the Act, the scientific survey information provides sufficient evidence of sustainability concern to close this area and Mapoutahi Peninsula under section 11 of the Act. In summary, MPI considers the requested closures are appropriate because:

- surveys suggest the inshore biomass of pāua continues to decline;
- a closure is an effective way of ensuring that sustainability is not being affected by fishing, and is easily understood and effective to enforce;
- other restrictions, such as specific bag limit reductions, are more difficult to enforce given the size of the areas;
- surveys show pāua are available to be harvested from other areas within the taiāpure; and
- no submissions received objected to the closures.

No end date would be placed on the closures, the stocks would be periodically surveyed, and the information supporting the closures will be reviewed in three years' time.

Overall, MPI considers the closures under Option 2 would address localised sustainability concerns at these two sites while the Committee develops proposals to address the overall decline in pāua numbers across the wider taiāpure.

2 Introduction

This paper provides you with background information and a discussion of legal considerations relevant to closing two sites to harvesting pāua in the East Otago Taiāpure and, specific information for your decisions on proposals for Huriawa Peninsula and Mapoutahi Peninsula.

3 Context

The East Otago Taiāpure (the taiāpure) was gazetted in 1999 and the East Otago Taiāpure Management Committee (the Committee) appointed by the Minister of Fisheries in 2001.

Pāua is a significant cultural fishery within the taiāpure. Due to the Committee's concern about the state of pāua stocks within the taiāpure, in 2007 the daily bag limit for pāua was reduced from ten to five, and a series of temporary closures around Huriawa Peninsula were implemented from 2010.

Surveys of both the Huriawa Peninsula closed area and the remainder of the taiāpure have been carried out by the University of Otago, and reviewed through MPI's science review process. These surveys show that pāua stocks in the closed area have recovered slightly, however pāua numbers in the areas outside the closure have declined. The surveys also show that the density of pāua at Mapoutahi Peninsula are the lowest within the taiāpure.

Accordingly, the Committee requests that you:

1. Continue the closure around Huriawa Peninsula to pāua harvest; and
2. Close the area around Mapoutahi Peninsula to pāua harvest.

Further, the Committee requests the seaward boundary of the Huriawa Peninsula closure be extended to include some small offshore reefs.

The closures would be under section 11 of the Act, and would address localised sustainability concerns at these two sites while the Committee develops proposals to address the overall decline in pāua numbers across the wider taiāpure.

3.1 HARVEST OF PĀUA WITHIN THE EAST OTAGO TAIĀPURE

Substantial parts of the taiāpure are closed to commercial harvest by regulation. Commercial harvest in remaining areas is intermittent and low, however, 2 440 kg was harvested from the taiāpure in the 2014 – 15 fishing year, the largest volume for some time. Following discussions with the Committee, on 9 February 2016 pāua quota holders agreed to withdraw from fishing within the taiāpure as a voluntary measure. They have also stated they would not oppose the introduction of a future regulation to prohibit commercial pāua fishing within the taiāpure.

There is no quantitative information available on the amount of recreational harvest of pāua specific to the Huriawa Peninsula or Mapoutahi Peninsula sites. As they are both accessible sites, harvest is likely to have been historically high but the areas are now depleted. Pāua are still fished from other rocky reefs and promontories across the taiāpure, with areas such as Warrington most popular for recreational harvest.

Pāua is important to Kāti Huirapa Rūnaka ki Puketeraki, the tangata whenua for the area, and is identified as a taonga species in the Te Waka a Maui me Ona Toka Fisheries Plan. Given the decline in abundance of pāua within the taiāpure, Tangata Tiaki/ Kaitiaki have not been issuing customary authorisations to harvest pāua within the taiāpure.

3.2 MANAGEMENT APPROACH

The East Otago Taiāpure & Taiāpure Committee

The Fisheries Act contains provisions allowing for the establishment of a taiāpure and the subsequent appointment of a management Committee². The object of this part of the Act (Part IX) 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”.

The Committee is made up of representatives from Kāti Huirapa Rūnaka ki Puketeraki, local recreational fishers, the Karitane Commercial Fisherman’s Cooperative, the University of Otago and the River-Estuary Care Waikouaiti – Karitane.

Taiāpure Vision

A sustainable, healthy, abundant and accessible fishery inside the taiāpure that provides for the community’s customary, recreational and commercial needs.

Taiāpure Objectives

The objectives of the Committee for the East Otago Taiāpure are to:

- i) Ensure customary, recreational and commercial fishers have access to and use of abundant supplies of fisheries resources;

² Sections 174 to 184 of the Fisheries Act 1996.

- ii) Actively promote the use of traditional tikanga (customs) and kawa (protocols) such as rāhui (temporary closures) through the management regulations for the taiāpure (using law to give effect to the ‘lore’);
- iii) Ensure the adverse impacts of human activities on the marine environment, nursery areas, spawning grounds, fisheries habitat and associated and dependant species are avoided, remedied or mitigated; and
- iv) Ensure all fisheries resources from the taiāpure are fit for human consumption.

The Committee recommended, and the government implemented, regulations in 2007 to reduce bag limits of shellfish and finfish species within the taiāpure including setting a daily bag limit of five pāua per person. Further, a temporary closure on taking pāua around Huriawa Peninsula, came into effect in October 2010, implemented under section 186B of the Act (customary use). The temporary closure was renewed in 2012 and 2014.

It was hoped these changes would have increased the size and abundance of pāua stocks in the taiāpure, however, the surveys suggest this has not been the case. Research undertaken on behalf of the Committee by the University of Otago shows a decrease in pāua abundance and accessibility in the taiāpure, outside of the rāhui (Figure 2). Thus, the Committee has asked you close Huriawa Peninsula and Mapoutahi Peninsula to pāua fishing to address sustainability concerns at these two sites while the Committee develops proposals to address the overall decline in pāua numbers across the wider taiāpure.

