

1 November 2023

Committee Secretariat
Environment Committee
Parliament Buildings
Wellington.

To whom it may concern,

Submission to the Select Committee on the Hauraki Gulf/Tikapa Moana Marine Protection Bill

1. Seafood New Zealand welcomes the opportunity to provide comment on the Hauraki Gulf/Tikapa Moana Marine Protection Bill (the Bill). Our comments are set out below, but we note that other representative organisations, companies and quota-holders and fishers have also made their own submissions on the Bill, and we support them.

Summary of position

2. We recognise the national significance of the Hauraki Gulf/Tikapa Moana Marine Park (the Gulf) and the life-supporting capacity of the environment of the Gulf that provides for the social, economic, recreational, and cultural well-being of people and communities. The commercial fishing community of the Gulf is reliant on the healthy functioning of the ecosystem and therefore is dedicated to ensuring the ongoing sustainability of the Gulf. We are supportive of approaches to integrate the management of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments.
3. We do not support the implementation of Marine Protected Areas (MPAs) through special legislation. We consider that this undermines the principles and protections of relevant legislation by circumventing their processes. Specifically, consultation requirements and the obligation to consider existing rights and interests under the Fisheries Act 1996 and Marine Reserve Act 1971.
4. We do not support the use of special legislation to avoid delay caused by “public opposition and potential renegotiation”.¹ The prioritisation of rapid implementation over thorough process is inappropriate.
5. The ongoing application of non-statutory processes has led to a detachment of the proposed measures from relevant legislation. Specifically, the merit of the proposals has been measured against the objectives of the non-statutory Sea Change Tai Timu

¹ Regulatory Impact Statement: Marine Protection Proposals from Revitalising the Gulf: Government Action on the Sea Change Plan page 26

Tai Pari Marine Spatial Plan (the Sea Change Plan), rather than the objectives of relevant legislation.

6. The proposed MPAs have not been designed to optimise their effects to prevent biodiversity loss in the Gulf as they have not been based on the best available information. The information that supported the development of the proposed Hauraki Gulf Bottom Fishing Access Zones is considered the best available information. By not applying this, the conservation value of the areas has not been appropriately assessed.
7. The impacts of the proposals on the Gulf's fishers and communities who rely on the Gulf for their kaimoana have not been adequately analysed or considered and accounted for. Therefore, there is no adequate cost-benefit analysis of the proposals.
8. We have provided appendices of our previous submissions related to these proposals which provide detailed technical analysis of the areas and highlight those areas of concern we have previously raised that have not been addressed. We intend these to be read as part of this submission to the Select Committee.
9. The concurrence of the consultations on the Bill with the proposed Bottom Fishing Access Zones in the Gulf potentially creates redundant protection. The process to consider whether additional measures are necessary to reduce fisheries impacts should be conducted after the intended Fisheries Act measures have been implemented.
10. We continue to support action taken to restore the mauri of the Gulf where it is evident that there is a problem and, after appropriate analysis, agreement on the best set of tools to provide a comprehensive solution to the problem. However, for the above reasons we do not support the Bill and consider it should be withdrawn.

Who we are

11. New Zealand's seafood industry generates \$5.2 billion annually in economic output and employs some 16,500 kiwis who provide New Zealand and the world with high quality, nutritious and great tasting seafood.
12. Seafood New Zealand is a professional organisation delivering industry-good services for the wider benefit of the seafood industry. Including the development of responses on legislative and regulatory proposals affecting the industry. Our vision at Seafood New Zealand is that we should be **leading a thriving seafood industry that creates value for all New Zealanders from a healthy marine environment.**
13. Seafood New Zealand works with other industry representative bodies, such as the New Zealand Rock Lobster Industry Council and the Paua Industry Council, and with other organisations engaged in the management of New Zealand's fisheries and oceans. These include, inter alia, Te Ohu Kai Moana, Fisheries New Zealand (FNZ), the Department of Conservation (DOC), the Ministry for the Environment, regional councils and environmental advocacy organisations.
14. Recently, Seafood New Zealand merged with Fisheries Inshore New Zealand and the Deepwater Group to form an umbrella lead agency for the commercial finfish

sector while applying sector expertise through our Deepwater and Inshore Councils.

Deepwater Council

15. The Seafood New Zealand Deepwater Council represents quota owners of New Zealand deepwater fisheries. This includes hake, hoki, jack mackerel, ling, orange roughy, oreo, scampi, southern blue whiting, and squid. Shareholders of the Deepwater Council collectively own 92% of all deepwater quota in New Zealand.

Inshore Council

16. The Inshore Council of Seafood NZ represents more than 80% by value and volume of the commercial inshore finfish, pelagic and tuna fishing in New Zealand. The Inshore Council addresses issues on behalf of the sector both nationally and regionally and works directly with, and on behalf of, our members on fisheries management related risks and opportunities.
17. Our key outputs are the development of, and agreement to, appropriate policy frameworks, processes and tools to:
 - assist the sector to manage inshore, pelagic and tuna fishstocks more effectively,
 - minimise the sector's interactions with protected species and associated ecosystems; and
 - work positively with other fishers and users of marine space where we carry out our harvesting activities.
18. The Inshore Council provides management services through regional committees to the quota owners, fishers and Licensed Fish Receivers (LFRs), of fish stocks, primarily in the North Island. The Inshore Council also has a committee for highly migratory species fisheries, and a close relationship with Southern Inshore Fisheries Management Company Limited that provides management services to the quota owners of stocks in the South Island.
19. Our sector is diverse and consists of over 400 small vessels — trawlers, set-netters, long-liners and Danish seiners - operated by fishers - most with a long history in fishing. Fishing businesses range from one person owner-operated vessels to larger companies with multiple vessels and employees. These are largely inter-generational family-run businesses that serve our coastal communities throughout New Zealand.
21. Fishing mostly in the Territorial Sea,² we catch around 95,000 tonnes per annum of species such as snapper, gurnard, tarakihi, blue cod, kahawai, elephant fish, and trevally — to name but a few of the 70 plus species utilised by the sector.
22. New Zealand's inshore fisheries provide livelihoods for around 4,100 fishers and seafood processing associated employees spread across New Zealand. The total annual output of fishing and seafood processing is valued at \$1.27b and generates a GDP contribution of \$533m.³ Roughly half of these earnings and employment are Auckland-based.

² The territorial sea extends 12 nautical miles from the coast around New Zealand

³ Berl Report: The Economic Contribution of Commercial Fishing 2022

23. Inshore fisheries provide the fish on the table in Kiwi homes and in our fish and chip shops — 75% of the inshore catch is consumed domestically with over 72% of Kiwis eating seafood at least once a month⁴ (but less than 10% of us catch fish recreationally at least once a year).⁵ Our commercial fisheries are the only means by which the vast majority of New Zealanders can access and enjoy the healthy protein of New Zealand's fisheries resources. We therefore represent the interests of all New Zealanders who purchase fish.
24. To continue to provide Kiwis with locally caught seafood, the fishing industry is wholly dependent on a healthy and sustainable marine environment. We therefore strongly support the need for a more integrated approach to maintaining the health of our oceans, both within the coastal marine area and across the terrestrial/marine boundary.

Recognition of the Gulf

25. The Gulf's marine ecosystem is the most productive in New Zealand but has had significant increases in pressure on it as Auckland and the wider Waikato/Coromandel communities have developed. There has been extensive commentary that the Gulf is unhealthy due to multiple pressures including: population growth, development, and intensification of land use, aging infrastructure, increasing ship and boat numbers, commercial and recreational fishing, marine pests and land-use practices that result in significant sediment loads, nutrients, pathogens, marine debris and other contaminants. There is no doubt that it is not in the state that our ancestors found it when they arrived nor is it in the state that we want to leave to our mokopuna.
26. The pressure on fisheries in the Gulf was recognised, and consequently, the Quota Management System (QMS) was introduced for all major inshore finfish fisheries in 1986. The QMS limits commercial catch and also created incentives for fishers to take a long-term view of the health of the resource.
27. In recognition of the national significance of the Gulf, the Hauraki Gulf Marine Park Act 2000 (HGMPA) was passed to establish objectives to integrate the management of the Gulf's resources.
28. The Gulf supports a diverse fishing community, including the commercial sector who rely on the health of the Gulf for their livelihoods and to provide seafood to local markets. It is inherent, that we in turn support the health of the Gulf so that it can provide for current and future fishers and consumers.

⁴ New Zealand Seafood Consumer Preferences, Ministry for Primary Industries Economic Intelligence Unit 2019

⁵ National Panel Survey of Marine Recreational Fishers 2017-18, Fisheries New Zealand July 2019

Commercial Fishing in the Gulf

29. The Hauraki commercial fishing community is diverse but has not been well characterised by the Martin Jenkins report commissioned by DOC to assess the impact proposed MPAs could have on commercial fishing.⁶ Over the last ten years a total of 152 permit holders have fished within the Gulf, of which, 106 have fished within the proposed MPA areas, significantly more than 52 identified in the Martin Jenkins Stage 1 Impact Report. Fishers impacted by the proposed MPAs use a range of fishing methods including bottom longline, Danish seine, bottom trawl, purse seine, diving, set net and ring net targeting a range of different species.
30. An estimated 50%⁷ of fish from the Hauraki Gulf is sold locally to Auckland and Waikato consumers with the remainder being provided to the international market and generating revenue for New Zealand.
31. Commercial fishing provides tonnes of fish to local communities as part of their contribution to the Kai Ika Project. The Kai Ika Project utilises fish heads, frames and offal which were previously going to waste. Since September 2016 over 190 tonnes of previously discarded fish parts have been collected from various sources and redistributed to needy families and community groups all over Auckland.

Current state of fisheries in the Gulf

32. Overall, the main commercial finfish stocks that are present within the Gulf have been assessed and are above the limit where Fisheries New Zealand deems a stock to be overfished or depleted, resulting in potential sustainability concerns. For fishstocks of known status, gemfish, gurnard, John dory, kahawai, kingfish, school shark, snapper and trevally have been assessed to be at or above the population management target level. Only the tarakihi stock (entire east coast of North and South Island) has recently been assessed as being depleted and has been subject to a management plan to rebuild the population since 2018.
33. Since 2000, bottom contact commercial fishing effort in the Gulf has reduced. The number of bottom trawls over the most recent three-year period was 27% lower than in the previous three-year period; Danish seine exhibited a 21% decrease in events over the same time period. Alongside the reduction in effort, the commercial fishing community of the Gulf still caught a similar tonnage of fish.

Current closures and measures in place

34. Fisheries in the Gulf are highly regulated.⁸ Figure 1 depicts the restrictions that are currently in place for commercial fishing. Two key restrictions are that bottom trawling and Danish seining are entirely prohibited in 35% of the Gulf and there is a temporal finfish prohibition that restricts catching of finfish by any method within the Gulf for six months over summer.⁹

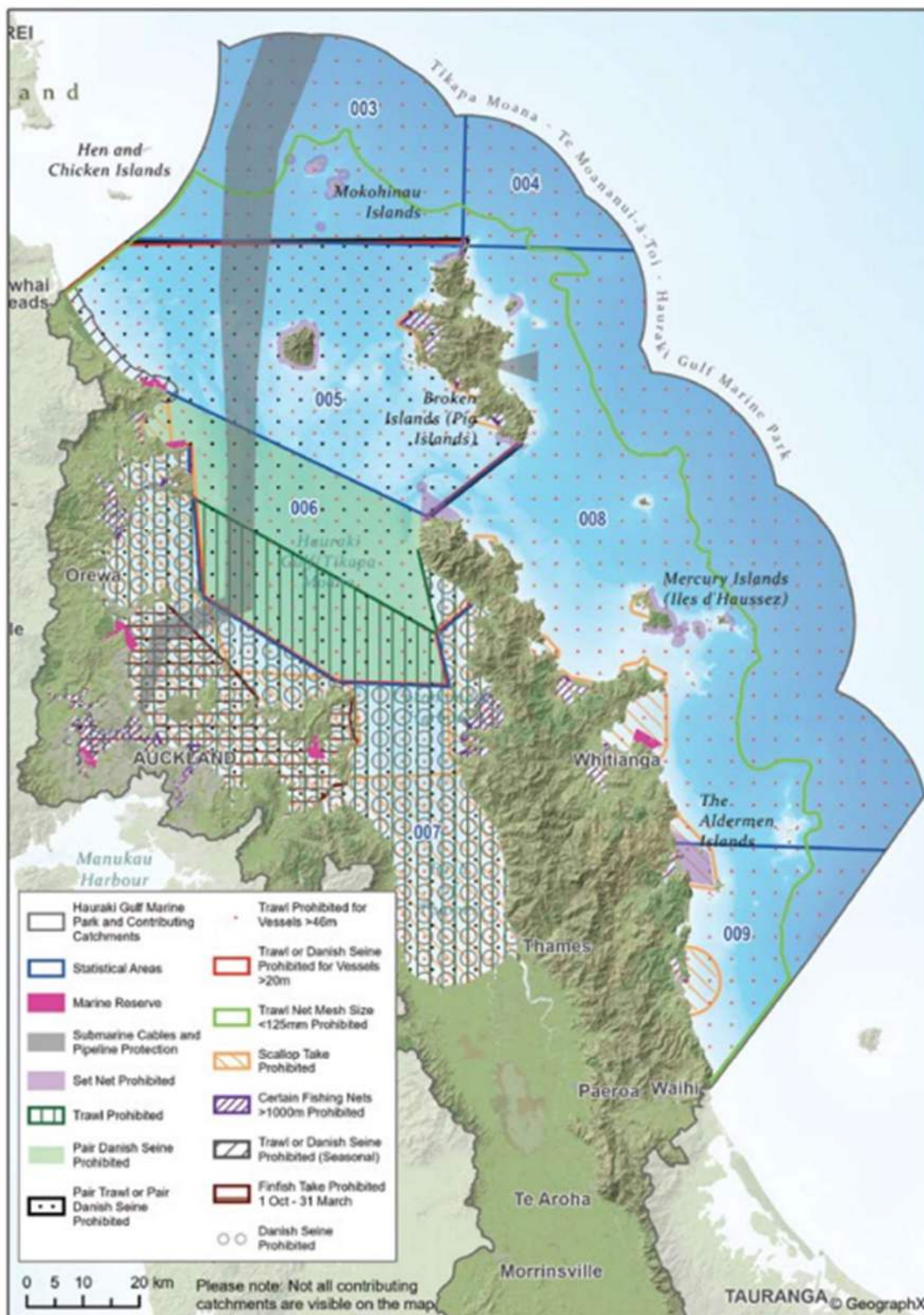
⁶ Revitalising the Gulf Stage 1 – Impact of the Marine Protection Proposals on Commercial Fishers (Martin Jenkins 2022)

