

In Confidence

Office of the Minister of Fisheries
Chair, Cabinet Legislation Committee

EAST OTAGO TAIĀPURE REGULATORY CHANGES

Proposal

1. This paper seeks authorisation for submission to the Executive Council of the Fisheries (Amateur Fishing) Amendment Regulations 2019 and Fisheries (South-East Area Commercial Fishing) Amendment Regulations 2019, which will give effect to the East Otago Taiāpure Regulatory changes.

Policy

2. A taiāpure-local fishery is an area of special significance to tangata whenua either as a source of food, or for spiritual or cultural reasons. Taiāpure are established under the Fisheries Act 1996 (Act) to make better provision for the recognition of rangatiratanga (the right to exercise authority) and the rights secured in relation to fisheries by Article II of the Treaty of Waitangi.
3. The Management Committee for the East Otago Taiāpure (Appendix One), is appointed by the Minister of Fisheries. The Management Committee has the power to recommend to the Minister regulations for the conservation and management of fish, aquatic life, or seaweed in the taiāpure.
4. The Management Committee has recommended regulations to:
 - a. close recreational and commercial pāua fishing within the Taiāpure;
 - b. prohibit the harvesting of seven species of attached kelp: *Durvillaea antarctica*, *D. willana*, *Ecklonia radiata*, *Macrocystis pyrifera*, *Marginariella boryana*, *Marginariella urvilliana* and *Lessonia variegata* within the Taiāpure;
 - c. prohibit the commercial and recreational use of set-nets within the Taiāpure;
 - d. require all recreational fishers to hold only whole or gilled/gutted fish when fishing within the Taiāpure.
5. This will require amendments to the Fisheries (Amateur Fishing) Regulations 2013 and the Fisheries (South-east Area Commercial Fishing) Regulations 1986.
6. The proposed amendments are consistent with the Fisheries Act 1996 objectives to –
 - provide for the utilisation of fisheries while ensuring sustainability;
 - make better provision for the recognition of rangatiratanga and the rights secured in relation to fisheries by Article II of the Treaty of Waitangi.

7. On 12 September 2019, the Cabinet Environment Energy and Climate Committee (ENV) agreed the Minister of Fisheries should recommend to the Governor-General that an Order in Council be made under section 297 of the Fisheries Act 1996 to set new regulations for the East Otago Taiāpure (ENV-19-MIN-0045).

Timing and 28-day rule

8. The amendment regulations are anticipated to come into force on 12 December 2019, 28 days after publication in the *Gazette*.

Compliance

9. The amendments to the Fisheries (Amateur Fishing) Regulations 2013 and the Fisheries (South-east Area Commercial Fishing) Regulations 1986 are consistent with:
 - 9.1. the principles of the Treaty of Waitangi;
 - 9.2. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
 - 9.3. the principles and guidelines set out in the Privacy Act 1993;
 - 9.4. relevant international standards and obligations;
 - 9.5. the Legislation Guidelines (2018 edition).

Regulations Review Committee

10. I consider that there are no grounds under Standing Order 319 for the proposed amendment regulations to be brought to the special attention of the House of Representatives.

Certification by Parliamentary Counsel

11. The Parliamentary Counsel Office has certified the attached amendment regulations as being in order for submission to Cabinet.

Impact Analysis

12. The Regulatory Quality Team at the Treasury has determined that the regulatory decisions sought in this paper are exempt from the requirement to provide a Regulatory Impact Assessment, as they have no, or minor, impacts on businesses, individuals or not for profit entities.

Publicity

13. The decision relating to the proposed regulations will be publicly notified via *Gazette* notice.
14. I will write to stakeholders and submitters to inform them of the new rules and the reasons for my decision. My letter will be published on Fisheries New Zealand's website, and communicated via a dedicated email and letter to submitters and tangata whenua. The New Zealand Fishing Rules App will also be updated.
15. In order to notify recreational fishers locally of these new rules, Fisheries New Zealand will also:
 - 15.1. publish and circulate updated brochures;
 - 15.2. educate recreational fishers about the new rules directly through communication channels used by fishery officers in these regions, including targeted media releases.
16. Fishery Officers will be responsible for ongoing enforcement of the new arrangements, which is expected to fall under their current day-to-day work.

Proactive release

17. Following Cabinet consideration I intend to consider the release of this paper in full.

Consultation

18. The Treasury, Te Pūni Kokiri and the Ministry of Justice were consulted on this paper and their feedback was incorporated.
19. Other organisations and entities consulted on this policy were Ngāi Tahu, PāuaMAC5¹ and recreational stakeholders.
20. The Cabinet Economic and Development Committee agreed to consultation on this matter on 15 August 2018 (DEV-18-MIN 0167). Fisheries New Zealand consulted publicly on the proposed regulations for six weeks between August and October 2018. This included release of a discussion paper and public information sessions.
21. The majority of submissions supported the recommended regulations, including PāuaMAC5.

¹ PāuaMAC5 is the representative body for commercial pāua fishing in the quota management area PAU 5D. The East Otago Taiāpure is within PAU 5D.

Recommendations

The Minister of Fisheries recommends that the Cabinet Legislation Committee:

1. Note that on 12 September 2019, the Cabinet Environment, Energy and Climate Committee agreed to implement regulations for the East Otago Taiāpure, [ENV-19-MIN-0045] to:
 - a. close recreational and commercial pāua fishing within the Taiāpure;
 - b. prohibit the cutting of seven species of kelp: *Durvillaea antarctica*, *D. willana*, *Ecklonia radiata*, *Macrocystis pyrifera*, *Marginariella boryana*, *Marginariella urvilliana* and *Lessonia variegata* within the Taiāpure;
 - c. prohibit the commercial and recreational use of set-nets within the Taiāpure;
 - d. require all recreational fishers to hold only whole or gilled/gutted fish when fishing within the Taiāpure.
2. Agree that the Fisheries (Amateur Fishing) Amendment Regulations 2019 and Fisheries (South-East Area Commercial Fishing) Amendment Regulations 2019 give effect to the decision referred to in paragraph 1 above;
3. Authorise the submission to the Executive Council of the Fisheries (Amateur Fishing) Amendment Regulations 2019 and Fisheries (South-East Area Commercial Fishing) Amendment Regulations 2019;
4. Note that the Fisheries (Amateur Fishing) Amendment Regulations 2019 and Fisheries (South-East Area Commercial Fishing) Amendment Regulations 2019 are intended to come into force on 12 December 2019.

Authorised for lodgement

Hon Stuart Nash
Minister of Fisheries