3.3 RESEARCH

Three pāua surveys have been undertaken within the taiāpure in 2008, 2012 and 2016 by the University of Otago. The survey results have been reviewed through the MPI science review process. The surveys show that, overall, the percentage of pāua of legal minimum harvestable size in the taiāpure decreased from 14.7% in 2008/09 to 4.1% in 2016 (Figure 2). The average linear decline over this period (-1.47% per year) is statistically significant. This decline suggests that the reduced daily recreational bag limits instituted in 2010 have failed to prevent a decline in the pāua populations within the wider taiāpure.

Inside the closed area at Huriawa Peninsula, however, the density of pāua shows a stable or increasing trend (the increase is not statistically significant).

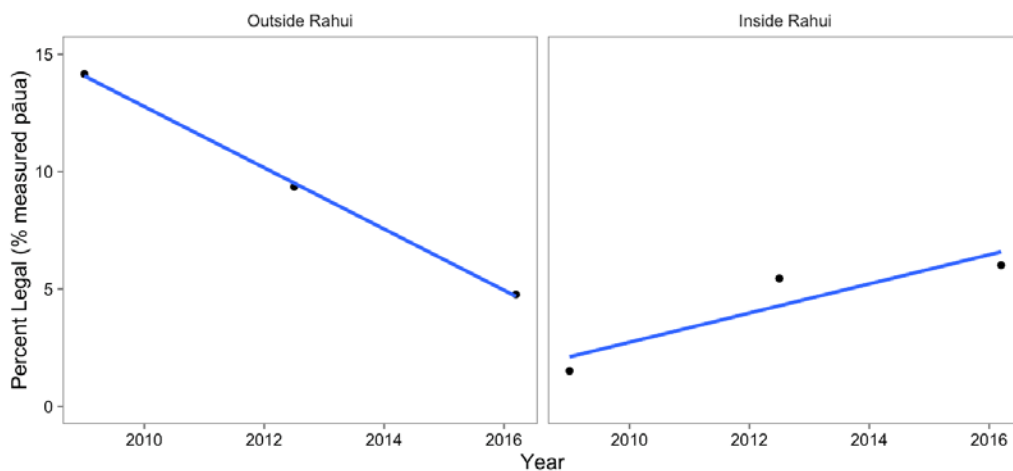


Figure 2: Percentage of measured pāua of a legally harvestable size in the taiāpure , outside (left) and inside (right) the Huriawa closed area over time. The line represents the slope of a linear regression including location (inside / outside) and year.

4 Legal Considerations

This section provides an overview of your legal obligations under the Fisheries Act 1996 that relate to the decisions requested.

4.1 SECTION 8 – PURPOSE OF THE FISHERIES ACT 1996

The purpose of the Act is to provide for the utilisation of fisheries resources while ensuring sustainability.

“Ensuring sustainability” is defined as: “maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations; and avoiding, remedying, or mitigating any adverse effects of fishing on the aquatic environment”. “Utilisation” of fisheries resources is defined as “conserving, using, enhancing, and developing fisheries resources to enable people to provide for their social, economic, and cultural wellbeing.”

Utilisation may be provided for at different levels, and the extent of such use should be considered on a case-by-case basis. Where there is a significant threat to the sustainability of a fish stock, the measures adopted to achieve sustainability are likely to be more stringent than where there is a lesser threat.

The proposed closures are designed to address localised sustainability issues³ within the taiāpure. While changes to the *status quo* reduce some opportunities for utilisation now, the proposals to close Huriawa Peninsula and Mapoutahi Peninsula to harvest are intended to improve utilisation over the long term.

4.2 SECTION 9 – ENVIRONMENTAL PRINCIPLES

The Act prescribes three environmental principles that you must take into account when exercising powers in relation to utilising fisheries resources and ensuring sustainability.

Principle 1: Associated or dependent species should be maintained above a level that ensures their long-term viability.

The Act defines “associated and dependent species” as any non-harvested species taken or otherwise affected by the taking of a harvested species. Given the proposal is to close the areas to harvesting pāua, there should not be any implications from the proposal for associated and dependent species.

Principle 2: Biological diversity of the aquatic environment should be maintained.

“Biological diversity” means the variability among living organisms, including diversity within species, between species, and of ecosystems.

Determining the level of impact of fishing on biodiversity requires an assessment of the risk that fishing might cause a decline in the abundance of one or more species, or otherwise cause biodiversity to be reduced to an unacceptable level. The proposal to close these areas to fishing for pāua is unlikely to detrimentally affect biodiversity.

³ Paua have a short motile larval phase and other biological characteristics that make them particularly susceptible to localised depletion. While not an immediate threat to sustainability at a stock level, cumulatively, localised overfishing reduces productivity by removing paua from areas of suitable habitat for extended periods.

Principle 3: Habitat of particular significance for fisheries management should be protected.

The maintenance of healthy fish stocks requires the mitigation of threats to fish habitat. Closing the areas to pāua harvest is likely to enhance habitat of particular importance to fisheries management.

4.3 SECTION 10 – INFORMATION PRINCIPLES

Section 10 of the Act specifies the information principles that must be taken into account when information is uncertain:

- Decisions should be based on the best available information – that is the best information that, in the particular circumstances, is available without incurring unreasonable cost, effort, or time;
- Decision makers should consider any uncertainty in the information available in any case;
- Decision makers should be cautious when information is uncertain, unreliable, or inadequate; and.
- 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 information available for pāua at Huriawa and Mapouitahi Peninsulas is the time series of abundance surveys conducted by Otago University. The report has been reviewed through MPI science review processes. Where there is uncertainty in information it is discussed within this paper.