⁷ Seafood NZ Update June 2023

⁸ Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986

⁹ There are exceptions to allow for setnet capture of mullet and flatfish, and purse seine catch of pilchard, anchovy, garfish or piper <https://legislation.govt.nz/regulation/public/1986/0216/latest/DLM105653.html>

Figure 1. Map of the Hauraki Gulf Marine Park depicting commercial fishing spatial restrictions. Source: Revitalising the Gulf, Government action on the Sea Change Plan June 2021



Recent fisheries management initiatives for the Gulf

34. In August 2023, the Minister of Oceans and Fisheries approved The Hauraki Gulf Fisheries Plan¹⁰ under section 11 of the Fisheries Act. The Fisheries Plan, among other things, seeks to:
- I. limit bottom trawling and Danish seining to defined areas,
 - II. exclude commercial scallop dredging except in defined areas, and ban recreational scallop dredging
 - III. protect marine habitats of ecological importance from the adverse effects of fishing;
 - IV. mitigate the impacts of fishing on the marine food chain; reduce fishing-related deaths of 'non-fish' and protected species, working towards zero by 2050;
 - V. ensure all harvested stocks of wild marine species are at or above target levels for quota management areas, and address localised depletion of fisheries resources within the Gulf;
 - VI. decrease the mortality of undersized fish and ensure the harvesting of intertidal species is sustainable
35. Proposals to limit bottom trawl and Danish seining to certain areas of the Gulf are being progressed under a separate but concurrent consultation by FNZ. The options for consultation propose to increase the restriction for these measures from 35% closure to between 74% and 89% closure.¹¹

Measures are needed to address all impacts

36. Despite the demonstrable improvements in fish stock health and fisheries management since the first State of Our Gulf report in 2004, we note that there is a continued narrow focus on measures to manage fisheries as the primary impact on the health of the Gulf. This is a notable contrast to the lack of management and focus on land-based impacts which are arguably having a more significant impact. While land-based impacts are more complicated to manage, it is vital that these are addressed.
37. Managing the effects of fishing in isolation will not be enough to manage the cumulative impacts on the health of fishstocks and ecosystems in the Gulf. Following an ecosystem-based approach actions would look to integrate actions from the tops of catchments to the limits of the Territorial Sea – Ki uta, ki tai.

¹⁰ <https://www.mpi.govt.nz/dmsdocument/58396-Hauraki-Gulf-Fisheries-Plan>

¹¹ <https://www.mpi.govt.nz/dmsdocument/58729-Discussion-document-Bottom-Fishing-Access-Zones-in-the-Hauraki-Gulf-Marine-Park>

Special Legislation is inappropriate and unnecessary to manage the effects of fishing in the Gulf

38. The content of the Bill is the approval of 19 new proposed MPAs through bespoke legislation. These marine protection proposals comprise:
- twelve high protection areas (HPAs) that will prohibit activities the Bill deems harmful impactful to the marine environment, including fishing, aquaculture, mining and dumping;
 - five seafloor protection areas (SPAs) that will prohibit activities the Bill deems harmful to the sea floor to protect sensitive habitats while continuing to allow for activities in the water column; and
 - two marine reserves adjacent to the current Whanganui-A-Hei and Cape Rodney-Okakari Point marine reserves. These areas will be strictly no-take areas and prohibit all extractive activities.
39. The implementation of MPAs targeted at managing the effects of fishing does not require new legislation. The use of special legislation undermines the rights and interests of fishing communities as it circumvents legislative considerations required under the Marine Reserves Act 1971 (the Marine Reserves Act) and Fisheries Act 1996 (the Fisheries Act).

Provisions of the Marine Reserves Act

40. The Marine Reserves Act is designed for the “purpose of preserving, as marine reserves for the scientific study of marine life, areas of New Zealand that contain underwater scenery, natural features, or marine life, of such distinctive quality, or so typical, or beautiful, or unique, that their continued preservation is in the national interest.”¹² We consider that the two areas proposed in the Bill to be treated as marine reserves need to be attributed to this purpose.
41. The Marine Reserves Act provides the Director-General of DOC with a robust and clearly structured process including the time-periods and information required for a consultation process on any area proposed as a marine reserve. Further, the Minister of Conservation is required to consult with the Minister of Oceans and Fisheries. After consultation, the Minister of Conservation must uphold an objection to the marine reserve if they are satisfied to declare that the area a marine reserve would:
- I. interfere unduly with any estate or interest in land in or adjoining the proposed reserve:
 - II. interfere unduly with any existing right of navigation:
 - III. interfere unduly with commercial fishing:
 - IV. interfere unduly with or adversely affect any existing usage of the area for recreational purposes:
 - V. otherwise, be contrary to the public interest.¹³

¹² The Marine Reserves Act 1971, Section 3 (1)

¹³ The Marine Reserves Act 1971, Section 5

These provisions are in place as a way of protecting existing rights and interests and discerning appropriate areas when implementing a marine reserve. Importantly this process also requires the Minister with responsibility for fisheries to assess the impact of the proposals against all dimensions of the Fisheries Act including the Treaty of Waitangi Fisheries Settlement (the Settlement) and international obligations and to only provide concurrence if, in the opinion of the Minister, the proposals will not have an adverse effect on fisheries rights and interests¹⁴. We do not support a process that removes these considerations from decision-making.

Provisions of the Fisheries Act

42. The Fisheries Act is a comprehensive legislative framework that provides for the management of the adverse effects of fishing while recognising the rights and interests of stakeholders. The purpose of the Fisheries Act is to provide for utilisation while ensuring sustainability where **ensuring sustainability** means—
- (a) maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations; and
 - (b) avoiding, remedying, or mitigating any adverse effects of fishing on the aquatic environment

And, **utilisation** means conserving, using, enhancing, and developing fisheries resources to enable people to provide for their social, economic, and cultural well-being.

The dual objective purpose means that relative utilisation benefits and pressures on sustainability need to be balanced when performing duties under the Fisheries Act.

43. To meet the purpose of the Fisheries Act, there are specific provisions for decision makers to consider including: information requirements, environmental principles, Treaty of Waitangi and International obligations, and consultation requirements with public, tangata whenua and other Ministers.
44. We consider that the management of fishing related activities is the mandate of the Fisheries Act. As such, actions such as the development of the Hauraki Gulf Fisheries Plan (see para 35) have already been undertaken through the Fisheries Act to support the purpose and objectives of the HGMPA.

Inappropriate prioritisation of speed over process

45. According to The Regulatory Impact Statement: Marine Protection Proposals from Revitalising the Gulf: Government Action on the Sea Change Plan (the Regulatory Impact Statement) officials recommended implementing the *Revitalising the Gulf* marine protection proposals through bespoke legislation to achieve “the quickest protection of areas with high ecological value which is favourable given the need for rapid action to reverse biodiversity decline in the Gulf”. The officials’ support of bespoke legislation provides significant weight to the speed in which implementation can occur.

46. We consider that this weighting is inappropriate. Choosing to enact special legislation to speed up a process is not a robust reason to depart from the

¹⁴ The Fisheries Act S5

bounds and protections of our current legislative system. We reject the statement that a benefit of special legislation is the ability to avoid the delay of “public opposition and potential renegotiation”.¹⁵ We cannot identify the apparent reason for urgency that supersedes our democratic processes. The pressures proposed to be addressed through the Bill are not having impacts causing a rate of biodiversity decline that would require this level of urgency. Essentially, we would prefer to do it right than do it quickly.

47. We note that the application of special legislation departs from similar processes such as the South East Marine protection network which recently announced six marine reserves and five Type 2 MPAs to be implemented under the Marine Reserves Act and Fisheries Act respectively.¹⁶ We cannot identify the reason for the difference in approaches.
48. The Regulatory Impact Statement analyses of other legislative options is not robust. For example, it claims the Marine Reserves Act is sub-optimal as “community driven applications tend to take an ad-hoc approach”, not noting that the Sea Change Plan proposals were developed by a community group. Further, this rationale assumes that a marine reserve proposal can only be progressed if proposed by community groups. That is not true. It ignores the ability for DOC to progress marine reserves through an application to the Order of Council by the Director General under the same section of the Marine Reserve Act.
49. We also note that the development of special legislation requires additional unnecessary costs to central Government. Bespoke legislation carries additional resource and capacity costs compared with the utilisation of other legislation.¹⁷

Position on specific proposed MPA types

Marine Reserve Proposals

50. It is intended that once established, the marine reserves will be treated as if they were declared by an Order in Council made under section 4(1) of the Marine Reserves Act.¹⁸ Although this Bill intends to establish new marine reserves adjacent to the existing marine reserves, they are in effect extensions of the existing marine reserves, and subject to the same rules and provisions as the existing marine reserves. They are also subject to the same compliance and enforcement regime.
51. We consider that if the areas are intended to be treated as marine reserves, then it is logical that they would be implemented through the Marine Reserves Act and meet the necessary requirements for establishment.

¹⁵ Regulatory Impact Statement: Marine Protection Proposals from Revitalising the Gulf: Government Action on the Sea Change Plan page 26

¹⁶ <https://www.doc.govt.nz/our-work/marine-reserves-for-the-southeast-of-the-south-island/>

¹⁷ Regulatory Impact Statement: Marine Protection Proposals from Revitalising the Gulf: Government Action on the Sea Change Plan

¹⁸ Hauraki Gulf/Tikapa Moana Marine Protection Bill Explanatory Note

High Protection Area Proposals

52. We consider that the proposed HPAs are effectively marine reserves. However, they have not been put through the scrutiny of the Marine Reserves Act and therefore are at risk of placing inappropriate restrictions on fishing access.
53. The Bill states that its purpose is to contribute to the restoration of the health and mauri of the Hauraki Gulf/ Tikapa Moana by:
- I. establishing new marine protected areas within the Hauraki Gulf/ Tikapa Moana; and
 - II. acknowledging customary rights within seafloor protection areas and high protection areas.

Despite this purpose, the Bill fails to properly acknowledge and uphold customary rights. Instead, it proposes a conditional acknowledgment and protection of these rights, stating that traditional non-commercial food gathering (customary fishing) “can only occur if the fishing activity is not contrary to any restrictions determined by the biodiversity objectives for the site.” We do not consider that this reflects the agreements made in the Fisheries Settlement as it directly impacts the ability for kaitiaki to exercise rangatiratanga. We support the position provided by Te Ohu Kaimoana in their response to the Select Committee.

Seafloor Protection Area Proposals

54. The prohibition of bottom contact fishing methods in these areas is redundant as proposals through the Fisheries Act are intended to restrict this activity. Fisheries New Zealand is consulting on options to restrict bottom trawling and Danish Seining in the Gulf to specific Bottom Fishing Access Zones. In that consultation, under all options, all areas proposed as SPAs are closed to bottom fishing. We consider that, if fishing is the stressor, the Fisheries Act is the appropriate legislative mechanism to manage the adverse effects of fisheries. The process to consider whether additional measures are necessary to reduce fisheries impacts should be conducted after the intended Fisheries Act measures have been implemented.
55. Overall, we consider that fisheries related measures to protect the Gulf can be and are being delivered through the Fisheries Act. We have previously provided our position that the *Revitalising the Gulf* proposals for managing fisheries under the Fisheries Act should be implemented prior to attempting to apply additional protection (Appendix 1 & 2). The concurrence of the Bill with the proposed Bottom Fishing Access Zones in the Gulf creates redundant protection. Additionally, it inhibits the ability for submitters to provide feedback on the separate proposals when their relative outcomes are interdependent. Essentially, consulting on both sets of measures at the same time is confusing as the position on one submission may be influenced by the outcome of the other.

