



Review of commercial access restrictions in the PAU 5D fishery

MPI Discussion Paper No: 2013/06

ISBN No: 978-0-478-40552-1 (online)

ISSN No: 2253-3907 (online)

March 2013

Disclaimer

Every effort has been made to ensure the information in this document is accurate. The Ministry for Primary Industries does not accept any responsibility or liability for any error of fact, omission, interpretation or opinion that may be present, however it may have occurred.

Requests for further copies should be directed to:

Inshore Fisheries Management
Ministry for Primary Industries
PO Box 2526, WELLINGTON 6140
Email: FMSubmissions@mpi.govt.nz
Telephone: 0800 00 83 33

This publication is also available on the Ministry for Primary Industries website at <http://www.mpi.govt.nz/news-resources/publications.aspx>

© Crown Copyright - Ministry for Primary Industries

1	Introduction	1
1.1	Consultation	2
2	Proposals	3
2.1	Status quo	3
2.2	Problem definition	7
2.3	Objective	8
3	Management option analyses	8
3.1	Option 1 – Status quo	9
3.2	Option 2 – Amend existing commercial paua harvest prohibitions	10
4	Other considerations	11
5	Monitoring and Review	12
6	Conclusions	12
7	Appendix 1 - Proposed open areas	14

1 Introduction

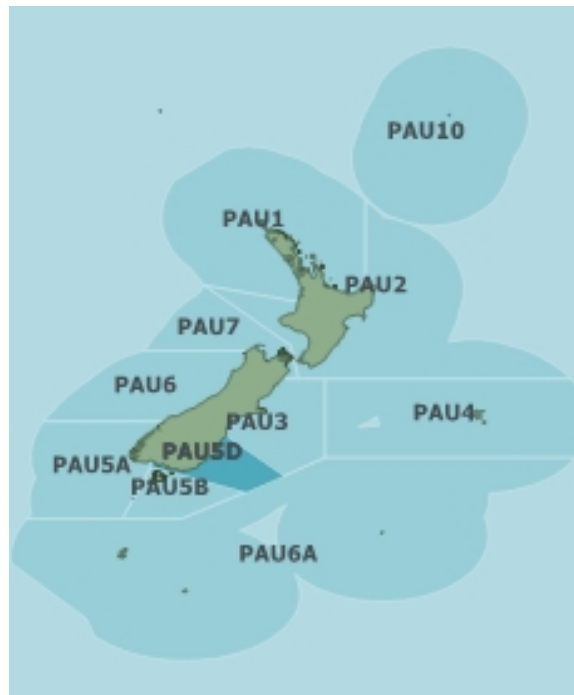


Figure 1. Map of New Zealand illustrating the quota management area for PAU 5D (dark blue), which runs along the Otago and Southland coasts.

This discussion paper provides the Ministry for Primary Industries' (MPI's) initial views on a request from the paua industry to amend the regulations governing access restrictions for commercial paua harvest in Quota Management Area PAU 5D. The overall intent of the industry's proposal is to identify areas that were historically closed due to water quality concerns that can now be re-opened to commercial harvesting (i.e. contain commercial viable densities of paua), without negatively impacting on non-commercial paua fishers.

The views and recommendations outlined in the paper are preliminary and are provided for the purpose of consultation with tangata whenua, the paua industry and other stakeholders.

The review will consider whether to amend:

- regulation 10 in the Fisheries (South-East Area Commercial Fishing) Regulations 1986, and
- regulation 14 in the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986

to enable commercial paua harvest in the following areas:

- Otago Peninsula from Cape Saunders to Harakeke Point and from Robertson's Creek (Boulder Beach) to Smails Beach;
- Clutha River Mouth;
- Waipapa Point; and
- Bluff Hill area from Steep Head to Barracouta Point.

The paua industry proposed that these regulations be reviewed, in the context of MPI's annual planning process for shellfish fisheries. The proposals are specified as management actions in MPI's [Annual Operational Plan for Shellfish Fisheries 2012/13](#). They are aimed at increasing the benefit obtained from the use of paua fisheries while upholding the stocks' sustainability.