4.4 SECTION 11 – SUSTAINABILITY MEASURES

Section 11(1) of the Act allows you to set or vary any sustainability measure for one or more stocks or areas, after taking into account any effects of fishing on any stock and the aquatic environment, any existing controls that apply to the stock or area concerned (for example the bag limits referred to earlier in this paper), and the natural variability of the stock concerned.

The proposals to close the pāua beds to harvesting seek to address the risk that fishing will result in the continuing decline of populations and lower numbers of large pāua.

Section 11(2) states that before setting or varying any sustainability measure, the Minister shall have regard to any provisions of: - any regional policy statements, regional plans, or proposed regional plans under the Resource Management Act 1991; any management strategy or plan under the Conservation Act 1987; sections 7 and 8 of the Hauraki Gulf Marine Park Act 2000; any regulations under the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012; and any planning documents lodged with the Minister of Fisheries (Minister for Primary Industries) by a customary marine title group under section 91 of the Marine and Coastal Area (Takutai Moana) Act 2011. MPI is not aware of any specific matters under the above provisions that are relevant to this decision.

Section 11(2A) states that before setting or varying any sustainability measure the Minister must take into account any relevant fisheries plan, fisheries services or conservation services. There are no relevant approved fisheries plans.

Section 11(3) outlines a non-exhaustive list of sustainability measures that the Minister may set for a stock. Sustainability measures may relate to the areas from which any fish, aquatic life, or seaweed of any stock may be taken. The Minister may implement any sustainability measures by notice in the *Gazette* (as proposed in this paper) or by the making of regulations under section 298 of the Act. MPI is proposing these area closures to recreational and commercial harvest of pāua as the sustainability measure to address the observed declines in pāua populations. The rationale for this measure is outlined later in this document.

Section 11(4) allows sustainability measures to be set or varied by *Gazette* notice or by recommending the making of regulations under section 298. MPI proposes that the sustainability measures be set by notice in the *Gazette*.

4.5 SECTION 12 – CONSULTATION

Before implementing any section 11 sustainability measure, section 12 of the Act specifies the Minister shall consult with persons or organisations that the Minister considers have an interest in the stock or the effects of fishing on the aquatic environment in the area concerned, including Maori, environmental, commercial, and recreational interests. This paper forms part of that consultation process.

The Minister must also provide for the input and participation of tangata whenua having a non-commercial interest in the stock concerned or an interest in the effects of fishing on the aquatic environment in the area concerned. The Minister must also have particular regard to kaitiakitanga. The proposal has been developed by Kāti Huirapa and the East Otago Taiāpure Committee, who are tangata whenua for this area.

MPI followed its standard consultation process of posting Consultation Documents on the MPI website and alerted PauaMAC 5 and Pāua to the People to the consultation. The consultation period ran between 11 July and 1 August 2016.

5 Huriawa Peninsula

5.1 HURIAWA PĀUA CLOSED AREA

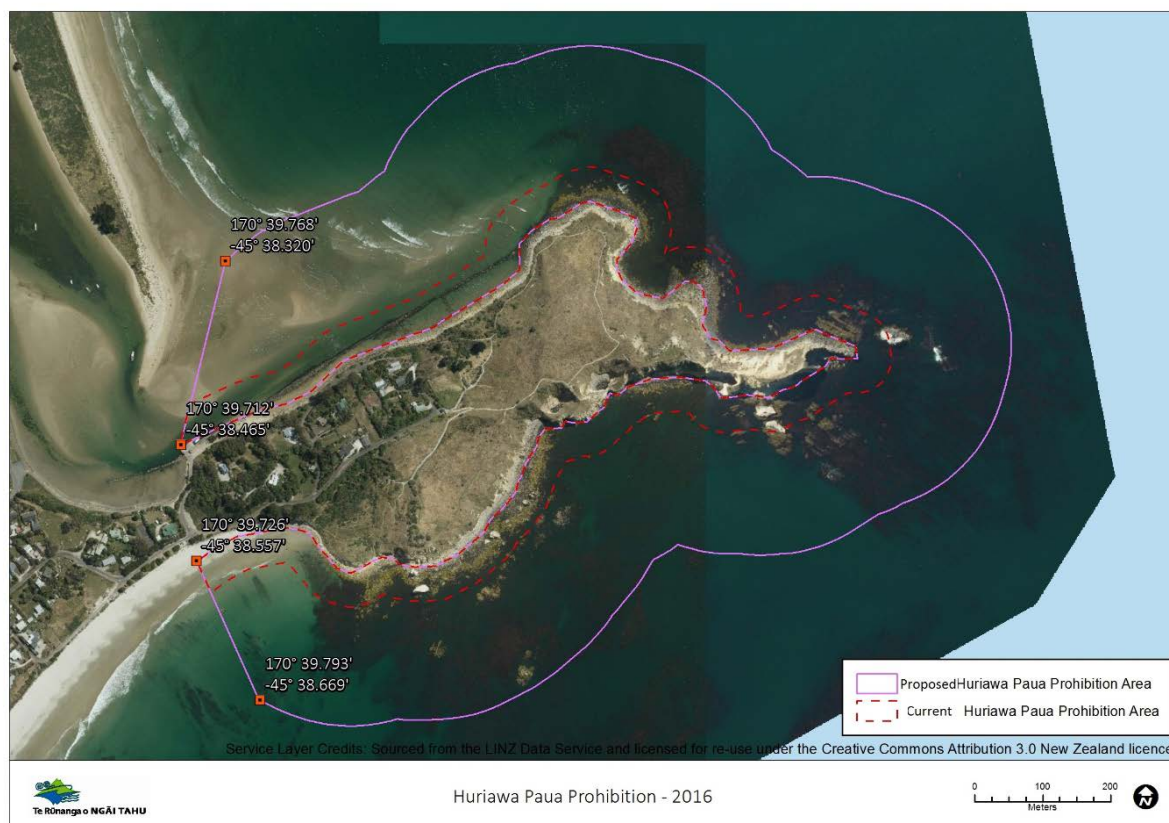


Figure 3 Huriawa Peninsula showing the area currently closed to pāua harvest that is proposed to be renewed and extended.