Process leading to the Bill has departed from the legislative basis for management

56. The marine protection proposals in the Bill evolved from the Sea Change Plan which was developed in 2017 by an independent Stakeholder Working Group (SWG). Among other initiatives, the SWG proposed 26 marine protected areas (MPAs) across 15 locations in the Gulf. There were three different types of MPA proposed:
- I. Type One MPAs: These are described as “no take marine reserves other than for customary purposes”. Their purpose is to protect, enhance and restore the full range of marine communities and ecosystems and outstanding, rare, distinctive or nationally important marine habitats to protect the mauri of the Gulf
 - II. Type Two MPAs: These are described as “benthic protection” and are intended to maintain, restore and protect key habitats, such as biogenic habitats, and increase productivity of the Gulf. They exclude activities that directly impact on the seafloor while allowing for compatible uses.
 - III. Special Management Areas (SMAs): These are described as having the dual purpose of protecting the integrity and healthy functioning of the system, while allowing for a high-value economic activity (sports fishing) to create economic returns.
57. The Sea Change Plan noted that within the SWG, consensus was not reached on all of the proposed MPAs. One of the principles of the Sea Change Plan was that it was developed to be “an integrated package to be implemented as a “whole”. Those implementing the Plan should not pick and choose between the proposed actions.”¹⁹
58. There was no formal consultation on the Sea Change Plan; a report by the Controller and Auditor General (the Auditor General’s report) found that the Plan’s proposals would have benefited from more communication and that agencies will need to get “support from affected stakeholder groups, such as commercial and recreational fishing groups support from significant stakeholder groups such as commercial and recreational fishers”.²⁰ That report also stated that There was also little integration of issues between the different sectors, and there was no cost–benefit nor socioeconomic analysis of the plan’s proposals.
59. In 2018, Cabinet agreed there was value in progressing a central Government response to the Sea Change Plan. In 2019, the Sea Change Tai Timu Tai Pari Ministerial Advisory Committee (MAC) was appointed to support the Government’s response. In 2020, the MAC produced a report for Ministers recommending the Sea Change Plan’s original proposals for marine protection be progressed in *Revitalising the Gulf*. We note that despite the principle of the Sea Change Plan quoted above, the focus of the *Revitalising the Gulf* was focused on fisheries management and implementation of MPAs. The Sea Change Plan’s intention for the integrated management of impacts on the Gulf was not carried through in the Government response.
60. In 2021, technical experts from DOC and FNZ assessed the Sea Change Plan’s proposals to ensure they provided adequate protection and had positive

¹⁹ Sea Change Tai Timu Tai Pari April 2017 page 21

²⁰ <https://oag.parliament.nz/2018/hauraki/docs/sea-change.pdf>

biodiversity outcomes. However, the agency analysis of the proposals based the merit of the areas on their contribution towards goals in the Sea Change Plan document rather than the objectives and considerations of relevant legislation.²¹ The overall effect meant that several of the areas were not progressed, and several areas had their boundaries extended. This ongoing process of retranslating goals, objectives and proposals has had the effect of straying further and further from the legislated objectives of the HGMPA and other relevant legislation.

61. The Regulatory Impact Statement is averse to allowing the renegotiation of the MPA proposals as this “will subject the areas of protection to renegotiation, undermining social process that informed the development of the Sea Change plan and Revitalising the Gulf”.²² The Sea Change Plan represents some stakeholder views and under consultation, should be weighted equally with other stakeholder views.
62. Officials conducted three rounds of targeted engagement and a public consultation on the *Revitalising the Gulf* marine protection proposals. However, despite the recommendations of the Auditor General's report, commercial fishing representatives were not involved in the targeted engagement processes. Apart from the addition of the *Ōtata / Noises Island High Protection Area*, there have been no adjustments to the proposals put to consultation. Despite our engagement and feedback in the consultation, we consider that the proposals have continued with little to no regard to our positions.
63. To summarise, inconsistent treatment of stakeholder views, repeated translation of objectives and actions across multiple non-statutory documents and rounds of non-inclusive engagement has resulted in a process that has operated outside of our legislative framework. The Auditor General's report stated, “If the agencies had specified the expectations and constraints in cost, economic analysis, and legislation at the beginning of the project, the final plan might have been more straightforward for them to implement”.²³ This is evidenced by the perceived “need” to apply special legislation – the proposals do not fit in our legislative framework. The Bill attempts to implement the proposals as they are, rather than amend the proposals to meet the appropriate criteria for implementation in our current framework.

The Proposals are not based on the best available information

64. In our submission to DOC's consultation on the proposals in October 2022 (Appendix 2), we noted that the consultation was based on implementing the earlier *Revitalising the Gulf* proposals but made no direct reference to and had failed to apply the updated information available from Zonation based mapping. While we understand that the updated detailed mapping of conservation and

²¹ <https://www.doc.govt.nz/globalassets/documents/our-work/sea-change/marine-protection-technical-document.pdf> page 16

²² ²² Regulatory Impact Statement: Marine Protection Proposals from Revitalising the Gulf: Government Action on the Sea Change Plan page 21

²³ Controller and Auditor General: Sea Change – Tai Timu Tai Pari: Creating a marine spatial plan for the Hauraki Gulf

utilisation values was not available at the time the initial Revitalising the Gulf MPA proposals were developed, it had become available subsequently and prior to the release of the consultation document. We would have expected the new information to be incorporated into updated proposals for the consultation.

65. After the October 2022 consultation, no updated analysis of the impacts on biodiversity and use was provided. The use of best available information is an integral part of Parliamentary process when applying or developing legislation.

Effects of proposed MPAs on biodiversity

66. The intent of the proposals has been described as “Given the cumulative pressures on the marine ecosystem it’s expected that environmental degradation and its associated impacts will continue in the absence of further marine protection.”²⁴

67. We are concerned that the proposals do not address the ecosystem changes, habitat loss and population depletion from the effects of land use and climate change. Focus needs to be drawn to addressing the impacts of sedimentation, climate change and ocean acidification which are deemed the top three ranked threats to marine habitats in New Zealand.²⁵ **We support truly integrated management of cumulative impacts and consider that recovery will not occur by managing fisheries impacts alone.**

68. There has been insufficient information provided to support the assumption that the protection set out in the bill will have significant positive biodiversity outcomes. We therefore do not support the implementation of the proposed MPAs as there has not been an adequate analysis of the benefits to biodiversity for the exclusion of utilisation.

69. We have provided our analysis and position on each proposal in our previous submissions attached as Appendix 1 & 2.

Impacts on commercial fisheries

70. The impact on commercial fisheries has not been adequately represented or described during the development of the proposals in the Bill.
71. The Martin Jenkins report published in August 2022 has been the main source informing the estimated economic impact the proposed MPAs will have on the commercial fishing community, however, we consider that the report falls short in capturing the nature and extent of the impact.²⁶

²⁴ Regulatory Impact Statement: Marine Protection Proposals from Revitalising the Gulf: Government Action on the Sea Change Plan

²⁵ MacDiarmid, Alison, Andy McKenzie, James Sturman, Jenny Beaumont, Sara Mikaloff-Fletcher, and John Dunne. "Assessment of anthropogenic threats to New Zealand marine habitats." *New Zealand aquatic environment and biodiversity report* 93 (2012): 255.

²⁶ Revitalising the Gulf Stage 1 – Impact of the Marine Protection Proposals on Commercial Fishers, Martin Jenkins Report August 2022

72. The Martin Jenkins report oversimplifies the impacts of reduced spatial access to fisheries. The distribution of fishing effort in the Gulf is influenced by a range of factors including:
- I. An extensive suite of Fisheries Regulations that spatially restrict the use of certain fishing methods throughout the Gulf.
 - II. The necessary spatial separation of different commercial methods to avoid operational interference between bottom longlining, trawl and Danish seine operations.
 - III. Prevailing sea and weather conditions suitable for the fishing vessel and method.
 - IV. Avoiding spatial conflict with recreational fishers by locating commercial fishing to areas further away from population centres.
 - V. The productivity of an area with consistent or seasonal abundance of target species.
 - VI. The proximity to ports, seafood processing facilities, markets and distribution infrastructure.
 - VII. Balancing the operational costs of running their businesses and maintaining profitability, particularly at a time with significantly increased fuel costs and inflation.
73. Therefore, closing certain areas does not always mean that the fishing effort will be moved elsewhere; for some operations, this means that they will not be able to access the resource at all. This has flow on effects to local markets and consumers access to seafood. These impacts are not well-understood or described in the Martin Jenkins report. For example, set net fishers in the Gulf target kahawai, rig, trevally and mullet. These are caught in very specific areas at specific times of the year. They cannot simply catch the fish elsewhere and would be severely impacted by the proposed MPAs. These fishers provide 100% of their catch to local market and these species of fish provide an important protein source for lower socio-economic communities.
74. In addition, the Martin Jenkins report only uses two years data (2020 & 2021) to characterise commercial catch within the proposed areas. Both years are likely unrepresentative of normal fishing activity with Covid-19 affecting fishing in 2020 and a strong La Niña climate event affecting fishing in 2021. Consequently, the analysis likely significantly under-estimates the impact of potential closures on commercial fishers. We have provided an analysis of this point in our previous submission (Appendix 1).
75. In the post consultation Cabinet paper (December 2022), officials recognised that the economic impact analysis was “limited” and the SPA proposal for Mokohīnau Island lacked a thorough economic analysis²⁷. However, the Cabinet paper failed to describe the nature or reason for those limitations. We consider that it was feasible to provide thorough economic analyses on all proposals. The absence of adequate impact analyses means it is not possible to conduct an accurate cost-

²⁷ Cabinet Paper – Revitalising the Gulf – progressing marine protection and the Fisheries Plan Proposal

benefit analysis of the proposals.

76. We have provided our submissions from October 2022 as Appendix 1 & 2 containing detailed feedback on the Martin Jenkins report and further economic considerations.

Oral Submission

77. We request the opportunity to speak to our position through the oral submission process.

Concluding Statements

78. We recognise the national significance of the Hauraki Gulf/Tikapa Moana (the Gulf).
79. The commercial fishing community of the Gulf is reliant on the healthy functioning of the ecosystem and therefore is dedicated to ensuring the ongoing sustainability of the Gulf. We need the Gulf to be healthy.
80. We are supportive of approaches to integrate the management of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments.
81. We do not support the use of special legislation to implement MPAs in the Gulf and request that the Bill be withdrawn.
82. The two Appendices below are intended to be read as part of this submission.
83. We appreciate the opportunity to once again, provide our position on the proposals and will happily provide any further information or clarification on the content of this submission.

Appendices

Appendix 1: Combined SRE Submission on Marine Protected Area Proposals 11 November 2022

Appendix 2: Supplementary Submission from FINZ on Marine Protected Area Proposals 28 November 2022

11 November 2022



Hauraki Gulf marine protection proposals



Paua Industry Council

FISHERIES
INSHORE NEW ZEALAND

This submission is made by the NZ Rock Lobster Industry Council (NZ RLIC), the Pāua Industry Council (PIC) and Fisheries Inshore New Zealand (FINZ). on behalf of quota owners, fishers and affiliated seafood industry personnel in inshore shellfish and finfish fisheries. Collectively – and together with regional organisations, the CRA 2 Rock Lobster Company and the Fisheries Inshore Northern Committee, we directly represent all of the major inshore fisheries in the Hauraki Gulf Marine Park.

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1. Introduction

1. This submission is made jointly by:
 - The NZ Rock Lobster Industry Council (NZRLIC);
 - Fisheries Inshore New Zealand (FINZ); and
 - The Pāua Industry Council (PIC).
2. NZRLIC, FINZ and PIC are national representative bodies for the relevant sectors of the inshore fishing industry. This submission is made on behalf of quota owners, fishers and affiliated seafood industry personnel in inshore shellfish and finfish fisheries. Collectively – and together with regional organisations, the CRA 2 Rock Lobster Company and the Fisheries Inshore Northern Committee, we directly represent all of the major inshore fisheries in the Hauraki Gulf Marine Park (**the Gulf**).¹ For the purposes of this submission, the submitters are referred to as *‘the fishing industry’*².

2. Summary of industry position

3. The fishing industry supports the effective protection of marine biodiversity. However, we do not support the presumption that marine protected areas (MPAs) such as the proposed High Protection Areas (HPAs), Seafloor Protection Areas (SPAs) and extensions to existing marine reserves are the best way of achieving marine biodiversity protection in the Gulf or elsewhere. We consider that effective biodiversity protection requires careful definition of objectives and identification of threats, followed by selection of the least-cost tool for effectively managing the identified threats and achieving the objectives. If fishing is posing a risk to marine biodiversity, measures implemented under the Fisheries Act 1996 or directly by fishing sector groups will usually be the most appropriate management response.
4. The proposed HPAs and SPAs are not the most effective mechanism to achieve healthy, functioning marine ecosystems in the Gulf, but will have significant negative impacts on sustainable fisheries management and on participants in the fishing industry. While the objectives of the proposals are confused and unclear, they are not designed well to achieve biodiversity protection while taking into account impacts on commercial fishing.
5. The process for establishment of the proposed HPAs and SPAs to date has not properly involved industry representative bodies. We consider a more collaborative and engaging process could have resulted in a consensus solution that would have achieved the same biodiversity values but with less cost to the fishing industry.
6. A process that involves the use of special legislation to implement decisions to restrain fishing activity is not in our view appropriate or an effective use of resources when an easier alternative using the measures in the Hauraki Gulf Fisheries Plan and other tools currently

¹ No commercial pāua harvesting occurs in the Gulf. However, the Pāua Industry Council is taking an active interest in the proposed HPAs and SPAs because of the damaging precedent these proposals set for other regions.

² The positions outlined in this submission are provided on a without prejudice basis.

available to government can provide the same outcome without the need for expensive and controversial legislative processes.