Paua fisheries are managed under the Quota Management System (QMS) within the Fisheries Act 1996 (the Act). Management of paua fisheries is guided by the [draft National Plan for Inshore Shellfish](#) (the Plan), an MPI policy document which came into operation from July 2011. The Plan sets out management objectives for shellfish fisheries. The goal of the Plan, as set out in [Fisheries 2030](#), is to maximise the benefits (economic, social and cultural) obtained from the use of fisheries within environmental limits. The proposed regulatory changes are considered within this context.

1.1 CONSULTATION

Tangata whenua, the industry and other stakeholders are encouraged to provide additional information of relevance to, and their views on, these proposals. Some initial discussions have occurred with Te Rūnanga o Ngāi Tahu, and the proposal has been tabled at the Te Waka a Maui Fisheries and the FMA 3 & 5 Recreational Fisheries Forums. Further discussions will be had at the relevant forum meetings scheduled in March 2013. Submitters' points will be included in final advice to the Minister for Primary Industries on these issues.¹

Written submissions can be sent in until 19 April 2013 and should be directed to:

Inshore Fisheries Management
Ministry for Primary Industries
PO Box 2526
WELLINGTON 6140
FMSubmissions@mpi.govt.nz

¹ All submissions are subject to the Official Information Act 1982 (OIA) and can be released, if requested under the OIA. If you have specific reasons for wanting to have your submissions withheld, please set out your reasons in the submission. MPI will consider those reasons when making any assessment for the release of submissions if requested under the OIA.

2 Proposals

Option 1 <i>(Status quo)</i>	Retain the existing commercial paua harvest prohibitions as specified in: <ul style="list-style-type: none">• regulation 10 in the Fisheries (South-East Area Commercial Fishing) Regulations 1986, and• regulation 14 in the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986.
Option 2	Amend: <ul style="list-style-type: none">• regulation 10 in the Fisheries (South-East Area Commercial Fishing) Regulations 1986, and• regulation 14 in the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986 to enable commercial paua harvest in all, or some, of the following areas: <ul style="list-style-type: none">• Otago Peninsula from Cape Saunders to Harakeke Point and from Robertson’s Creek (Boulder Beach) to Smails Beach;• Bluff Hill area from Steep Head to Barracouta Point,• Clutha River Mouth, and• Waipapa Point.

2.1 STATUS QUO

Commercial harvest of certain shellfish, in particular paua, is prohibited in specified areas off the South-East and Southland coasts of the South Island. These regulations were put in place in 1986 with at least part of the rationale at the time relating to food safety concerns.

The areas closed by regulation take up a significant part (approximately 165 km) of the PAU 5D quota management area (QMA) coastline. There are approximately 49 quota holders and 22 annual catch entitlement (ACE) fishers that participate in this fishery. Industry estimates that approximately 10 to 30 tonnes of paua are inaccessible to the commercial fishery because of the existing closures. There are no estimates of the number of recreational fishers that harvest in these areas.

The following two regulations outline the prohibitions that apply:

Fisheries (South-East Area Commercial Fishing) Regulations 1986 (see Figure 2):

- 10 Restrictions on taking shellfish from parts of Otago coast
 - No commercial fisher shall take from, or have in possession, any shellfish (except rock lobsters, oysters, or crabs) taken from the following waters:
 - (a) *Waikouaiti Bay* - the waters of Waikouaiti Bay enclosed by a straight line drawn from Cornish Head to Karitane Peninsula
 - (b) *Seacliff* - all those waters lying within half a nautical mile seaward of the mean high-water mark between Brun's Point and Omini Point
 - (c) *Otago Harbour* - all the waters of Otago Harbour enclosed by a straight line drawn from Heywards Point to Taiaroa Head
 - (d) *Otago Peninsula* - all those waters lying within half a nautical mile seaward of the mean high-water mark between Cape Saunders Lighthouse and the point 1 nautical mile south of Brighton
 - (e) *Taieri River Mouth* - all those waters lying within half a nautical mile seaward of the mean high-water mark between the point 1 nautical mile north of the Taieri River mouth, and the point 1 nautical mile south of the Taieri River mouth (including Taieri Island):
 - (f) *Tokomairiro River Mouth* - all those waters lying within half a nautical mile seaward of the mean high-water mark between the point 1 nautical mile north of the Tokomairiro River mouth and the point 1 nautical mile south of the Tokomairiro River mouth
 - (g) *Clutha River* - all those waters lying within half a nautical mile seaward of the mean high-water mark between Newstead and Port Molyneux School

Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986 (see Figure 3):

- 14 Restrictions on taking shellfish (other than rock lobsters, oysters, or crabs)
 - No commercial fisher shall take from, or have in possession, any shellfish (except rock lobsters, oysters, or crabs) taken from the following waters:
 - (a) *Howells Point Light, Riverton to Waipapa Point, Otara*
 - (b) *Stewart Island*—those waters adjacent to Stewart Island lying inside a straight line from Mamaku Point to Bullers Point (The Neck):
 - (c) *Ruapuke Island*—all those high waters lying within 1 nautical mile seaward of the mean high-water mark of the coasts of Ruapuke Island and of Green Island, which lies to the east of Ruapuke Island.

The regulations only prohibit the commercial harvest of some shellfish. No similar prohibitions were applied to the recreational harvest of shellfish in these areas.



Figure 2. Map showing the areas along the Otago coast where no commercial harvest of shellfish, including paua (but excluding rock lobster, oysters and crabs), is permitted.



Figure 3. Map showing the areas along the Southland coast where no commercial harvest of shellfish, including paua (but excluding rock lobster, oysters and crabs), is permitted.

2.2 PROBLEM DEFINITION

The above regulations prevent the commercial harvest of shellfish (except rock lobsters, oysters, or crabs) from areas along the Otago and Southland coasts. Some of these areas are considered to have reasonable economic potential for sustainable commercial harvest of paua.

MPI is committed to actively seeking opportunities to improve benefits and sustainable use opportunities as noted in the National Fisheries Plan for Inshore Shellfish and Fisheries 2030 strategy. MPI considers a review of the existing commercial shellfish harvest prohibitions (*status quo*) as they relate to paua appropriate based the following underlying problems:

- Utilisation is constrained in the PAU 5D fishery due to harvest prohibitions for reasons relating to water contamination that no longer apply, and paua are not susceptible to such contamination.
- The economic, social and cultural benefits from the PAU 5D fishery are artificially limited due to some of these harvest prohibitions.

Part of the rationale for these regulations was as a response to food safety concerns. These concerns related to food contamination from sewage outfalls, meat processing works and land-based contaminant discharge from rivers. At the time of the closures in the mid-80s, it appears that fisheries regulations were the only tool available to give effect to such closures. Since then the Animal Products Act (APA) has come into effect (1999) that allows for other, more appropriate, tools.

Since the above regulations were introduced some of the sources of food contaminants (e.g. meat works and sewage outfalls) have been removed. For example, the Ocean Beach Freezing works in Bluff closed in 1991 and a new sewage treatment plant was established in Bluff in 2000, which prevents any untreated discharge from entering the environment. Although some of these contaminant sources have been removed, the more important point is that paua are no longer subject to the same food safety restrictions as filter feeding shellfish (e.g. shellfish sanitation programmes). Paua do not present the same hazards as bivalve molluscan shellfish and there are targeted systems in place to address food safety issues.

The APA system requires that animals submitted for processing are fit for purpose. The onus to make sure they are safe is on the harvester. MPI considers there are more appropriate mechanisms under the APA that could be utilised (i.e. Restricted Procurement Areas) if there is a need to manage a food safety issue and restrict harvest from a particular area. Under APA requirements and irrespective of removal of specific controls on commercial harvesting under the Act, the onus remains on industry to ensure their product is safe.

District Health Boards and other local authorities (e.g. Regional Councils) are required to undertake regular testing for water contamination. If any water quality issues do arise that would affect the food safety of a marine species, in particular shellfish, a closure can be imposed.

The prohibited areas have resulted in benefits to non-commercial fishers from increased densities of paua, but constrained the commercial paua fishery.² Concentration of effort in areas open to both non-commercial and commercial fishers has also resulted in localised depletion. Localised depletion can mean a greater effort is required to fulfil catches, including in easily accessible non-commercial areas, and may result in overfishing of local spawning population. The areas also provide limited ability to shift commercial catch effort to more sheltered areas along the southern coastline based on prevailing weather conditions.