Huriawa Peninsula is near the coastal settlement of Karitane, Otago and is within the East Otago Taiāpure (see Figures 1 and 3). The East Otago Taiāpure Committee requests you consider closing the coastal environs of the Peninsula to pāua harvesting.

MPI has consulted on two options:

Option 1 (<i>Status quo</i>)	The current temporary closure, will expire on 24 September 2016 and Huriawa Peninsula will be open to harvesting pāua ⁴ .
Option 2 (MPI preferred)	Pāua harvesting around Huriawa Peninsula is closed to harvest under section 11 of the Fisheries Act 1996. The information supporting the closure is to be reviewed within three years.

Other possible options, such as further reductions in the bag limit or seasonal closures are not proposed as these are difficult to enforce over a small discrete area and likely to be less effective in addressing the concerns identified. Spatial closures have typically been used to manage fishing pressure on shellfish as they are easy to understand and enforce and are effective at addressing sustainability concerns from fishing.

⁴ Bag limit of 5 pāua for recreational fishers (per person per day) as specified in regulation 121 of the Fisheries (Amateur Fishing) Regulations 2013.

MPI's preferred approach is Option 2, to close Huriawa Peninsula to harvesting both black foot pāua (*Haliotis iris*) and yellow foot pāua (*Haliotis australis*) using a sustainability measure under section 11.

5.2 BACKGROUND

The Committee considers that pāua on the Huriawa Peninsula were once extremely abundant and it was a significant resource for Kati Huirapa who occupied the Huriawa pā area.

The pāua around the Huriawa Peninsula have been surveyed three times between 2008 and 2016. These surveys suggest pāua stocks at customary depths (inter-tidal and shallow sub-tidal, generally 0-1 m depth) on the Huriawa Peninsula are currently depleted.

Although the southern side of the Huriawa Peninsula was open to commercial pāua fishing before the current closures, no pāua have been commercially taken within the relevant statistical area since 2003/04.

In 2010, on the Committee's recommendations, Cabinet approved a two-year closure to the take of pāua around the Huriawa Peninsula. In 2012 and 2014, the area was closed under section 186B of the Act for a further two-year period.⁵ The most recent closure will expire on 24 September 2016.

The University of Otago is undertaking on-going research to monitor the effectiveness of the closure on the size and abundance of pāua around the Huriawa Peninsula. The Committee provided a research report, which has been reviewed through MPI's science review process, comparing relative changes in population structure and abundance since 2008 up to the present.

The research suggests that although the pāua stock in the area around Huriawa Peninsula is rebuilding, the rebuild is very slow and the area remains severely depleted. The Committee considers that the rebuild will take a further significant period of time and that a longer closure is needed to achieve the Committee's target level of rebuild.

The Committee also consider that to better protect the Huriawa Peninsula paua stock, the seaward boundary of the proposed closure area should be extended to include a larger component of the off shore reef. The area proposed to be closed under regulation is shown in Figure 3.

5.3 RATIONALE FOR MANAGEMENT INTERVENTION

There is concern for the pāua stocks around the Huriawa Peninsula despite the area being closed since 2010. The rate of recovery is slow and the Committee considers that a further closure is required. Renewing the closure every two years, as has occurred since 2010 under s186B of the Act, does not take into account the biology and slow growth of pāua which means recovery will occur over a longer time period. Instead the information available on the closed area will be assessed in three years' time and a recommendation made on whether the closure should be reviewed.

⁵ Fisheries (Huriawa Peninsula Temporary Closure) Notice 2014.

5.4 SUBMISSIONS RECEIVED

MPI received three submissions in response to the proposal to close two areas within the East Otago Taiāpure, Huriawa Peninsula and Mapoutahi Peninsula. The submissions were from:

- River-Estuary Care: Waikouaiti - Karitane
- Tim Ritchie
- PauaMAC 5 Incorporated

5.5 SUMMARY OF SUBMISSIONS

Two supported Option 2, to close Huriawa Peninsula to pāua harvesting, given the survey information showing the decline/ slow recovery of paua in the taiāpure area. The third submission did not object to the area being closed, but expressed concern that the proposal would change access to allow customary fishing of paua and, further, that the use of section 11 was not the appropriate instrument to use to close the areas. The submission asserts that while Huriawa Peninsula was closed to pāua harvest under section 186B, it was closed to customary fishing.

This assertion is incorrect, customary fishing under the Fisheries (South Island Customary Fishing) Regulations 1999 is not altered by the closures. MPI notes that tangata tiaki/kaitiaki have a rāhui on the issuing of authorisations in the area.

MPI considers the scientific information provided by the pāua surveys provides sufficient evidence of depleted biomass of pāua to implement the closures under section 11 of the Act. While the causes for decline and slow recovery of pāua populations within the East Otago Taiāpure are uncertain, a precautionary approach is recommended that would close the site to harvest.

Full copies of submissions are included with this document.

5.6 MANAGEMENT OPTIONS

5.6.1 Option 1 (*Status Quo*)

Under this option, no new sustainability measures will be set under section 11 for pāua fishing at Huriawa Peninsula and, as such, after 24 September, recreational and commercial fishers will have access to pāua (noting however that commercial fishers have voluntarily agreed to withdraw from the area).