7. The fishing industry has serious concerns about the *Revitalising the Gulf* marine protection proposals and the individual HPAs, SPAs and protected areas adjacent to an existing marine reserve. The primary grounds for our opposition to the individual proposals are that:
- The Government in its ***Revitalising the Gulf*** Strategy stated that “*ecosystem based management is a holistic approach to management that considers all elements within an ecosystem and how they interact with each other, including human activities*”. It further committed that “*the Strategy’s actions will take an ecosystem-based approach to management and will work together to enhance the ecosystem function of the Gulf*”. However, in one of its first actions under the Strategy, these proposed HPAs, SPAs and extensions of existing Marine reserves do not follow these directions. We expected to see much better integration between the tools that can be used to achieve biodiversity protection. We consider there is significant duplication between the HPA/SPA / Marine Reserve extension proposals and actions proposed in the draft Hauraki Gulf Fisheries Plan and sites already protected in the bioregion. We see no reason for what amounts to an inter-agency race to implement their preferred options, when an integrated solution can and should be achieved.
 - There are no site specific ecological objectives for each of the original 18 sites. The objectives provided are almost entirely generic and formulaic, and do not explain the identified biodiversity values that are of high importance for ecological functioning, are unique or special and whether they are threatened or at-risk, or otherwise require protection at the site.
 - All credible threats from commercial fishing are either already managed under existing fisheries prohibitions, or can be effectively managed under actions contained within the Hauraki Gulf Fisheries Plan;
 - The proposed closures are excessive in scale given consideration of the credible threats posed by particular fishing methods;
 - Most non-fishing activities that threaten biodiversity at the sites are not prohibited or effectively managed;
 - Every HPA and SPA will have adverse effects on commercial fishing while in most cases providing negligible biodiversity protection benefits;
 - Fisheries displacement will cause significant adverse effects by increasing fishing intensity and competition, requiring more effort to catch the same amount of fish in areas of lower abundance meaning more impact on biodiversity and depleting fish stocks in the remaining areas. That can be expected to lead to increased pressure for more closures in response to localised depletion;
 - The design and placement of the HPAs/SPAs is inconsistent with existing policy on establishing MPAs to achieve biodiversity protection (e.g. representativeness and replication); and

- The use of special legislation is unnecessary and undermines existing rights including the Crown’s obligations under the Fisheries Settlement.
8. Instead of establishing the proposed HPAs and SPAs, the fishing industry recommends that central and regional government should work with tangata whenua and stakeholders to implement an ecosystem approach to effectively manage the full range of threats to marine biodiversity across the entirety of the Gulf using existing tools available to government and Regional Councils. For fishing-related threats, the first priority should be the completion and implementation of the proposed actions in the Hauraki Gulf Fisheries Plan. Actions under a comprehensive fisheries plan can fully manage all fisheries-related threats to marine biodiversity more effectively, and at significantly lower cost, than the proposed HPAs and SPAs. The need for any additional biodiversity protection, such as HPAs and SPAs, could be assessed and addressed in that wider context.
 9. We note that most of the habitat types at the proposed sites are already represented in existing marine reserves (Type 1 MPAs) and Cable Protection Zones (CPZs, Type 2 MPAs) in the Gulf. Before requiring new areas there is a need to assess that these areas are inadequate to achieve the biodiversity protection and ecological objectives.
 10. We consider there has been an over-reliance on modelling informed by historical and sparse data to predict biodiversity values within many of the proposed areas, rather than undertaking site-specific surveys to identify the presence and extent of biodiversity.
 11. We would welcome the opportunity to engage with the Department of Conservation (DoC) (and Fisheries New Zealand) to discuss achieving marine biodiversity protection in the Gulf by identification of threats and selection of the least-cost tool and scope of measures, including integration between statutory tools and mechanisms and the appropriate use of the Fisheries Act 1996 to address adverse impacts of fishing on biodiversity including habitat. We are open to discussing how to meet these objectives in a principled manner, including using the information that has informed the development of the current proposals.

3. Objections to the proposals as a whole

3.1. Objectives, purposes and outcomes are confused and unclear

3.1.1 Marine protection outcomes unrelated to healthy, functioning ecosystems

12. The fishing industry supports the Government’s overarching outcomes for *Revitalising the Gulf*³ which focus on ensuring healthy, functioning ecosystems so that marine ecosystems can contribute to the full range of current and future uses and values. Our livelihood and investment depends on harvesting fish sustainably from a productive environment. While all

³ *Revitalising the Gulf*. Government Strategy in response to the Sea Change – Tai Timu Tai Pari – Hauraki Gulf Marine Spatial Plan. Department of Conservation, Fisheries New Zealand, Ministry for Primary Industries. June 2021. e.g. At A Glance page.4, Overarching outcomes

the ecosystems in the Hauraki Gulf are all somewhat modified, our future depends on those healthy functioning ecosystems.

13. However, the stated outcomes for marine protection (in *Revitalising the Gulf* and in the Information Document⁴) are inconsistent with the Government's overarching outcomes. Instead of protecting marine biodiversity in order to achieve healthy functioning ecosystems, the marine protection outcomes comprise a confused and contradictory mix of rationales for protection with no hierarchy being set out. Progressing HPAs and SPAs in isolation of the other mechanisms that can deliver biodiversity protection outcomes results in inappropriate measures being considered. In particular:
- The *protection of at-risk, high ecological value and representative habitats and ecosystems in the Gulf to support their recovery* relates only to recovery of areas within HPAs and SPAs, and not to the ecological functioning of the Gulf more broadly. Furthermore, the protection of representative habitats is unrelated to improving ecological functioning;
 - *Increased understanding of marine ecosystems within the Gulf, and the pressures on them, to support holistic management* is an outcome that the fishing industry supports. While this outcome is akin to the purpose of Marine Reserves, it is not an outcome of the establishment of HPAs /SPAs /extensions to existing Marine Reserves, but instead is wholly dependent on appropriate monitoring research being planned, funded and undertaken and integration with measures proposed in other elements of the strategy including fisheries management; and
 - *Restoration of the Gulf's healthy marine environment to enhance cultural practices and social and spiritual wellbeing* suggests that an underlying purpose of the HPAs and SPAs is one of reallocation of benefits arising from marine biodiversity and resources from one set of uses to another. We understand the need and the obligation to provide for customary use and we remain confident that iwi and kaitiaki will ensure any customary non-commercial fishing does not impugn key biodiversity values or habitats. We have more concern about the apparent intent to provide for commercial non-extractive use.

3.1.2 Purpose of HPAs and SPAs lacks direction

14. The purposes of HPAs and SPAs in the Information Document provide little guidance or discipline for selecting or assessing proposed sites because:
- Protection will be applied to 'the full range' of ecosystems as well as to high value areas;
 - Purposes include not only protecting, but also maintaining, enhancing and restoring;
 - The scope includes habitats, communities and ecosystems; and
 - Allocation of extractive use rights (through provision for customary fishing) and provision for commercial non-extractive activities is part of the purpose of HPAs.

⁴ Revitalising the Gulf Marine Protection proposals. Information document. Department of Conservation. September 2022. Page.2 Outcomes for marine protection

15. In a meeting with fishing industry representatives in September 2021, DOC officials were unable to provide a clearer explanation of the Government's intent, beyond repeating that the HPAs and SPAs will be implemented in order to give effect to the SeaChange Plan – as if that were a valid purpose in its own right.⁵
16. The fishing industry is open to considering how area-based protection could contribute to ensuring healthy, functioning ecosystems throughout the Gulf, but the approach adopted in *Revitalising the Gulf* and the Information Document confirms that this is not the intended purpose or outcome of the current proposals.

3.1.3 No clear site specific biodiversity objectives

17. Site specific biodiversity-related objectives are vital for effective marine protection. A response from DoC⁶ confirmed these will not even be developed until a process due to start in 2023. Unless the attributes of a site that require protection are clearly defined, it is not possible to identify the threats that need to be managed.
18. *Revitalising the Gulf* includes 'objectives' for each of the original 18 sites. However, these objectives are almost entirely generic and formulaic, and do not explain why the identified biodiversity values of a site are of high importance for ecological functioning, are unique or special in any way, are threatened or at-risk, or otherwise require protection at the site.
19. The technical documents provided in support of these proposals (Evaluation of Biodiversity Protected by Sea Change MPA Proposals, and Agency Advice on Selection of MPAs) rely heavily on data modelling to determine probable site-specific biodiversity values with no site specific surveys undertaken, particularly in the off-shore areas, to ground truth the results. Without better information to inform setting of site-specific objective we risk failing to achieve the desired biodiversity outcomes while imposing unnecessarily restrictions on the fishing industry.
20. We note in particular that:
 - Protection of representative habitats (a site-specific objective of 11 HPAs and 2 marine reserve extensions) is not a site-specific ecological objective – instead it is indicative of a policy approach that is unrelated to ensuring ecological functioning of the Gulf;
 - Protection of sensitive biogenic habitats is an objective that at least refers to ecological values, but its credibility as a site-specific objective is highly questionable because:
 - i. 16 of the original 18 sites have an almost identical objective of protecting *sensitive biogenic habitats on soft and hard substrates*;
 - ii. the identified biogenic organisms exhibit a high degree of repetition among sites (e.g., *sponges* are listed as a sensitive biogenic habitat at 15 sites, *soft corals* at 12 sites, and *black corals* at 6 sites);

⁵ Meeting of DOC, FNZ and industry representatives, 1 September 2021. We would note that in picking up the SeaChange Plan a number of conditions seen as necessary in that Plan for effective implementation have not been included

⁶ Marine Protection Proposal Questions for DoC. Response received 25/10/22

- iii. at 12 of these 16 sites there is an inconsistency between the biogenic habitats identified in the objective, and the biogenic habitats that are supposedly represented in the MPA according to the Agency Advice;⁷ and
 - There is no indication as to whether the identified biogenic habitat values are of high importance for ecological functioning, are unique or special in any way, are threatened or at-risk, or are limited or widespread in the Gulf and elsewhere. In other words, the objectives may describe what is present at the site, but they do not explain why the identified biogenic values require protection of the type proposed at each site.
- 21. The Information Document disregards the site-specific objectives in *Revitalising the Gulf*, and instead proposes that:
 - Initial biodiversity objectives for each HPA will be developed in 2023 by DOC, working with mana whenua;
 - Over time, these initial site-specific biodiversity objectives for HPAs will be refined in partnership with mana whenua; and
 - The biodiversity objectives will inform the management of customary fishing, habitat restoration, and research and monitoring within each HPA site (no process is outlined for developing site-specific objectives for SPAs).
- 22. We find it inexplicable that, after such a lengthy process, there are still no agreed site-specific biodiversity objectives – clarity is needed about which attributes require protection at each site and, therefore, the threats that require management in order to achieve the identified objectives. This should be the first step in effective marine protection, not one of the last considerations.
- 23. The fishing industry considers that the proposed process of the Crown and mana whenua developing site-specific objectives, with no opportunity for input from other parties, is completely inappropriate. While we have no objection to the Crown working collaboratively with their Treaty partner, site-specific biodiversity objectives are a critical aspect of effective marine protection and are of interest and concern to a wider set of stakeholders than just DOC and mana whenua.
- 24. We recommend that if the proposed HPAs and SPAs proceed, site-specific biodiversity objectives for both types of sites should be developed through a fully inclusive process.

3.1.4 Absence of monitoring

- 25. One of the outcomes proposed is *Increased understanding of marine ecosystems within the Gulf*. Achieving that outcome is dependent on appropriate monitoring being planned, funded and undertaken. DoC has acknowledged it has no such arrangements in place and suggest these will be derived “as part of implementation”⁸.

⁷ Department of Conservation and Fisheries New Zealand 2021. Sea Change – Tai Timu Tai Pari Plan Marine Protected Area (MPA) proposals. Agency analysis and advice on selection of MPAs towards development of the Hauraki Gulf Marine Park MPA network. (referred to in this submission as the **Agency Advice**).

⁸ Marine Protection Proposal Questions for DoC. Response received 25/20/22

3.2 Management of activities is not proportionate to threat

26. We note that DOC has revised the activities that will be prohibited in the proposed HPAs and SPAs, as set out in **Table 1**.