² Note: Not all the areas closed under the prohibition provide suitable paua habitat or commercial viable densities of paua.

2.3 OBJECTIVE

MPI is committed to maximising the economic benefits from the sustainable use of fisheries resources while reducing any unnecessary regulatory burden. The purpose of this review is to assess unnecessary utilisation constraints that could realise economic potential for sustainable harvest of paua, and to ensure that water contamination is dealt with under appropriate management tools.

The intent is to identify areas that were historically closed due to water quality concerns that can now be re-opened to commercial harvesting, without negatively impacting on non-commercial paua fishers. The areas put forward by the Paua Industry Council and Pauamac5 follow initial discussions with Ngai Tahu but little discussion with other non-commercial stakeholder interests.

The areas for review include:

- Within the Fisheries (South-East Area Commercial Fishing) Regulations 1986:
 - Otago Peninsula from Cape Saunders to Harakeke Point and from Robertson's Creek (Boulder Beach) to Smails Beach; and
 - Clutha River Mouth.
- Within the Fisheries (Southland and Sub-Antarctic Areas Commercial Fishing) Regulations 1986:
 - Waipapa Point; and
 - Bluff Hill area from Steep Head to Barracouta Point.

These areas are illustrated in Maps 1 – 4 (Appendix 1).

3 Management option analyses

The analysis of options discusses the potential impact on customary, recreational and commercial fishers. There is uncertainty around the costs and benefits that the *status quo* and alternative option would result in or have on people's social, cultural and economic well-being. This is primarily because there is limited information on harvesting effort by non-commercial fishers in the areas concerned.

In providing submissions, stakeholders should provide information on any use, economic, social and cultural factors that may be relevant in assessing the management options. In particular, fishers should provide information on how these proposals may impact on their fishing activities.

Stock sustainability

Stock sustainability of PAU 5D is unlikely to be impacted by the options discussed. The principal sustainability control in the paua fishery is the Total Allowable Catch (TAC). The setting of catch limits is a separate process that is informed by stock assessments and other TAC setting processes. Opening these areas would not immediately result in a review of the TAC, nor an increase the amount of Total Allowable Commercial Catch (TACC) harvested as the available TACC is already being taken. The review of these selected closed areas to commercial harvest may provide longer-term opportunities to review the current TAC. Stock abundance in these areas would be assessed to inform future stock assessments and may provide for a greater TAC, sector allowances and TACC.

Additionally, a minimum legal size (MLS of 125 mm) is in place as a tool to ensure future recruitment to fish stocks by allowing a proportion of individuals within the stock to reach sexual maturity and breed before being harvested. Commercial fishers voluntarily take paua

at a minimum harvest size (MHS of 132 mm) well above the MLS in a number of areas in PAU 5D to provide increased opportunity for recruitment in the fishery.

3.1 OPTION 1 – STATUS QUO

Options 1 would retain the existing commercial shellfish harvest prohibitions as described above in section 2.1 and shown in Figures 2 and 3.

3.1.1 Impact on fishers

Commercial

Under Option 1 commercial fishers and quota holders will continue to be constrained in the availability of marine space where they can harvest their Total Allowable Commercial Catch. There are approximately 49 quota holders and 24 ACE (annual catch entitlement) fishers that operate in the PAU 5D fishery that are impacted.

Some of the closures described in section 2.1 were originally brought for reasons no longer applicable in those particular areas (e.g. food safety concerns from the freezing works and sewage outfalls). In particular, paua are not subject to the same hazards posed by water quality issues as bivalve molluscan shellfish. There are different and more appropriate legislative mechanisms to manage any food safety concerns rather than relying on historic closures made under the Act.

Since paua was brought into the Quota Management System and the PAU 5D Quota Management Area (QMA) established there have been a series of regulated and voluntary closures that have reduced areas available to obtain their TACC commercial fishery. These include four voluntary closures along the Catlins Coast (Jacks Bay to Jack's (Tuhawaiki) Island, Long Point, Tahakopa River bar to Picnic Point, and Mahaka Point to Kings Rock).

The effect of these closed areas in addition to the historic closures has been to cumulatively reduce productive fishing areas from the commercial fishery. The TACC is still continuously harvested, but it means that greater effort is concentrated on the remaining paua populations for commercial fishers to harvest their displaced catch.