This option would provide some short term utilisation benefits by allowing fishing for pāua to resume in the currently closed area. While numbers of legal sized pāua within the closed area may be recovering slowly, they remain low, and legal sized pāua outside of the closed area are declining. Should the area around Huriawa Peninsula reopen, it is likely that the pāua stocks would similarly decline. Therefore, the Committee has requested you close Huriawa Peninsula to harvesting pāua until such time as the resource rebuilds. The information on abundance will be reassessed in three years' time.

5.6.2 Option 2

Option 2 proposes to close Huriawa Peninsula to harvesting pāua in response to the survey information and the observations of decreasing numbers of legal sized pāua across the taiāpure. This option would remove fishing pressure from this area until such time as the area

again supports healthy stocks of pāua. This option proposes to close a larger area than that covered by the previous temporary closure under section 186B. This boundary extension is to capture all of the pāua habitat of the area and to remove confusion around harvesting pāua at the margins of the current boundary. MPI considers this would assist in ensuring compliance with the closure. The proposed boundary amendment is out to 225 m from the mean high water mark.

A closure is considered to be an effective measure for enabling a rebuild of pāua stocks at Huriawa Peninsula because:

- the surveys show the density of large pāua across the taiāpure continue to decline;
- a closure is an effective way of ensuring the populations are not being affected by recreational or commercial fishing, and is easily understood and enforceable;
- the surveys highlight that other restrictions, such as bag limit reductions, are not reversing the decline in pāua density in those areas of the taiāpure that are open to pāua fishing; and
- pāua are still able to be harvested at other areas within the taiāpure.

Given the majority of the area has been closed for the last six years, MPI does not expect displacement of effort, or any compliance difficulties from this closure. Pāua are fished from rocky reefs and promontories across the taiāpure, with areas such as Warrington most popular for recreational harvest. Therefore, the pāua resource can continue to be utilised elsewhere in the taiāpure. The proposed closure is relatively easy to understand and cost-effective to enforce.

No end date would be placed on the closure; it is the Committee's intention to continue to monitor the recovery until it has achieved sufficient density to facilitate customary harvesting practices previously used in the area. Given the slow recovery to date, rather than regularly having to make application to renew the closure, the information available on the closed area will be assessed in three years' time and a recommendation made on whether the closure should be reviewed.

5.7 CONCLUSION

There is concern for the pāua stocks around the Huriawa Peninsula despite the area being closed since 2010. Scientific information suggests the rate of recovery is slow. A further closure, under section 11 of the Act, would address the risk that fishing may cause a decline and would allow for a rebuild to occur over a timeframe that takes into account the biology of pāua.

A closure is more easily understood and cost-effective to enforce than other options, and is the best tool to achieve rebuild in the shortest possible time. An extension of the boundary to cover the small adjacent offshore reefs will improve compliance with the closure and increase the biomass of pāua protected.

The closure is not expected to displace effort to other parts of the taiāpure given it extends a closure that has already been in place for some time. Pāua are fished from rocky reefs and promontories across the taiāpure, with areas such as Warrington most popular for recreational harvest. Therefore, the pāua resource can continue to be utilised elsewhere in the taiāpure.

6 Mapoutahi Peninsula



Figure 4: Mapoutahi Peninsula with proposed closure boundaries.

Mapoutahi Peninsula is situated toward the southern end of the East Otago Taiāpure (see Figures 1 and 4). Survey data shows that the densities of pāua at Mapoutahi are the lowest in the taiāpure. To allow pāua stocks in this area to rebuild, the East Otago Taiāpure Management Committee requests you close the area under section 11 of the Act to harvesting pāua (*Haliotis iris*) and yellow foot pāua (*Haliotis australis*).

MPI has consulted on two options:

Option 1 (<i>Status quo</i>)	The area around the Mapoutahi Peninsula will remain open to harvesting pāua.
Option 2	Pāua harvesting around Mapoutahi Peninsula is closed to harvest under section 11 of the Fisheries Act 1996. The information supporting the closure is to be reviewed within three years.

Other possible options, such as further reductions in the bag limit or seasonal closures are not proposed as these are difficult to enforce over a small discrete area and likely to be less effective in addressing the concerns identified. Closures have typically been used to manage fishing pressure on shellfish as they are easy to understand and enforce and are effective at addressing sustainability concerns from fishing.

MPI's preferred approach is Option 2, to close the area under section 11 of the Act until a decision is made to reopen the area to harvesting pāua.

6.1 BACKGROUND

The pāua around the Mapoutahi Peninsula have been surveyed three times between 2008 and 2016. Numbers of pāua are very low and are surrounded by sand with few small animals present. They are thought to be a remnant population. Given this isolation, the Committee considers the area ideal for enhancement and translocation while monitoring the replenishing stocks.

Mapoutahi was the site of a massacre of the inhabitants of a pa located on the Peninsula in the 1760s, and is waahi tapu. Therefore, customary fishing is not generally undertaken in the area.

In 2010, the daily bag limit for pāua within the taiāpure was reduced from ten down to five. This does not appear to have been effective in maintaining the density of stocks around Mapoutahi Peninsula.

The University of Otago is undertaking on-going research to monitor the size and abundance of pāua within the taiāpure. The research compares relative changes in population structure and abundance since 2008 up to the present. In 2008 and 2012 only one site was sampled at Mapoutahi. In 2016 three sites were surveyed, however, only 24 pāua were found across all of the three sites in the 0-0.5m depth strata.

Based on the experience of the rebuild time required at Huriawa, the Committee considers that a rebuild at Mapoutahi will take a significant period of time. Even with the potential for enhancement and/or translocation, a period of closure that takes into account the biology and slow growth of pāua will be needed to achieve a rebuild.