Table 1: Prohibited activities – comparison of original and revised proposal

	<i>Revitalising the Gulf</i>	Information Document
HPAs	Prohibited at all sites Commercial and recreational fishing Mining and petroleum exploration Extraction of material for commercial use Prohibited at some sites Anchoring* (1 site) Vehicle access over foreshore* (1 site)	Prohibited at all sites (“may include but not limited to”) Commercial and recreational fishing Mining Industrial removal of materials Dumping Erection of structures Discharge of harmful substances Discharge of sewage from outfalls Discharge of ballast* Landing of aircraft* Use of explosives or firearms
SPAs	Prohibited at all sites Commercial bottom trawling, dredging and Danish seining Recreational dredging Mining and petroleum exploration Prohibited at some sites Recreational set netting (4 sites) Recreational potting (3 sites) Commercial potting (1 site) Commercial bottom longlining (1 site) Commercial set netting (1 site)	Prohibited at all sites Bottom trawling Dredging Danish seining Potting Set netting Ring netting Bottom longlining Mining Dumping Sand extraction

* with some exceptions

27. The fishing industry considers that effective management of identified threats is critical to achieving identified biodiversity protection objectives. Responding to all activities that threaten biodiversity in a manner commensurate with the risk each poses is at the heart of ecosystem-based management. We therefore object to the inadequate and inconsistent management of identified threats to marine biodiversity in the HPAs and SPAs. In particular:
- Fishing methods that have no adverse effects on identified biodiversity values are nevertheless prohibited at many sites;
 - Non-fishing threats are managed inconsistently (with each other, and in comparison to fishing-related threats) and most terrestrial sources of threat to marine biodiversity at the sites are not managed at all; and

- The management of marine biodiversity threats arising from the exercise of customary fishing rights is uncertain and inconsistent with the management of other types of fishing rights, including rights protected under the Māori Fisheries Settlement
 - .
28. The disparity between the almost ubiquitous prohibition of commercial fishing activity and the absence of effective management of many other known threats *reinforces our concern that the objective in establishing the proposed HPAs and SPAs is to reallocate the Gulf's marine resources rather than to protect marine biodiversity from the full range of threats.*

3.2.1 Fishing method prohibitions not related to threat

High Protection Areas

29. Prohibitions on commercial bottom trawling, dredging and Danish seining are unnecessary for many of the proposed HPAs as these fishing methods:
- Are already prohibited at the sites, as scallop dredging is prohibited throughout the Gulf under s.11 of the Fisheries Act and other mobile bottom-impacting fishing methods are already fully prohibited in the HPA sites at Motukawao Islands, Rotoroa Island, Rangitoto and Motutapu, , Kawau Bay, and the Ōtata / the Noises as well as in most of Tiritiri Matangi HPA and Whanganui-a-Hei marine reserve extension;
 - Are not used in areas where rocky reef/biogenic structures exist (which have been prioritised for protection) due to the risk of fouling fishing gear, or
 - Will be prohibited under the Hauraki Gulf Fisheries Plan by locating trawl corridors so as to avoid adverse effects on ecologically sensitive areas (see [section 3.4.2](#)).

Prohibiting bottom trawling, Danish seining and dredging in the HPAs therefore provides no additional biodiversity benefits because these fishing methods will not occur in these locations.

30. The site-specific objectives for HPAs in *Revitalising the Gulf* relate entirely to benthic biodiversity. The prohibition of fishing methods that do not harm the benthic environment – including static bottom-contact fishing methods (such as bottom longlining, set and ring netting or potting) and non-bottom impacting fishing methods (such as purse seining, surface longlining and diving) typically cannot be justified in relation to the site-specific objectives. If static fishing methods are shown to threaten particular vulnerable species such as black corals, targeted controls can be implemented more efficiently under the Fisheries Act. Protection from fishing for these vulnerable species will apply irrespective of who is using the method. However, commercial fishing is wholly prohibited in the proposed HPAs, irrespective of whether the fishing method causes an actual threat to benthic biodiversity.
31. If fishing is considered to threaten broader biodiversity objectives such as the maintenance of ecological systems, natural species composition and trophic linkages, then broader scale fisheries management responses such as reducing recreational daily bag limits and TACCs will achieve these objectives far more effectively than prohibiting a particular fishing method within a small HPA.

Seafloor Protection Areas

32. Prohibitions on commercial bottom trawling, dredging and Danish seining are unnecessary for many of the proposed SPAs as these fishing methods either:
- Are already prohibited at the sites, as scallop dredging is prohibited throughout the Gulf under s.11 of the Fisheries Act and other mobile bottom-impacting fishing methods are already prohibited in most of Kawau Bay SPA and Tiritiri Matangi SPA; or
 - Will be prohibited under the Hauraki Gulf Fisheries Plan by locating trawl corridors so as to avoid adverse effects on ecologically sensitive areas within the SPAs (see [section 3.4.2](#)).

Prohibiting bottom trawling, Danish seining and dredging in the SPAs therefore provides no additional biodiversity benefits because these fishing methods will not occur in these locations.

33. The proposals in the Information Document prohibit significantly more fishing-related activities in the SPAs than was proposed in *Revitalising the Gulf* (see **Table 1**). Static fishing methods which involve some benthic contact – i.e., potting, bottom longlining, ring and set netting – are now proposed to be prohibited in all five SPAs.⁹
34. Static contact between a fishing method and the seafloor cannot be equated with an ‘adverse effect’ on benthic biodiversity and DOC has provided no evidence to justify the additional prohibitions. Any prohibitions on static fishing methods in SPAs should be considered only following an analysis of:
- The physical vulnerability of the biodiversity attributes in relation to each fishing method; and
 - The degree of spatial overlap between each fishing method and the biodiversity attributes that are intended to be protected.
35. In the absence of any such justification, the new prohibitions of static fishing methods impose substantial additional costs on the fishing industry (see section 3.3) with no apparent additional biodiversity protection benefits. Where additional controls on static fishing methods can be justified on the basis of adverse effects on sensitive biota like black corals, implementation of more targeted controls under the Fisheries Act will achieve biodiversity protection objectives at less cost than blanket prohibition of these fishing methods in the proposed SPAs.
36. For both HPAs and SPAs the duplication of coverage of particular habitat types (see section 3.4 below) and the excessive scale of the closures imposes unnecessary impact on fishing operations and cost, to achieve the biodiversity objectives. Where static fishing method controls can be justified on the basis of adverse effects on sensitive biota (like black corals), restrictions under the Fisheries Act could be focused on addressing those issues with smaller areas of restriction.

⁹ In *Revitalising the Gulf*, commercial potting, bottom longlining and set netting were prohibited in just one SPA.

3.2.2 Non-fishing threats managed inconsistently

37. Although DOC has added some other activities to the list of activities prohibited in HPAs and SPAs, all meaningful prohibitions remain firmly focused on fishing alone. The new non-fishing related prohibitions are mostly illusory and offer little additional biodiversity protection.
38. Councils already have a clear legal obligation under the Resource Management Act 1991 (RMA) to ensure that the adverse effects on marine biodiversity of any activities managed under that statute are avoided, remedied or mitigated. Therefore, the addition of selected RMA activities to the list of activities that 'may' be prohibited in HPAs offers no additional biodiversity protection – this includes mining, industrial removal of materials, dumping, erection of structures, discharge of harmful substances, discharge of sewage from outfalls, discharge of ballast, landing of aircraft and sand extraction. It would be more effective for central government to support councils in implementing their existing responsibilities for point and non-point sources of contaminants under the RMA than to impose potentially duplicative prohibitions under special new legislation.
39. The list of prohibited RMA activities is also inconsistent because:
 - It does not include some RMA activities that are highly likely to harm benthic biodiversity in HPAs and SPAs – e.g., reclamation;
 - In HPAs, sewage discharge from outfalls is prohibited but sewage discharge from vessels is not;
 - In HPAs, prohibiting discharges of sewage and harmful substances does not protect the biodiversity values from discharges of sewage or harmful substances in adjacent waters;
 - In SPAs, RMA activities that impact the seafloor– e.g., the erection of structures (including moorings) and reclamation – are not prohibited. These activities are likely to have far greater adverse effects on benthic biodiversity than potting, set netting or long-lining, all of which are prohibited in SPAs; and
 - In both HPAs and SPAs, anchoring is not generally prohibited, even in areas of identified biogenic habitat.
40. We note in particular that typical impacts from recreational vessel use in the Gulf – e.g., sewage discharges and anchoring – are not prohibited in HPAs or SPAs, even though Auckland has the highest per capita residential boat ownership in the world¹⁰ And all the signs are that this will increase. Threats from anchoring are likely to be no different in terms of scale and effect on benthic biodiversity to potting, long lining or set netting, so should also be precluded in HPAs and SPAs if these protections proceed and prohibitions to potting, long-lining and set-netting are included. Exceptions to precluding anchoring should of course be made to address risks to life and vessel to allow shelter in adverse weather conditions.
41. The Agency Advice and other sources identify numerous other threats to marine biodiversity in the Gulf, including: runoff of excess sediments and nutrients from forest clearance, pastoral farming and urban development; heavy metal contamination in water from urban runoff and

¹⁰ Hakai magazine, 30 August 2021. <https://www.hakaimagazine.com/news/the-tranquility-of-lockdown/>

storm water; plastic contamination in water; invasive marine species and diseases; visitor and tourism-related impacts; heavy boat traffic; illegal fishing; and environmental change (e.g., ocean warming) in response to global threats. None of these threats will be explicitly managed in the HPAs or SPAs.

Threats of terrestrial origin: sedimentation and run-off

42. A review of land based impacts on coastal fisheries and marine biodiversity throughout New Zealand (including the Hauraki Gulf) concluded that the most important land-based stressor in marine environments is sedimentation, including suspended sediment, deposition effects, and associated decreases in water clarity.¹¹ DOC has stated that *excess sedimentation, nutrient enrichment and runoff contaminants such as heavy metals are **the major pressures** on the Firth [of Thames]*.¹²
43. Sedimentation and turbidity threats cannot be managed by establishing an HPA or SPA. Instead, these threats arise primarily from terrestrial activities that regional councils and territorial local authorities are responsible for managing. Based on the little information available in *Revitalising the Gulf* and on relevant council websites, the fishing industry is not at all confident that councils will adequately manage direct or indirect terrestrial threats to marine biodiversity in the Gulf within a reasonable timeframe (or at all).
44. We recommend that if the proposed HPAs and SPAs proceed, the special legislation should require councils to take specific actions to manage threats to the biodiversity protection objectives of the HPAs and SPAs, including actions to effectively manage all activities that contribute to sedimentation and turbidity in the coastal marine area. It cannot be claimed that an ecosystem -based approach is being taken if there is not effective action to manage these key threats.

3.2.3 Uncertainty about customary fishing

45. The fishing industry acknowledges the authority of tangata whenua to exercise customary fishing rights in accordance with tikanga. We note that under our preferred threat-based approach to marine biodiversity protection, customary rights could continue to be exercised in all areas so long as any biodiversity risks were managed effectively. We are confident that iwi leaders and kaitiaki will assure that any exercise of their rights will not impugn the biodiversity values at an ecosystem level. Nevertheless, under an MPA-based approach, customary fishing within MPAs should be managed within the framework provided by the customary fishing regulations under the Fisheries Act, as proposed in the Information Document.
46. The current proposals highlight some significant inconsistencies with respect to customary fishing rights.

High Protection Areas

¹¹ Morrison, M. A., Lowe, M. L., Parsons, D. M., Usmar, N. R., & McLeod, I. M. (2009). A review of land-based effects on coastal fisheries and supporting biodiversity in New Zealand. *New Zealand Aquatic Environment and Biodiversity Report*, 37, 100.

¹² Agency Advice. Page 117.

47. The HPAs are intended to provide a high level of protection, but customary fishing can continue, including through the use of fishing methods commonly used by recreational and commercial fishers. For example, a recreational fisher is prohibited from potting in an HPA but that same individual could pot for rock lobsters in an HPA if fishing under a customary authorisation or permit (if this was granted). Fishing from a commercial vessel (e.g., for pātaka purposes) could also take place in an HPA under a customary permit. This does not reflect a threat-based approach to marine biodiversity protection. The differential treatment of identical fishing methods may also result in an increase in recreational fishers seeking to fish under the authority of a customary permit in HPAs (as was observed during the Kaikōura pāua closure, for example).
48. While there is nothing to suggest that customary permits or authorisations will be issued in a way that results in damage to biodiversity values, there is also no certainty that any adverse effects of customary fishing will be managed within HPAs because:
- Customary fishing must not conflict with the HPA objectives, but the HPA objectives will be agreed between DOC and mana whenua without the involvement of other affected parties; and
 - The preparation of a Customary Practice Management Plan is optional.
49. It is also inconsistent that DOC is prepared to make provision for customary non-commercial fishing in HPAs, but does not acknowledge the adverse effects of the HPAs on Māori customary commercial fishing rights. The principles of the Treaty of Waitangi require the Government to uphold the integrity of existing settlements between the Government and Māori/Iwi, including the Fisheries Settlement. The Government has stated that in all its reforms it will maintain the integrity of existing settlements. In our view this includes an obligation to not extinguish, or substantively preclude the exercise of, the quota owned under the Fisheries Settlement without the informed consent of Iwi mandated for fisheries purposes. Customary commercial and non-commercial fishing rights are two integrated halves of the Māori Fisheries Settlement and it is divisive and patronising for the Crown to presume that one half of a full and final settlement should be protected while the other is extinguished in the HPAs. It is not clear that iwi will accept this partitioning.

Wider considerations

50. The arrangements that DOC has reached with mana whenua in the Gulf have significant precedent-setting implications for other iwi and hapū around the country. We interpret these arrangements to mean that MPAs that currently prohibit customary fishing are no longer a favoured or viable management tool for the Government or for Iwi. We consider that such a significant policy shift should have been subject to much wider consultation (including with Iwi in other regions) rather than emerging as a *fait accompli* from a limited and closed set of discussions.
51. The policy shift means that New Zealand no longer has a fit-for-purpose statutory marine biodiversity protection tool and, in the absence of any replacement for the Marine Reserves Act, we will now be reliant on 'special legislation' to implement marine protection. This creates significant uncertainty for everyone who relies on access to marine resources for their

livelihoods and wellbeing (see [section 3.6.3](#)). It also has immediate implications for the South-East marine protection (SEMPA) proposals which include six marine reserves in which customary fishing rights could not be exercised as the law currently stands.