There are also three mātaitai (Waikawa Harbour/Tumu Toka, Pinawai o Toriki, and Moeraki) in place in PAU 5D.

Customary and Recreational

Under Option 1 the closed areas provide for the spatial separation of commercial and non-commercial sectors, which can result in reduced competition among sectors. Some non-commercial fishers may have adjusted fishing patterns accordingly to avoid competing with commercial harvesters. Conversely, the increased commercial effort in areas where no closures apply can result in increased competition with other non-commercial harvesters. Concentrated commercial harvest prevents catch spreading throughout the entire QMA and can result in localised depletion, a common concern among non-commercial harvesters.

MPI believes some of the areas proposed to be re-opened to commercial fishing could be highly used by recreational fishers. MPI monitors the activity in these areas and note the regular presence of recreational fishers. Under these circumstances the introduction of commercial fishers to the areas may result in increased competition for the paua resource.

Conversely, anecdotal information from the paua industry suggests that illegal harvest is occurring in many of the closed areas, and that this would be mitigated by on-the-water presence of commercial fishers. Commercial fishers operate year round and often more frequently harvest than non-commercial fishers, which can act as a deterrent to fish thieves. Available information in these areas suggests most compliance breaches involve possession of paua that are undersize or in excess of the daily bag limit.

3.2 OPTION 2 – AMEND EXISTING COMMERCIAL PAUA HARVEST PROHIBITIONS

Option 2 would amend the existing commercial shellfish harvest prohibitions to allow the commercial harvest of paua in all, or some, of the following areas:

- Otago Peninsula from Cape Saunders to Harakeke Point and from Robertson’s Creek (Boulder Beach) to Smails Beach (see Appendix, Map 1);
- Waipapa Point (see Appendix, Map 2);
- Clutha River Mouth (see Appendix, Map 3); and
- Bluff Hill area from Steep Head to Barracouta Point (see Appendix Map 4).

These areas put forward for consideration by industry follow initial discussions with local commercial paua harvesters and their executive and Ngai Tahu. Industry considers the proposed areas:

- remove some closures where the initial rationale is no longer applicable in those areas,
- could provide economically viable commercial catch, and
- would not unduly impact on existing non-commercial harvesting opportunities.

Other areas have not been put forward for initial consideration because they do not have paua, abundance of paua is unlikely to be at a commercial viable density, and/or they may impinge on high non-commercial use areas. However, MPI invites tangata whenua and stakeholders to comment on whether other areas could be considered opened for commercial paua harvest.

3.2.1 Impact on fishers

Commercial

Commercial fishers and quota holders involved in the PAU 5D fishery will benefit from the removal of closed areas to enable better utilisation of the stock as follows.

- Better and less regulation where the rationale for the original closures are no longer applicable in those areas
- Better spread of catch throughout the whole QMA to support biomass build for all in the fishery
- Combat the presence of fish thieves and reduce overall loss from the fishery
- Wider range of spatial access in different prevailing weather conditions
- Less localised pressures on the resource created by other spatial closures

Opening the closed areas would allow commercial fishers to spread where their catch is taken from to reduce fishing pressure in localised areas and increase the economic return of the fishery by increasing catch rates. Industry estimates the amount of current harvest they made be able to redistribute would range between 10 and 30 tonnes (from within the current 89 tonne TACC).

Opening these selected closed areas may also provide opportunity to increase overall economic benefit in the long-term. Stock abundance in these areas will be assessed to inform future stock assessments and may provide for a greater Total Allowable Catch (TAC) and

TACC. For example, if industry was able to harvest an additional 10 to 30 tonnes that equates to approximately \$0.6 to 1.8 million in increased exports.

Customary

Pauamac5 (the local industry body) has held preliminary meetings with Ngai Tahu to discuss its proposal for increasing commercial access to the proposed four sites in PAU 5D. MPI has also discussed the proposal with Ngai Tahu. While Ngai Tahu customary and commercial representatives have said the iwi would have no particular objection to the proposals, they have indicated that individual runanga or hapu may have their own viewpoint.