6.2 RATIONALE FOR MANAGEMENT INTERVENTION

Survey data shows that the densities of pāua at Mapoutahi are the lowest in the taiāpure. To allow pāua stocks in this area to rebuild, the East Otago Taiāpure Management Committee (the Committee) requests you close the area under section 11 of the Act to harvesting pāua (*Haliotis iris*) and yellow foot pāua (*Haliotis australis*). The information available on the closed area will be assessed in three years' time and a recommendation made on whether the closure should be reviewed. The boundary of the proposed closure is 100 m from the mean high water mark.

MPI received three submissions in response to the proposal to close the Mapoutahi Peninsula to pāua harvesting. The submissions were from:

- River-Estuary Care: Waikouaiti - Karitane
- Tim Ritchie
- PauaMAC 5 Incorporated

6.3 SUMMARY OF SUBMISSIONS

Three submissions were received in response to the proposals. Two supported Option 2, to close Mapoutahi Peninsula to pāua harvesting, given the survey information showing the low numbers of paua in the area. The third does not object to the area being closed, but expressed concern that the proposal would change access to allow customary fishing of paua and, further, that the use of section 11 was not the appropriate instrument to use to close the areas.

This is incorrect, as customary fishing under the Fisheries (South Island Customary Fishing) Regulations 1999 is not altered by the closures. MPI notes that tangata tiaki/kaitiaki have a general rāhui on the issuing of authorisations in the area.

MPI considers the scientific information provided by the pāua surveys provides sufficient evidence of depleted biomass of pāua to implement the closures under section 11 of the Act. While the causes for decline and slow recovery of pāua populations within the East Otago Taiāpure are uncertain, a precautionary approach is recommended that would close the site to harvest.

Full copies of submissions are included with this document

6.4 MANAGEMENT OPTIONS

6.4.1 Option 1 (*Status Quo*)

Option 1 is the *status quo*. Under this option, no closure would be set under section 11 for the pāua fishery at Mapoutahi Peninsula. The populations of legal sized pāua within the taiāpure are declining. Survey data shows that the densities of pāua at Mapoutahi are the lowest in the taiāpure. The Committee has requested you close Mapoutahi Peninsula to harvesting pāua until such time as the resource has rebuilt in this area. Should you decide not to close the area to harvest, it is likely that the pāua stocks around Mapoutahi Peninsula will continue to decline as have the pāua stocks in the remainder of the taiāpure.

The low densities of pāua mean that, in reality, this area will make little contribution to utilisation if it were to remain open.

No submissions supported this option.

6.4.2 Option 2 (MPI Preferred Option)

Option 2 proposes to close the area around Mapoutahi Peninsula to harvesting pāua in response to the survey information showing the densities of pāua at Mapoutahi are the lowest in the taiāpure. This option would remove fishing pressure on this vulnerable area until such time as it once again supports healthy stocks of pāua and can again contribute to utilisation of the resource.

A closure is considered to be an effective measure for enabling a rebuild of pāua stocks at Mapoutahi Peninsula because:

- the surveys show the density of large pāua at Mapoutahi are the lowest within the taiāpure and without help are likely to continue to decline;
- a closure is an effective way of ensuring the populations are not being affected by recreational or commercial fishing, and is easily understood and enforceable; and
- the surveys highlight that other restrictions, such as bag limit reductions, are not reversing the decline in pāua density in those areas of the taiāpure that are open to pāua fishing; and pāua are still able to be harvested at other areas within the taiāpure.

No end date would be placed on the closure, however, it is the Committee's intention to periodically monitor the recovery until it has achieved sufficient density to facilitate the customary harvesting practices previously used in the area. Given the slow recovery rate

shown at Huriawa Peninsula, rather than regularly having to make application to renew a temporary closure, the information available on the closed area will be assessed in three years' time and a recommendation made on whether the closure should be reviewed.

Option 2 was supported by submissions. Overall, MPI considers Option 2 is the best option to provide for long-term utilisation of this fishery while ensuring sustainability; the purpose of the Act.

6.5 CONCLUSION

Survey information suggests the densities of pāua at Mapoutahi are the lowest in the taiāpure. A closure under section 11 of the Act would reduce the potential for fishing to cause further decline and would allow for a rebuild to occur over a timeframe that takes into account the biology of pāua.

A closure is more easily understood and cost-effective to enforce than other options, and is the best tool to achieve rebuild in the shortest possible time. It is not expected to displace effort to other parts of the taiāpure, given the low numbers of pāua around Mapoutahi Peninsula. Pāua are fished from rocky reefs and promontories across the taiāpure, with areas such as Warrington most popular for recreational harvest. Therefore, the pāua resource can continue to be utilised elsewhere in the taiāpure.

7 Appendix

7.1 COPY OF SUBMISSIONS



River - Estuary Care : Waikouaiti - Karitane

To:
Inshore Fisheries Management
Attention:
East Otago Taiapure Proposal
Ministry of Primary Industries
PO Box 2526
Wellington 6140
FMSubmissions@mpi.govt.nz

15 July 2016

Re: Proposed closures to harvesting of Paua at Huriawa Peninsula and Mapoutahi Peninsula

River-Estuary Care: Waikouaiti-Karitane is a community-based incorporated society that has been active since 1999. The group objectives are:

- To restore balance to Papatuanuku (mother earth)
- To have a well informed community about our river and estuary
- To have our community participating in sustainable resource practices
- To have a healthy, productive river and estuary ecosystem (fishing, biodiversity, general health)
- To promote an understanding of the interrelatedness of our river and estuary ecosystem with adjacent ecosystems

Established in 1999, our current projects include, monitoring, habitat restoration, community education and advocacy in the Waikouaiti River Catchment. The projects are meant to support and enhance the biodiversity of the area and to improve the health of the waterways.