52. We also question the implications of this policy shift for New Zealand's obligations under the Convention on Biological Diversity (CBD). Up until now:

- DOC has sought to justify the imposition of no-take marine reserves as being 'in the national interest', in part because of their contribution to New Zealand's international obligations under the CBD.¹³ The fishing industry has always disputed that marine reserves are the only or the best way of implementing our CBD obligations, so we are pleased to see that DOC and the Government appears to be moving away from its original position; and
- The New Zealand government has generally adopted an unduly rigid interpretation of its reporting obligations for marine protection under the CBD, reporting only no-take marine reserves and (somewhat bizarrely)¹⁴ Marine Mammal Sanctuaries as contributions to Aichi Target 11, which is to protect at least 10 percent of coastal and marine areas by 2020. We hope this signals that New Zealand will now report marine protection in a more comprehensive way that is not reliant solely on 'no take' areas.

3.3 Significant direct impact on commercial fishing

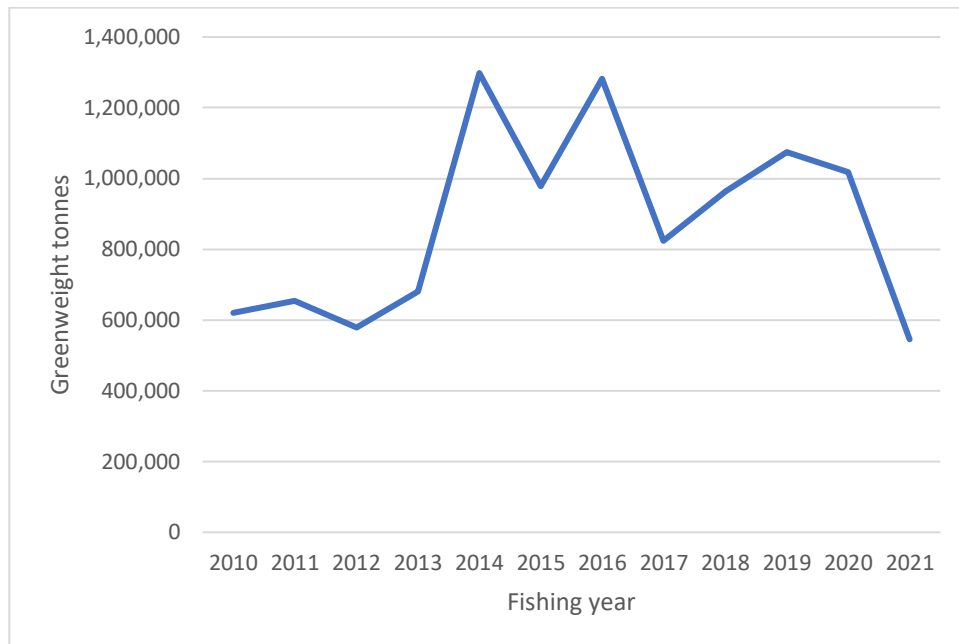
53. The potential impacts of the proposed area closures and fishing method restrictions varies considerably, both within and between the various fisheries that operate across the Hauraki Gulf Marine Park.
54. Two reports have been produced to estimate the impact of the marine protection proposals on commercial fishers, an initial report produced by DOC and FNZ "*Sea Change – Tai Timu Tai Pari Plan marine protected area (MPA) proposals: agency analysis and advice on selection of MPAs towards development of the Hauraki Gulf Marine Park MPA network*", and a report commissioned from MartinJenkins released midway through the consultation process. The two reports provide a summary of catch within the proposed areas calculated from the 2015/16 - 2017/18 and 2019/20 - 2020/21 October fishing years respectively. While the two reports are not directly comparable due to differences in data reporting and analysis methodologies, the contrast of catch between years, both within and between the two reports, highlights that neither report provides a robust assessment of the impact on the various commercial fisheries or fishers that will be impacted by the proposals.
55. This is most notable in the Martin Jenkins report which only uses two years data from which to characterise commercial catch within the proposed areas. Both years are also likely to be unrepresentative with fishing in 2020 impacted by Covid-19 and 2021 was impacted by a strong *La Niña* climate event that resulted in a significant drop in catch for a number of finfish

¹³ See, for example, Proposed southeast marine protected areas consultation document. Department of Conservation and Fisheries New Zealand. June 2020.

¹⁴ Notably, the Benthic Protection Areas (BPAs) have generally not been 'counted' as contributing to Aichi Target 11 even though they fit the international definitions of protection and provide significantly more protection than a marine mammal sanctuary.

stocks and fisheries (Figure 1). Consequently, the analysis significantly under-estimates the impact of potential closures on commercial fishers.

Figure 1: Total annual finfish catch within all proposed MPAs combined.



56. Figure 1 also illustrates the variable nature of fishing and catch and the importance of considering multiple years when characterising fisheries for estimating economic impacts. Fishing and catch is heavily influenced by environmental changes and the distribution of fishstocks, particularly for pelagic species. La Niña conditions prevailed for years 2010 to 2013, and again in 2021. The agency report estimated an average annual catch of 917 t for all stocks, whereas the MartinJenkins' report characterised annual catches of 906 t and 530 t (the lowest catch for the time series) for the 2019/20 and 2020/21 October fishing years respectively. The highest total annual catch of 1,297 t occurred in 2013/14.
57. To ensure that the government analysis is robust, we recommend that the data and analysis in the MartinJenkins Part 1 report, and yet to be completed Part 2 report, be updated to include a broader range of fishing years to more accurately characterise fishing catch and effort within the proposed closures, and estimated economic impacts.
58. Both reports also estimate the amount of catch taken within the proposed MPAs compared to the total catch within each individual QMA. This comparison however mis-represents the impacts of displaced effort and catch that will be more localised, and in most cases, will occur elsewhere within the Hauraki Gulf Marine Park.
59. Comparing catches over the last five years for five key inshore finfish stocks within the proposed MPAs with catches taken within the HGMP indicates that the impacts of displacement will be more significant (Table 2). For snapper and trevally, which account for a significant proportion of the catch within the marine park, displaced catch accounts for 12 and 25 % respectively of the total catch within the marine park.

Table 2: Compares the annual average catch (2017-2021, greenweight tonnes) for five key species caught within the proposed MPAs, the Hauraki Gulf Marine Park and the QMA.

Fishstock	MPAs (t)	HGMP (t)	% HGMP	% QMA
GUR1	8,040	86,582	9.29	0.5
JDO1	14,581	82,120	17.76	4.5
SNA1	193,693	1,590,641	12.18	3.4
TAR1	13,875	60,279	23.02	0.6
TRE1	63,873	251,012	25.45	2.6

60. Closer analysis of catch for these same key species (SNA, GUR, JDO, TAR and TRE) within each MPA by method highlights that the impacts will vary considerably between areas and fishing method. The spatial distribution of fishing effort is influenced by several factors including:
- An extensive suite of Fisheries Regulations that spatially restrict the use of certain fishing methods throughout the HGMP (see Appendix 6.1 for a map of restrictions). This is particularly evident with the concentration of Danish seine effort located within Tiritiri and Kawau SPAs,
 - The necessary spatial separation of different commercial methods to avoid operational interference between bottom longlining, trawl and Danish seine operations.
 - Prevailing sea and weather conditions suitable for the fishing vessel and method.
 - Avoiding spatial conflict with recreational fishers by locating commercial fishing to areas further away from population centres.
 - The productivity of an area with consistent or seasonal abundance of target species.
 - The proximity to ports, seafood processing facilities, markets and distribution infrastructure.
 - Balancing the operational costs of running their businesses and maintaining profitability, particularly at a time with significantly increased fuel costs and inflation.

Figure 2: Average annual catch (greenweight tonnes) over a five year period (2017-21).

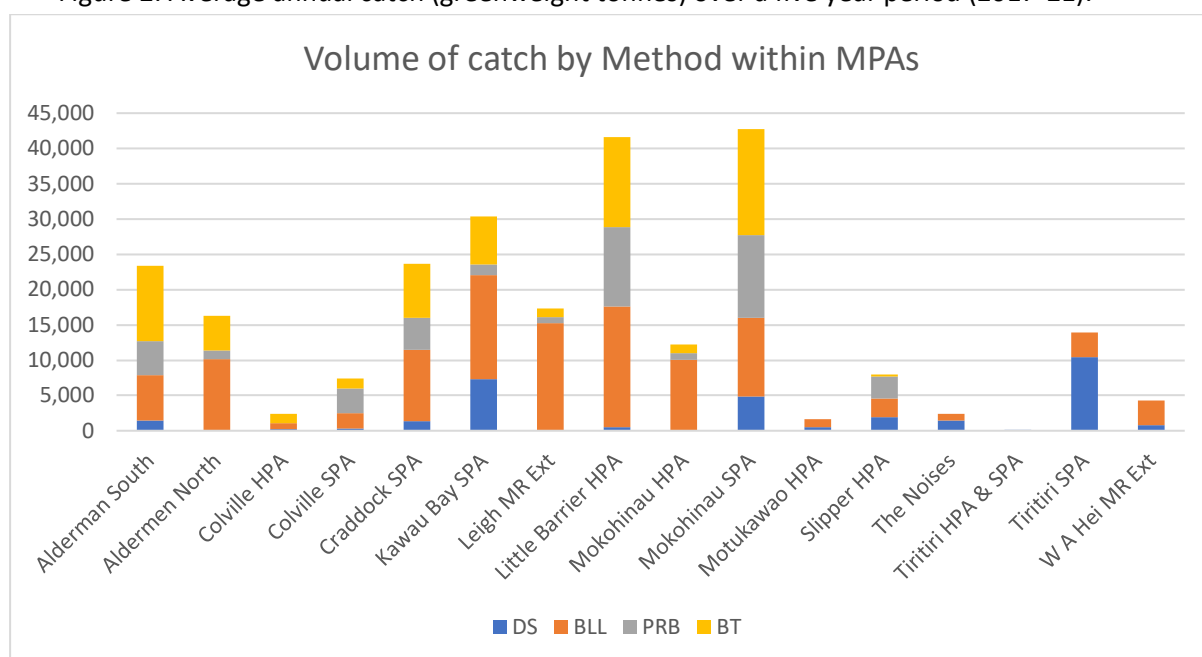
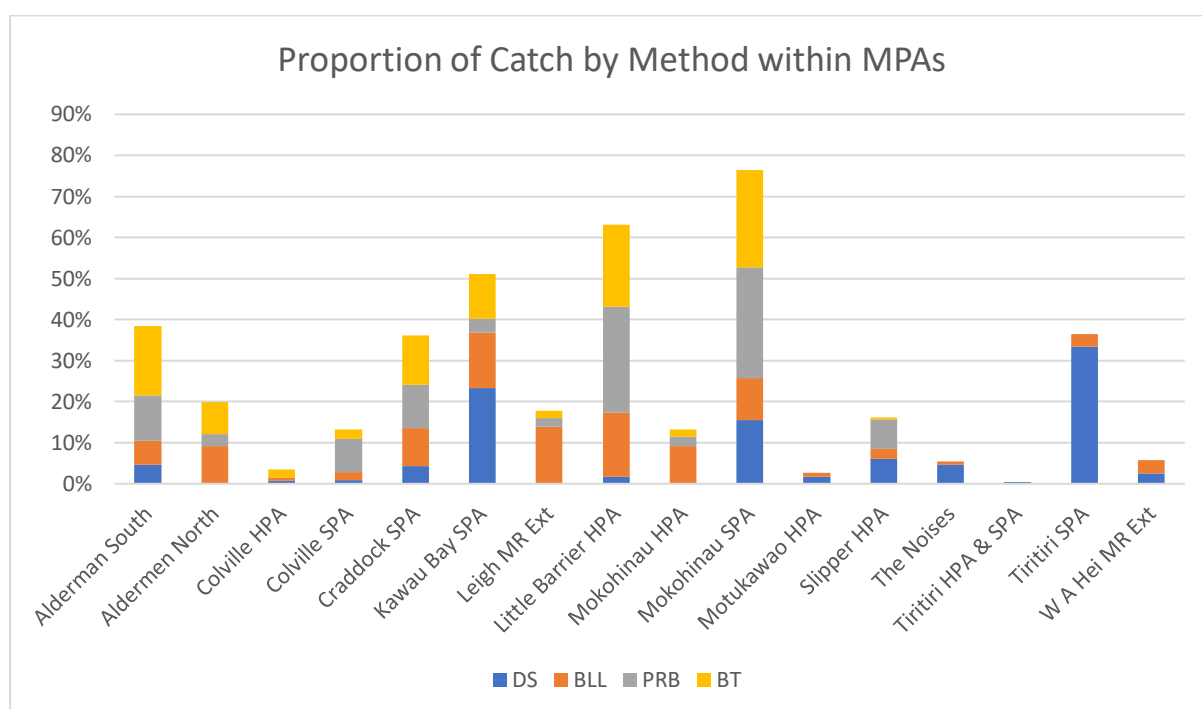


Figure 3: Proportion of annual Gulf catch by method within the MPAs (5 year average 2017-21).



61. We are also aware that the data we obtained from Fisheries New Zealand to help with our analysis, does not accurately document the catch of fishers using setnet and ring net methods within the HGMP. These fisheries are highly seasonal with effort rotating around different fishing grounds annually or over several years and with the locations of catch in any year varying based on the locations of abundance in that year in response to the environmental

conditions. Consequently, effort from these fisheries is significantly underestimated by the MartinJenkins report based on two single fishing years. The Agency Report also highlighted that the impact on these methods was likely to be underestimated.