Recreational

Under Option 2 non-commercial fishers may benefit from reduced fishing pressure in areas where commercial harvest is currently concentrated, and a better spreading of catch to reduce/remove some localised depletion concerns. Given the large spatial closures (regulatory, mātaītai and voluntary) already in place there are a number of areas where recreational fishers have sole access. The majority of these areas would be retained as only a small portion of the closed areas under the regulations described in section 2.1 are being considered for opening.

Conversely, the closed areas have resulted in spatial separation of commercial and non-commercial sectors, and non-commercial fishers may have adjusted fishing patterns accordingly. The introduction of commercial harvesters to those areas may create new localised pressures. However, anecdotal information suggests that two areas where recreational use may be high are the Bluff Hill (east of Barracuda Point) and Otago Peninsula near Seal Point, which would remain closed to commercial.

Paumac5 has proposed to harvest any paua in these areas under their voluntary MHS (132 mm). Harvesting above the MLS will provide a size differential for recreational fishers that allow them to harvest paua prior to them being large enough for commercial harvest, which may reduce some of the increased spatial competition that could arise.

4 Other considerations

Allow commercial paua harvest in all areas

MPI notes that only two options are presented above (*status quo* and a partial opening of closed areas to paua). The areas for review have been based on information provided by the paua industry. An alternation is to allow the commercial harvest in all the prohibited areas, where or if there is sufficient information to support such an approach.

Remove the prohibitions for all shellfish

MPI notes the commercial shellfish prohibition in these areas also prevents the harvest of shellfish other than paua (for example surf clams, cockles or scallops). MPI is not aware of significant concentrations of these other shellfish species in the closed area that may be unnecessarily constraining commercial use opportunities.

An alternative option is to allow the commercial harvest of all shellfish species in either the areas put forward by the paua industry, or in all prohibited areas if there is sufficient information to support such an approach.

MPI welcomes Tangata whenua and stakeholders' comments and information on whether any other options or variations of the proposed open areas should be considered.

5 Monitoring and Review

Through the annual fisheries planning process described above, MPI monitors and reviews the effectiveness of regulations in supporting management objectives. The performance of the fishery and of the regulations proposed in this paper would be monitored and reviewed in discussion with tangata whenua, the industry and other stakeholders as part of this process.

Water quality is continually monitored by local DHBs and Councils. Should any water quality issues arise that would affect the food safety of commercial paua harvest, these would be dealt through the mechanisms in place under the Animal Products Act.

Locations of commercial paua harvest are monitored through information provided on statutory reporting forms and general monitoring by MPI Compliance. MPI is exploring the use of other technology to better monitor commercial harvest activity.

6 Conclusions

The proposals presented in this paper are based on an industry request to improve utilisation opportunities in the commercial fishery without unduly impacting on the non-commercial sector. MPI considers the proposals may increase the value obtained from the PAU 5D fishery while not impacting on overall sustainability of the stock. The main mechanism to provide for sustainability are catch limits which, as described earlier, are reviewed periodically as new scientific information becomes available.

The proposed changes:

- are consistent with the government's statements on better and less regulation;
- would improve productivity and utilisation opportunities for the commercial sector; and
- may reduce spatial competition in other areas of the fishery.

MPI's preferred option based on the proposals put forward is Option 2. Option 2 takes into account:

- that the original rationale is no longer applicable in those areas (i.e. food safety concerns) for paua,
- the increased use opportunities for the commercial fishery to improve distribution of catch throughout the QMA,
- the opportunity to reduce commercial, customary and recreational overlap in existing harvesting areas,
- that most of the long standing spatial separation between commercial and non-commercial harvesters would be retained.

Tangata whenua, the paua industry and other stakeholders are encouraged to provide their views on, additional information on the proposals outlined in this paper, or alternative proposals that could be considered. Submissions will be reflected in final advice to the Minister. Any changes resulting from the Minister's decisions would take effect following Cabinet's confirmation of the Minister's decisions, on 1 October 2013.