We have worked in collaboration with East Otago Taiapure Management Committee in support of Ki uta ki tai volunteers who work in our community several times a year to maintain and enhance the biodiversity of our terrestrial and aquatic ecosystems through habitat restoration efforts and experiential learning opportunities including Marine Metre 2 monitoring. We have also worked with University of Otago marine science researchers to provide practical support to their fisheries (including paua) research. For the last 7 years this research has been presented back to our

communities at a well attended annual research evening held at Kati Huirapa Puketeraki marae. We appreciate being included in the work of the East Otago Taipure Management Committee's efforts and research.

River-Estuary Care:Waikouaiti-Karitane fully supports the East Otago Taipure Management Committee's request to:

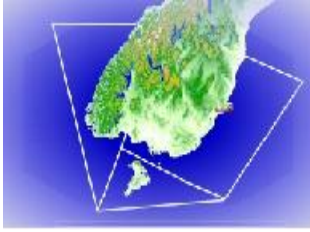
1. Renew the closure around Huriawa Peninsula to pāua harvest.
2. Close the area around Mapoutahi Peninsula to pāua harvest.
3. extend the seaward boundary of the Huriawa Peninsula closure to include some small offshore reefs.

We recognize and respect that these requests have been made after extensive scientific research and community consultation over the last few years. The East Otago Taipure Management Committee has worked with the community to make decisions to care for our local fisheries and better ensure food security for our coastal communities. We appreciate that the current application strongly supports healthy fisheries in the future and helps maintain and perhaps enhance the biodiversity not only of the local marine environment but of the adjacent estuarine and river habitats.

Andy Barratt, Co Chair, River-Estuary Care:Waikouaiti-Karitane

317 Apes Rd RD 1 Waikouaiti 9471

021 890 048 asbarratt@gmail.com



PauaMac5 Incorporated

Secretary's Office:

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Proposed closures to harvesting of Pāua at Huriawa Peninsula and Mapoutahi Peninsula

Introduction

1. PauaMAC 5 Incorporated welcomes the opportunity to comment on the proposed closures to harvesting of pāua at Huriawa Peninsula and Mapoutahi Peninsula in the East Otago Taiāpure. PauaMAC 5 represents the commercial pāua industry in PAU 5A (Fiordland), PAU 5B (Stewart Island) and PAU 5D (Southland/Otago). Our members include owners of pāua quota and ACE, as well as fishing vessel operators, processors, fish dealers and harvesters who operate in the PAU 5 fisheries.
2. In summary, our submission on the proposed closures is that:
 - We do not object to the substance of the East Otago Taiāpure Management Committee's requests;
 - However, we are concerned that the discussion paper failed to highlight the change in scope of the Huriawa closure (i.e., the proposed closure will apply only to commercial and recreational fishing); and
 - We object to the use of section 11 of the Fisheries Act 1996 to implement the proposed measures.

No objection to substance of proposal

3. PāuaMAC 5 does not object to the intent of the East Otago Taiāpure Management Committee's request to the Minister for Primary Industries to:
 - Renew the existing pāua closure around Huriawa Peninsula and; and
 - Close the area around Mapoutahi Peninsula to pāua harvest.
4. However, we have two concerns about the way in which MPI has presented the request in the discussion document and the proposed mechanism for implementation.

(1) The Huriawa proposal is not a "renewal"

5. We note that the proposal is not strictly a renewal of the current Huriawa closure for two reasons:
 - The boundaries of the closed area will change as a result of the proposed extension of the seaward boundary to include offshore reefs; and

- The proposed new closure would apply only to commercial and recreational fishing, whereas the current temporary closure applies to all fishing sectors, including customary fishing.
6. While the boundary change is clearly signalled in the discussion paper, the change in scope of the closure with respect to customary fishing is not clearly signalled. This change in scope is not mentioned in MPI’s summary of the proposal on the website. Neither is it mentioned in any descriptions of the proposal in the discussion paper. Instead, it is implicit only in a statement buried in the text of the document to the effect that MPI is “*proposing an area closure to recreational and commercial harvest of pāua*.”⁶
 7. It is not clear whether the change in scope was explicitly requested by the Management Committee or is an MPI proposition. In either case, we would have expected this matter to be highlighted in the discussion paper so that submitters had a reasonable opportunity to understand the full intent and effect of the proposal and to respond in an informed manner.

(2) The closures cannot be implemented under section 11

8. PauaMAC 5 objects to the use of a Gazette notice issued under section 11 of the Fisheries Act to implement the requested management measures. The reasons for our objection are twofold.

(i) *The proposed closures are not sustainability measures*

9. Section 11 enables the Minister to set and vary sustainability measures. Sustainability measures are defined in the Act as “*any measure set or varied under Part III of this Act for the purpose of ensuring sustainability*”. It follows that measures, such as an area closure, must be implemented for the purpose of ensuring sustainability before they can be sustainability measures under section 11. In contrast, measures implemented for other purposes cannot be regarded as sustainability measures and therefore cannot be implemented under section 11.
10. MPI has presented no evidence of any sustainability concerns in relation to pāua fisheries within the East Otago Taiāpure. The discussion document states that MPI is “*proposing an area closure to recreational and commercial harvest of pāua as the sustainability measure to address the observed declines in pāua populations*”.⁷ However, the best available information (i.e., the surveys) shows no decline in pāua in the area covered by the Huriawa closure. Although pāua numbers are very low at Mapoutahi, there is no evidence of recent decline – indeed, it appears that the pāua in this area are simply an isolated remnant population. Furthermore, as there is no commercial pāua harvest in either of the areas in question, there can be no justification for closing the areas to commercial pāua fishing on the basis of concerns about stock sustainability. The closure is clearly being requested for some other purpose.
11. As discussed further below, the concerns identified by the Management Committee in the two areas relate not to sustainability but to local depletion and utilisation, and in particular, to the need to recognise and provide for the customary use and management practices of tangata whenua. To the extent that sustainability concerns are mentioned in the discussion paper (i.e.,

⁶ Discussion paper page 9 and page 15.