62. Analysis of catch data can indicate where impacts can be expected. It does not, however, provide a reliable assessment of impacts on individual fishing and seafood businesses, or on associated businesses and small coastal communities in which they are based. We are concerned that the current impact analysis doesn't provide a sufficiently robust estimate of these impacts to inform decision makers. We ask that work is undertaken directly with these businesses and communities to better understand these impacts.
63. The proposed closures are expected to have a number of social and economic impacts on the rock lobster industry. While agencies have indicated that special legislation will be developed to progress these proposed closures, the consideration Ministers will give to these matters is unknown – what has been clearly communicated by agencies is that they do not intend to progress the tools under the Marine Reserves Act legislation (1971). Irrespective, we consider that the policy decisions for proposals to be included under the proposed legislation should still be assessed against similar criteria and examine impacts similar to or the same as Section 13 (3) of the Fisheries Act (1996). That section requires the Minister to consider social, cultural and economic factors, and the socio-economic impacts of the closures are not limited to impacts on revenue but are likely to include:
 - Loss of income in the catching sector, quota owners, processors and distributors
 - Reduced economic viability
 - Vessels off the water
 - Unemployment
 - Inability to service debt resulting in forced exit and bankruptcy
 - Stranded assets
 - Social impacts on iwi beneficiaries
 - Economic impacts on regional communities.
64. Some fishing operations are already marginally economic as a result of the significant CRA 2 TACC reduction of 120 tonnes (60%) in 2018. Quota owners and fishers have accepted those restrictions as necessary investment to assure the sustainability of the fishery given its importance to their future. It would be a double blow if having significantly reduced catch to assure the recovery of the stock, the proposed closures then will effectively remove a significant proportion of the available rock lobster biomass in the Hauraki Gulf from sustainable utilisation. Central government agencies have acknowledged that all rock lobster fishing grounds in CRA2 are fully utilised at their current productive capacity, and as outlined in section 3.4.3, the closure of an area that contains rock lobster habitat effectively prevents this from being available to fishing, reducing the available yield for that QMA.
65. The closure of over 1600 square kilometres in the Hauraki Gulf will severely reduce the productive rock lobster habitat available to permit holders. An analysis of industry data

indicates that 15 of the proposed protection areas have been accessed by at least 8 CRA2 permit holders over the past 10 years to various degrees and timeframes (see Appendix 6.2.1 and 6.2.2).

66. An analysis of this data indicates that 3 current CRA2 permit holders have harvested an estimated minimum of 5.58 and 6.477 tonnes annually of rock lobster in 2017/18 and 2021/22 in 6 of the proposed closures. This does not take into account the impact on a further 5 permit holders which could not be completed in the time available. Further analysis is being undertaken to assess the impact on these permit holders.
67. The loss of catch to the three primarily affected permit holders equates to 2.79 and 8.1% of the CRA2 TACC. This volume of catch provides a port price return of \$528,428 and \$613,343¹⁵ and an FOB market value of \$772,498 and \$896,634¹⁶ in each of the respective years. All 3 of these current CRA2 permit holders rely on rock lobster fishing for 100% of their annual income, and it is estimated that at least 2 of the current CRA2 permit holders catch upward of 75-80% of their ACE from the proposed closed areas. This loss in catch and subsequent income would be financially unsustainable for these permit holders.
68. This estimate far exceeds the estimates generated by the agencies or the MartinJenkins analysis for the same cumulative area of the proposed closures for rock lobster. The agency analysis for the respective proposed closures estimated a cumulative average annual landed catch of 3.05 tonnes, equating to 1.53% of the CRA2 TACC and an average port price revenue of \$249,284. The MartinJenkins analysis estimated an annual landed catch of 1.895 and 3.791 tonnes respectively in 2020/21 and 2021/22, equating to 2.26 and 4.74% of the CRA2 TACC, a port price revenue total of \$151,437 and \$258, 616 respectively in 2020/21 and 2021/22. Decisions made on the basis of these figures would drastically underestimate the economic impacts of the proposals.
69. The analysis undertaken by the agencies was limited by the lack of fine scale spatial data. For rock lobster, annual catch reported for statistical area 905 and 906 was constrained and proportioned uniformly to *“fishable rocky reef extant”*, and the agencies acknowledged that the associated estimates of potential impacts *“do no account for the likely true distribution of rock lobster catch and effort throughout the HGMP”*. This was apparent in the analysis of industry data, which found that for at least **1 of the 3** permit holders, constraining catch to *“fishable rocky reef extant”* resulted in only 65% of the catch landed from the full extent of one of the proposed closures. The assumption that rock lobster catch is limited to *“fishable rocky reef extant”* is an incorrect assumption of the agencies analysis, and severely underestimates the potential economic impacts of the proposals.
70. The MartinJenkins analysis benefited from access to electronic reporting and global position reporting to access more accurate location data and the associated estimates, but also acknowledged that this information does not capture the total amount of fish that is caught by a permit holder. The analysis relied on measuring the proportion of a fishing event inside an area, then applying that proportion to the reported catch from the event – the analysis of industry data found that fishing occurred in more of the proposed closures than identified by MartinJenkins.. The MartinJenkins analysis also acknowledged that the commercial fishing data used may be influenced by challenges arising from the COVID-19 pandemic. While commercial

¹⁵ All rock lobster port prices estimated in the industry analysis use the associated figure sourced from the MPI Cost Recovery Port Price 2022-23

¹⁶ All rock lobster port prices estimated in the industry analysis use the associated figure sourced from the SNZ Export Figures March 2022 (Fishing year 2021/22)

fishing was permitted to continue, fishers experienced disruptions that would have impacted their standard operations (e.g. inability to obtain crew meant the range of operation was limited).

71. Subsequently there have been significant additional costs on fishers and lower receipts arising from market access problems and much high freight costs getting products to consumers. Further economic pressure will be put on fishing operations because the largely fixed costs (e.g., vessel maintenance, insurance and labour) will remain. The closure of these areas will force permit holders to find and access less productive fishing grounds further from their port of domicile, increasing the time and cost associated with their operation. Variable costs are likely to increase in the current inflationary climate, with no respite from the government to business to the cost of fuel and equipment as has been provided for to the public.
72. Most rock lobster fishing operations are wholly reliant on rock lobster and don't fish other species or use other methods, and therefore don't have alternatives to maintain or substitute income. Rock lobster vessels are fairly specialist; even if an operator could afford to modify and re-equip the vessels and develop expertise in new fisheries, they couldn't fish without the very significant additional capital needed to purchase ACE or quota.
73. There will be reduced or little return for capital such as fishing equipment or holding tanks, which in general have limited utility for other purposes. It will be extremely difficult to sell the vessels, as there is a limited market for specialist vessels, which will likely be saturated with vessels from other operations in similar situations, and lack of demand due to the increasing restrictions.
74. Finfishers are also facing increased costs with increasing cost recovery for science and compliance and new costs recovery for the installation and operation of on-board cameras on all inshore finfishing vessels.
75. Where there is loss of employment for skippers, crew and other employees not limited to the direct fishing operation, this will often be in regional areas with limited prospects for other employment. This can lead to a forced shift of out of regional communities to larger centres where there is better prospect of employment. There will potentially be impacts on social programs funded by iwi and runanga from the benefits of their settlement assets. For some iwi, ACE income is an integral component to fund their staff complement and marae activities.
76. There will also be reduced revenue to quota owners, which include iwi, companies, owner operators and retired fisherman, from selling ACE that they depend on for their income. The ACE price is linked to the port price paid to fishermen. The reduction in available fishing grounds will create greater competition in remaining areas, reduce catch rates, increase fishing costs and therefore reduce income.
77. Reduced spatial access will also affect quota owners through reduced equity in quota, and will essentially remove that value from the quota owner. It is not expected that there will be any significant compensatory adjustment in quota price for the reasons listed prior.
78. For some operations substantially affected, the loss of income will negate their ability to service debt, and could lead to calling in of loans and inability to pay mortgages. The inability to service debt can lead to the need to restructure businesses, resulting in the loss of employment, closing or bankruptcy. These economic impacts will impact on investor

confidence in the industry, at a time when the government has directed it to undertake an Industry Transformation Plan¹⁷, and influence the cost of capital to remaining operations.

79. The reduction in fishing and receiving businesses will have flow on impacts in reduced economic activity for a number of associated servicing and support businesses such as transport, storage, provedoring, engineering, boatyards, marine electronics and suppliers. These fishing and support businesses are often in smaller regional towns and communities along the coastline. In some communities commercial fishing is an important proportion of economic activity.
80. The economic reductions will have flow on impacts on infrastructure and services, often in regional communities including loss of revenue for retail, business, and various services.

3.4 Proposals undermine good fisheries management

81. One of the fishing industry's primary objections to the proposed HPAs and SPAs is the startling and complete lack of integration between these proposals and fisheries management considerations. In particular:
 - There is significant duplication between the HPA/SPA proposals and the Hauraki Gulf Fisheries Plan;
 - Measures in the Hauraki Gulf Fisheries Plan will manage fishing-related impacts on marine biodiversity more effectively than the proposed HPAs and SPAs, throughout the Gulf, and with significantly lower cost;
 - Fisheries displacement effects arising from the HPAs and SPAs will undermine ecological functioning in the Gulf – an 'oasis and desert' approach is an outcome that would be contrary to the Government's stated intent in *Revitalising the Gulf*;
 - HPAs and SPAs will not result in the asserted fisheries management benefits; and
 - Cumulative fisheries displacement in the Gulf, already having adverse effects in the Gulf, will be further exacerbated by the current proposals.

3.4.1 Duplication between the Fisheries Plan and HPAs/SPAs

82. A draft Hauraki Gulf Fisheries Plan is included in *Revitalising the Gulf*. The proposed Fisheries Plan is currently being refined and will be consulted on shortly with the intention is that it will be approved by the Minister for Oceans and Fisheries under section 11A of the Fisheries Act. Once approved, the Fisheries Plan will have statutory status as a matter that must be taken into account by decision makers under the Fisheries Act, and must be had regard to by councils when preparing regional plans under the RMA.
83. The measures in the draft Fisheries Plan overlap significantly in intent and effect (i.e., control of adverse effects of fishing on marine biodiversity) with the proposed HPAs and SPAs. For example:
 - Bottom trawling and Danish seining will be prohibited in HPAs and SPAs, but will be prohibited throughout the Gulf with the exception of 'suitable corridors' under the Fisheries Plan;

¹⁷ [Fisheries system reform agenda \[Paper 2 of 7\]](#)

- Commercial and recreational scallop dredging will be prohibited in HPAs and SPAs, but the entire scallop fishery SCA CS is currently closed to commercial and recreational harvest under section 11 of the Fisheries Act, apart from small defined areas around Little Barrier Island and Colville Channel. Under the measures in the proposed Fisheries Plan, commercial dredging will be confined to its current footprint (which is largely outside the proposed HPAs and SPAs), alternative methods will be encouraged, and recreational scallop dredging will be prohibited throughout the Gulf;
- Several of the proposed HPAs and SPAs include areas that are potential habitats of particular significance for fisheries management (HPSFM),¹⁸ but ecologically important marine habitats, including HPSFM, will be explicitly protected from any adverse effects of fishing under the measures in the proposed Fisheries Plan;
- The only meaningful prohibitions in the proposed HPAs and SPAs apply to fishing activities (see [section 3.2.2](#)) – but any fishing activities that have an adverse effect on marine biodiversity will be fully managed under the relevant provisions of the Fisheries Plan; and
- To the extent that HPAs and SPAs aim to support healthy functioning ecosystems (as noted above, we consider that based on the nature of the proposals, this is not the only intended objective), the measures in the Fisheries Plan explicitly aim to support healthy functioning ecosystems *throughout* the Gulf (not just in those areas).

84. In relation to fishing impacts, the protection offered by HPAs and SPAs is no greater – and, in terms of spatial extent, considerably more limited – than that potentially available through measures under the Fisheries Plan. The fishing industry therefore recommends that fisheries-related threats to marine biodiversity in the Gulf should be managed through measures under the Fisheries Plan and other Fisheries Act tools, and not through a series of ad hoc HPAs and SPAs.

3.4.2 Good fisheries management will achieve better outcomes at less cost

85. If implemented as intended, we consider that implementation of measures under the proposed Fisheries Plan will render the proposed HPAs and SPAs substantially redundant because fishing-related threats to the identified marine biodiversity objectives will be managed and on a broader basis – and with far less cost to commercial fishing.
86. Implementation of the objectives and management actions in the draft Fisheries Plan will directly achieve marine protection outcomes that are consistent with the Government’s MPA protection standard,¹⁹ as follows:
- The Fisheries Plan includes management measures to protect benthic habitats from any adverse effect of mobile bottom contact fishing methods (as noted in [section 3.4.1](#) above). These measures will achieve in full:

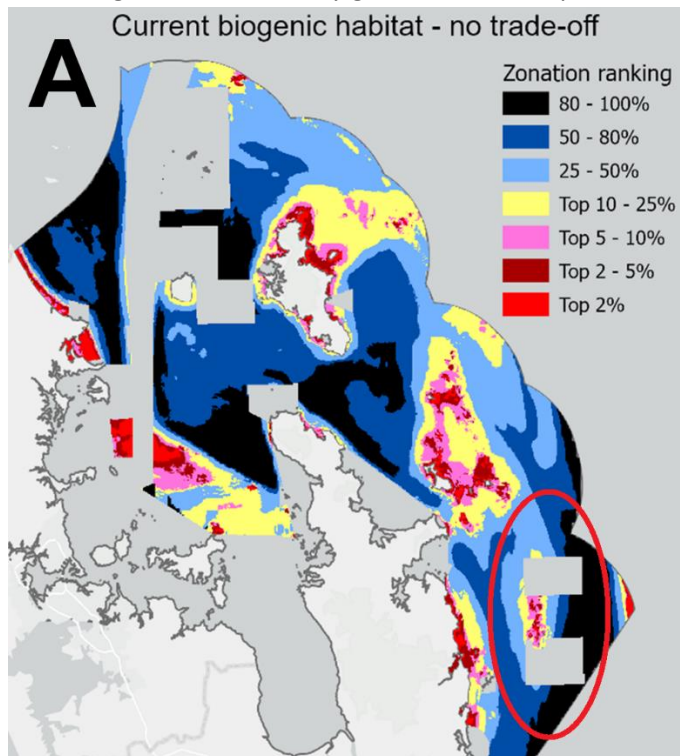
¹⁸ For example, parts of Slipper Island HPA (seagrass habitat), Cape Colville HPA/SPA (high productivity area), Mokohinau Islands HPA (high productivity area), parts of Kawau Bay HPA and SPA (nursery area for juvenile fish).