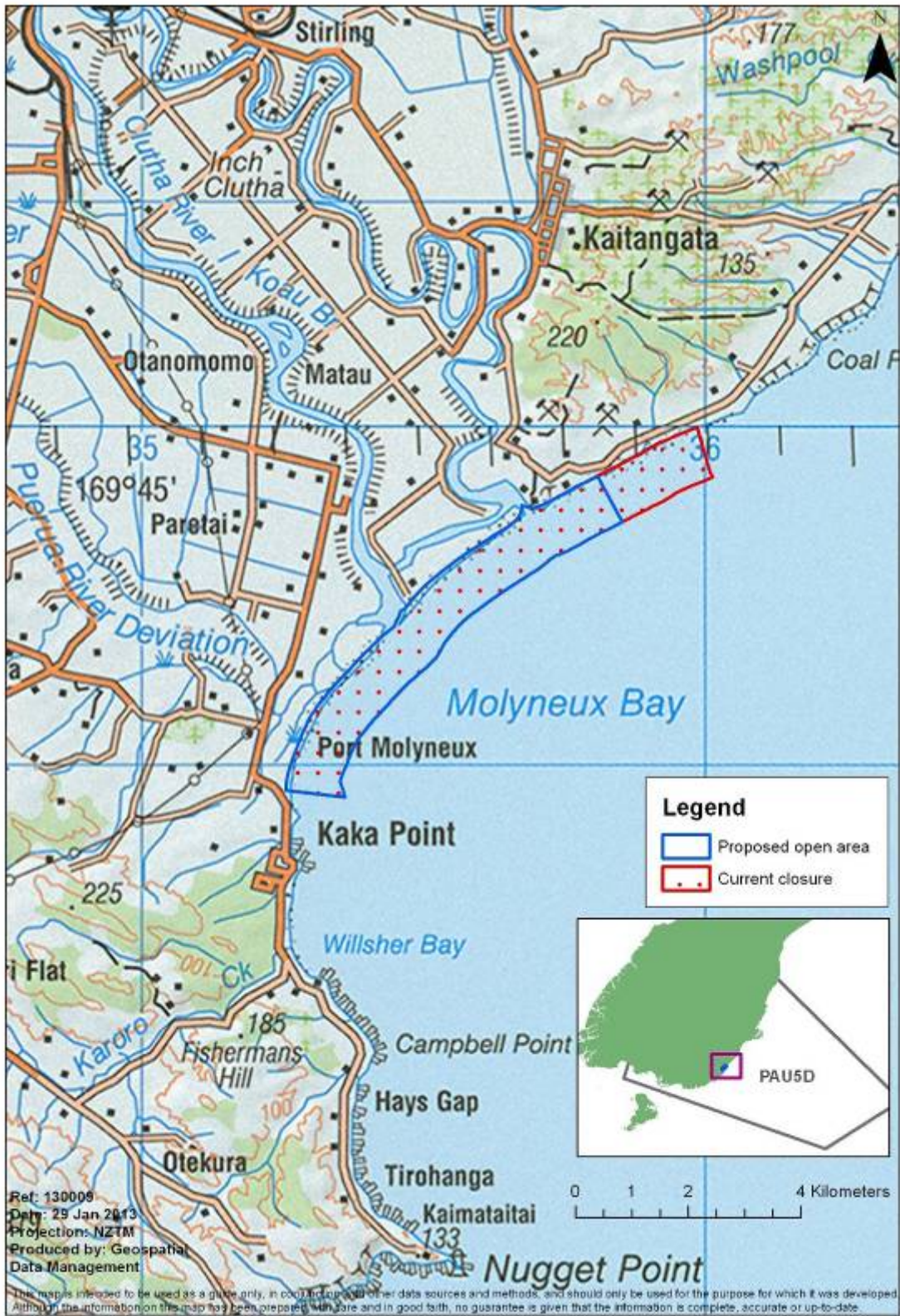
Tangata whenua and stakeholders are encouraged to submit their views and additional information on these proposals and in particular:

- Is the description and analysis of the current situation an accurate reflection of your experience?
- Have the key features of each option been accurately and coherently set out?
- Have all the impacts of the options been identified and accurately described?
- What are the costs and benefits that the proposed changes would have on your fishing activities and/or business?
- Where applicable, is it clear why the preferred option is preferred over other options?
- Are the risks associated with each option clear? What are your views of the risks likely to be created under the proposed changes?
- Is it clear how the performance of the regulation will be monitored and assessed?