⁷ Discussion paper page 9 and page 15.

the declining pāua abundance observed in the surveys) these relate to the East Otago Taiāpure as a whole, and not to the Huriawa or Mapoutahi areas.

12. In addition, MPI has not demonstrated that the proposed management measures (i.e., small spatial closures) will *ensure sustainability* of pāua – whether in the areas under consideration, in the East Otago Taiāpure, or in PAU 5D as a whole. In fact, the survey information presented in the discussion paper suggests that the Huriawa closure (which has been in place since 2010) has not enabled any statistically significant rebuild of the pāua population within the closed area. Closing the areas around Huriawa and Mapoutahi Peninsulas will not rectify the declining pāua abundance elsewhere in the taiāpure and will have no impact whatsoever on the sustainability of the PAU 5D fishery. In Fisheries Act terms, the closures are not, and cannot be considered to be, ‘sustainability measures’.

(ii) There are more appropriate tools available to implement the Committee’s request

13. It is apparent from the discussion paper that both the Management Committee and MPI view the proposed closures as a means of making “*better provision for the recognition of rangatiratanga and of the right secured in relation to fisheries by Article II of the Treaty of Waitangi for Kāti Huirapa Rūnaka ki Puketeraki*”.⁸ This interpretation of the true purpose of the closures is supported by:

- The request to change the Huriawa site from a closure that applies to all fishing (under section 186B) to one that applies only to commercial and recreational fishing while allowing customary fishing practices to continue; and
- The status of the Mapoutahi site as a wāhi tapu in which customary fishing is generally not undertaken, and the suggestion that the area is ideal for undertaking management practices such as “*enhancement and translocation while monitoring the replenishing stocks*”.⁹

14. The Fisheries Act contains tools specifically designed for providing for customary use and management purposes. We question why these tools were not included in the discussion paper as options for implementing the proposed measures.

15. The appropriate mechanisms for implementing the proposed closures are either:

- **a regulation** under section 185 of the Act, which is a purpose-built provision enabling a taiāpure management committee to recommend to the Minister the making of regulations “*for the conservation and management of the fish, aquatic life, or seaweed in the taiāpure.*” The regulations may be made under section 186 (regulations relating to customary fishing), section 297 (general regulations) or section 298 (regulations relating to sustainability measures), depending on the nature of the management measures proposed; or
- **a temporary closure** implemented under section 186B of the Act. The Huriawa Peninsula is currently closed to pāua harvest using a temporary (two year) closure implemented under section 186B. In order to use section 186B, the chief executive must consider the

⁸ Discussion paper page 11 and page 16.

⁹ Discussion paper page 12.

closure “**is likely** to assist in replenishing the stock of the species of fish... in the area concerned”. As the Huriawa closure has demonstrably not assisted in replenishing the pāua stock it is doubtful that this test would be met. However, we note that this has not prevented MPI from repeatedly using section 186B in similar circumstances elsewhere in South Island waters (most recently, at Wakatu Quay closure in Kaikoura).

16. Of these two options, section 186B is appropriate for a temporary closure, whereas section 185 is appropriate for a long-term closure. With respect to an appropriate timeframe for the closures, the discussion paper states that “*the rate of recovery is slow and ...the Committee considers that **a further temporary, but open ended, closure is required. Renewing the closure every two years, as has occurred since 2010, does not take into account the biology and slow growth of pāua which means recovery occurs over longer time scales. Instead the information available on the closed area will be assessed in **three years’** time and a recommendation made on whether the closure should be reviewed.***”
17. PauaMAC 5 considers this explanation to be confused and inconsistent with the best available information. The Committee states that “*a rebuild will take a further significant period of time*” and the surveys show no significant rebuild in six years – so why is a three year review period sought? There is nothing to suggest that the stock is likely to show significant signs of rebuild within three years. If the Management Committee is serious about enabling pāua to rebuild at Huriawa and Mapoutahi, the closures should be permanent. The regulation should have no expiry date but – like all other regulations – may be reviewed and revoked if circumstances change in future. On the other hand, if the Committee wants to retain a temporary (i.e., regularly renewable) closure, section 186B remains the most appropriate tool – especially as the two year period of section 186B closures is only marginally shorter than the three year review period sought by the Committee.
18. Given the above considerations, PauaMAC 5 recommends that the Management Committee’s request is most appropriately implemented either by regulations permanently closing the area to the harvest of pāua, as provided under section 185 and using section 297 of the Act (general regulations), or by using section 186B if a temporary closure is preferred.

Storm Stanley
Chairman, PauaMAC 5 Incorporated

From: Tim Ritchie [mailto:timritchie@fastmail.fm]
Sent: Saturday, 23 July 2016 10:16 p.m.
To: FMSubmissions <FMSubmissions@mpi.govt.nz>
Subject: MPI consultation document 2016/21 'Proposed closures to harvesting of pāua at Huriawa Peninsula and Mapoutahi Peninsula'

Dear Inshore Fisheries Management Team,

Regarding the proposed closures to harvesting of pāua at Huriawa Peninsula and Mapoutahi Peninsula, my submission is that I support the proposals that:

(i) The pāua harvest closure around Huriawa Peninsula be renewed.

(ii) The area around Mapoutahi Peninsula is closed to pāua harvest.

The rationale for my submission is based entirely on the respect I have for the work of the East Otago Taiāpure Committee in attempting to manage the depletion of pāua within the East Otago Taiāpure.

Kind regards,
Dr Tim Ritchie
478 Tomahawk Road
Smaill's Beach
Dunedin 9077