7 Appendix 1 - Proposed open areas



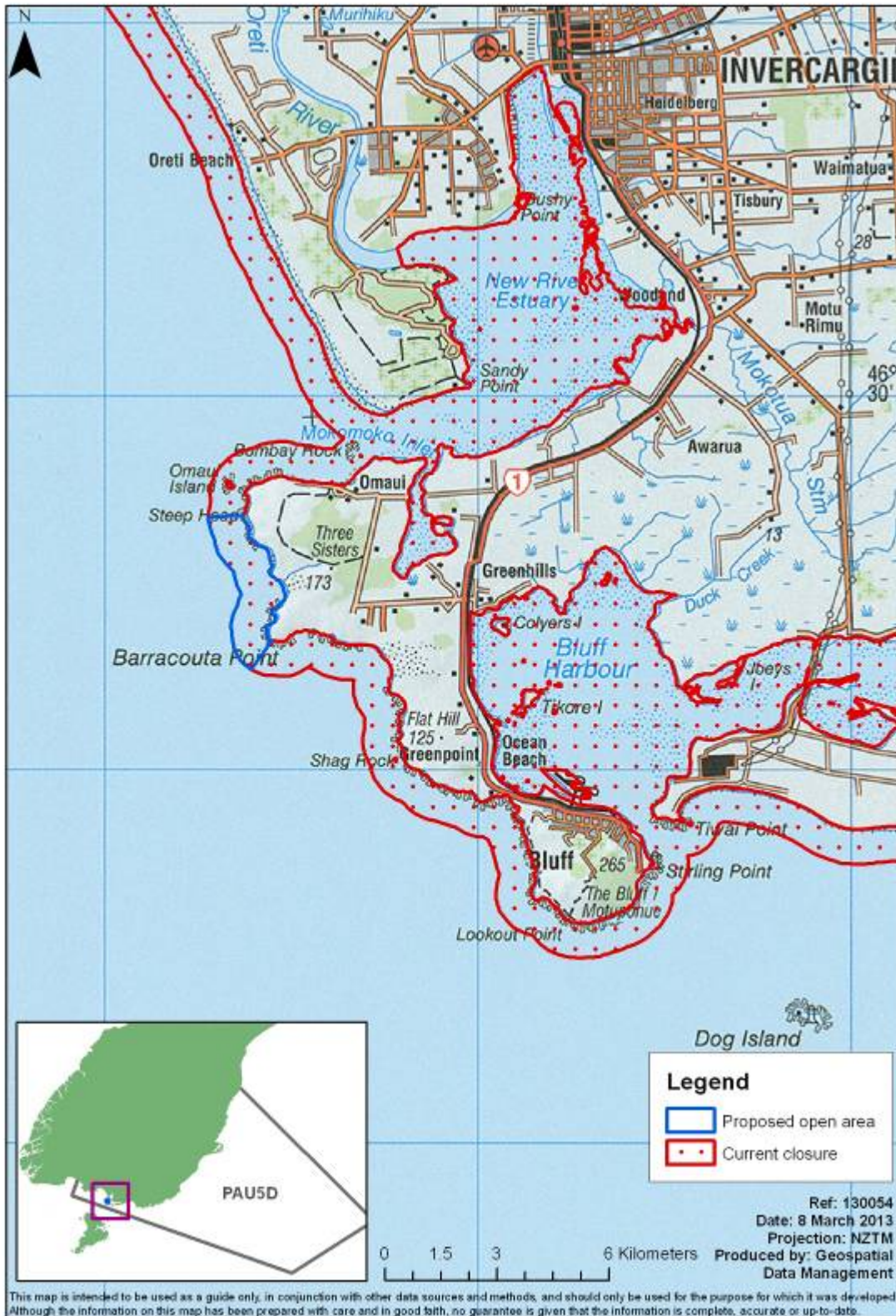
Map 1: Proposed commercial paua harvest area from Cape Saunders to Harakeke Point and from Robertson's Creek (Boulder Beach) to Smalls Beach (shown in blue) within the existing closed area (red).



Map 2: Proposed commercial paua harvest area around the Clutha River mouth (shown in blue) within the existing closed area (red).



Map 3: Proposed commercial paua harvest area around Waipapa Point (shown in blue) within the existing closed area (red).



Map 4: Proposed commercial paua harvest area from Steep Head to Barracouta Point (shown in blue) within the existing closed area (red).