¹⁹ Marine Protected Areas Classification, Protection Standard and Implementation Guidelines (2008). Department of Conservation and the Ministry of Fisheries.

- i. the objectives of the proposed HPAs and SPAs in relation to fishing-related benthic impacts; and
 - ii. the MPA protection standard requirement that the management regime must *provide for the maintenance and recovery of physical features and biogenic structures that support biodiversity*; and
- The Fisheries Plan outcome 1 is *healthy functioning aquatic ecosystems that support sustainable fisheries*. Management objectives and actions that contribute to this outcome include protecting benthic habitats from adverse effects of mobile bottom contact fishing methods, protecting ecologically important marine habitats from any adverse effects of fishing, mitigating the impacts of fishing on the marine food chain, and reducing bycatch and fishing-related deaths of non-fish and protected species. The outcome and actions mirror the MPA protection standard requirement that the management regime must *provide for the maintenance and recovery of ecological systems, natural species composition and trophic linkages*.
87. Recent work undertaken by Fisheries NZ exploring options for balancing fishing and benthic habitat protection and recovery within the Hauraki Gulf Marine Park demonstrated the potential of actions within the Fisheries Plan to achieve the biodiversity and ecosystem objectives²⁰. Using the Zonation spatial planning tool to prioritise both biodiversity and fishing outcomes resulted in win-win scenarios where biodiversity protection could be optimised with least cost impact to fishing value.
88. An example that illustrates this opportunity well are the proposed HPAs for the Alderman Islands (Figure 4). The proposed closures extend over large areas of deep mud habitat that account for 92% and 25% of the North and South areas respectively (a total of 198km²). In between the two areas is an extensive reef structure containing biogenic habitat that extends into both North and South Areas. Zonation modelling indicates that greater biodiversity benefits would be achieved by extending trawl restrictions over the full extent of reef structures, including those located between the proposed north and south HPAs areas. Setting the restrictions in this mid area areas gained a greater level of protection of biodiversity than the proposed HPAs. It also means that closing this middle area to gain biodiversity protection but allowing continued fishing access to areas of low biodiversity value but high value for fishing (mud habitats on the western and eastern sides of the MPAs) resulted in a win/win scenario.

²⁰ Draft Report (yet to be published) Bennion, M.; Brough, T.; Leunissen, E.; Morrison, M.; Hillman, J.; Hewitt, J.E.; Rowden, A.A.; Lundquist, C.J. (2022). Exploring options for balancing fishing and habitat protection and recovery in the Hauraki Gulf. New Zealand Aquatic Environment and Biodiversity Report.

Figure 4: Zonation biogenic habitat mapping of the Hauraki Gulf Marine Park. The Alderman HPAs, contained in the red oval, illustrate that a significant area of high-value biogenic habitat is located outside of the HPAs. Considering both biodiversity value alongside fishing value can result in greater biodiversity gains with less impact on fishing values.



89. Implementation of the designated areas, or trawl corridors as they have been described, providing for benthic protection and recovery could be achieved through the current regulatory framework under the Fisheries Act. Using the existing regulatory framework has several advantages including clear roles and responsibilities for implementation, resourcing, and monitoring and avoiding a lengthy, complex and resource intensive process to develop and implement special legislation.
90. This work has also highlighted that biodiversity protection and fishing need not be mutually exclusive outcomes and offered a practical example how an ecosystem-based approach to fisheries management could be progressed.
91. The implementation of measures in the Fisheries Plan can therefore achieve the MPA protection standard with respect to fisheries-related impacts on physical features, biogenic structures, and ecosystem structure and functioning throughout the Gulf, not just in defined areas. Furthermore, it is indisputable that non-benthic impacts of fishing are best managed at a broader spatial scale using Fisheries Act tools such as limits on catches (Total Allowable Catches (TACs), Total Allowable Commercial Catches (TACCs), and recreational daily bag limits) rather than through the establishment of protected areas. Therefore, upon implementation of the Fisheries Plan, no additional biodiversity protection benefits will be gained by implementing the HPAs and SPAs.
92. There has been a significant increase in the level of recreational fishing the Gulf over the last 40 years with substantial changes in technology now being available to recreational fishers. As noted earlier Auckland now has the highest per capita residential boat ownership in the world

and this can be expected to further increase. The fishing industry does note, however, that there are no actions in the draft Fisheries Plan to effectively constrain recreational fishing effort, even though the heavy recreational fishing pressure is identified as a ‘direct pressure’ at many of the HPA and SPA sites. However, as with commercial fishing, closing an HPA or SPA to recreational fishing simply displaces recreational fishing effort to elsewhere in the Gulf without limiting the pressure that this recreational effort and catch places on the environment. Closing HPAs can be expected to exacerbate rather than reduce the impacts of recreational fishing on the marine environment in the Gulf by concentrating excessive fishing effort in the remaining open areas. We recommend that the issues with measurement and management of recreational fishing need to be rectified as the Fisheries Plan is developed and finalised.

3.4.3 Fisheries displacement from HPAs and SPAs

93. Government agencies (DOC and Fisheries New Zealand) have consistently failed to acknowledge and address:
 - The adverse effects of displacement of catch from the proposed HPAs and SPAs; and
 - The cumulative effects of displacement from the current proposals and existing and other proposed spatial exclusions in the Gulf and in the Quota Management Areas (QMAs) that the Gulf fisheries are part of.
94. It is widely understood that displacement of fishing effort from inside MPAs has a negative effect on the abundance of surrounding fish populations.²¹ Research shows that the negative impacts of displaced fishing effort are more severe in countries like New Zealand where fisheries are regulated by a TAC. Unless the TAC is reduced when an MPA is established, the same amount of catch will continue to be taken, effectively guaranteeing that fishing will become more intense outside the MPA.
95. There is no suggestion in *Revitalising the Gulf* or the Information Document that the Government intends to ‘rebalance’ affected fish stocks by reducing TACs, TACCs and recreational bag limits to remove the negative impacts of displaced catch on surrounding fisheries. The reality that most displaced fishing effort, including recreational fishing effort, will relocate to other areas of the Gulf because of where fishers are based, not to the wider QMA, intensifying fishing pressure in the remaining open areas of the Gulf. DoC officials had been dismissive of displacement, indicating that they did not consider any displacement to be significant at the QMA scale.²² In a recent email exchange²³ DoC suggest “we are aware of the risk of unintended displacement effects” but no response or adjustment is suggested..
96. The negative impacts of displacement are particularly evident for species that are relatively sessile such as rock lobster. The TAC and TACC for rock lobster in this region (CRA2) are based on the area of suitable habitat (coastline and offshore reefs that contain hard substrate)

²¹ For example, see the review of relevant research in Hilborn, R., K. Stokes, J. Maguire, T. Smith, L. Botsford, M. Mangel, J. Orensanz, A. Parma, J. Rice, J. Bell, K. Cochrane, S. Garcia, S. Hall, G. Kirkwood, K. Sainsbury, G. Stefansson and C. Walters (2004). When can marine reserves improve fisheries management? *Ocean and Coastal Management* 47 (2004) 197-205.

²² Meeting of industry representatives, DOC and FNZ officials, 1 September 2021.

²³ Marine Protection Proposal Questions for DoC; 25-10-22

available to fishing, and the biomass of lobsters available to fishing in that area. Rock lobster can only be commercially harvested from a limited portion of CRA2 where rock lobster inhabit, as large sections of the coastline have a seafloor which does not provide suitable habitat for rock lobster. In CRA2, once rock lobster has reached a size that they can be included in the stock assessment model, they do not tend to display any alongshore movements of significant distances along the coastline (as confirmed by a program to tag and recapture lobsters). The closure of an area that contains rock lobster habitat effectively prevents the available harvestable biomass from being available to fishing, reducing the available yield for that QMA²⁴.

97. Central government agencies (FNZ and DOC) have acknowledged that all rock lobster fishing grounds in CRA2 are fully fished at their current productive capacity, stating *“There are no rock lobster fishing grounds within CRA2 that are not already being exploited by the incumbent commercial operators and by other sectors of the fishery. Any attempt to relocated fishing effort will have a negative impact on the CRA2 fishery in terms of increased pressure on already fully utilised areas, resulting in increased competition and conflicts, and a decline in catch. This may slow down the current process for rebuilding the CRA2 fishery...”*²⁵.
98. Our estimate of commercial catch that is likely to be displaced by the proposals is provided in section 3.3 of this submission. The most affected stocks (rock lobster and snapper) are highly valued by all fishing sectors and the substantial (but poorly estimated) levels of recreational catch in the Gulf will also contribute significantly to all fisheries displacement effects.
99. The Gulf fisheries are fully utilised. Therefore, if the proposals proceed without immediate commensurate reductions in TACs, TACCs and recreational bag limits, they will inevitably:
 - Increase the risk of local depletion of affected stocks (especially rock lobster and snapper) in the remainder of the Gulf;
 - Slow down stock rebuilding rates. This effect has been observed in international studies²⁶ and is directly relevant to the projected rebuilds of CRA 2, and SNA 1;
 - Increase fishing-related pressure on marine biodiversity values outside the HPA and SPA boundaries and potentially reduce the resilience of marine ecosystems to other sources of environmental perturbation throughout the Gulf;
 - Exacerbate spatial conflict between and within fishing sectors. Recreational and commercial fishers will all be forced to operate in a reduced area, which will result in increased competition, particularly for species that are highly valued by both sectors and have a strong spatial dependence such as rock lobster; and
 - Increase the risk of a cascade of future prohibitions on fishing. For example, iwi or hapū may choose to protect areas of importance for customary fishing from the impacts of displaced commercial and recreational catch by establishing new mātaihai reserves or

²⁴ Webber Affidavit. Para 26-36, CIV-2020-485-320

²⁵ Department of Conservation and Fisheries New Zealand 2021: Sea Change – Tai Tum Tai Pari Plan marine protected areas (MPA) proposals: agency analysis and advice on selection of MPAs towards development of the Hauraki Gulf Marine Park MPA network. 166 p

²⁶ Hilborn, R., F. Micheli, and G. A. De Leo. (2006). Integrating marine protected areas with catch regulation. Canadian Journal of Fisheries and Aquatic Sciences 63:642-649.

s.186A closures.²⁷ In turn, these measures will result in further displacement of fishing effort and additional threats to fisheries sustainability and impacts on iwi or hapu in other locations in the Hauraki Gulf by increasing fishing effort in their localities and depleting the resources available.

100. All of these effects are contrary to the Government's desired outcomes in *Revitalising the Gulf*, the purported outcomes for the marine protection proposals, and the purpose of the Fisheries Act.

3.4.4 HPAs and SPAs will not create fisheries management benefits

101. The Information Document asserts that the marine protection zones are designed to increase the abundance of fish stocks. This is patently incorrect and there is no analysis to support this: the proposals were not designed to give effect to fisheries management objectives. A network of areas designed to increase the abundance of fish stocks could only be developed on the basis of an analysis of the lifecycle requirements of the various harvested fish species in the Gulf (including adult and larval movements), the habitat types that may contribute to life-cycle 'bottlenecks', and the threats to the attributes of those sites that are important for fisheries productivity. None of these steps were carried out in the design of the proposed HPAs and SPAs and it is misleading to assert or imply that they were.
102. A recent communication from DoC²⁸ suggests the marine protection measures and the Fisheries Plan are "expected to increase overall health of the Gulf" and "expected to benefit these locations" (locations suffering currently from localised depletion). No analysis or justification of these assertions is provided, including how the adverse effects of the substantial displacement of existing fishing activity would be addressed.
103. The negative effects of displaced fishing effort and catch on surrounding fisheries that are identified above will not be mitigated by 'spill-over' benefits to fisheries from the proposed MPAs. Studies in New Zealand and elsewhere show that while spill-over effects outside a MPA may be detectable, they are confounded by environmental and management variables and often dissipate at distances greater than 1km from a boundary.²⁹
104. More significantly, the detection of spill-over near an MPA boundary does not equate to net increases in fish abundance at a regional scale. The theoretical literature consistently shows that MPAs can benefit abundance outside the boundaries only when fishing pressure is very high and stocks are seriously over-exploited.³⁰ The same result is seen in empirical studies – for example, monitoring of southern Californian MPAs showed that the estimated trend of

²⁷ We note that, contrary to the information provided in the Information Document, tangata whenua are not able to make use of s.186B closures in the Gulf as this mechanism is only able to be used in South Island fisheries waters.

²⁸ Marine Protection Proposal Questions for DoC 25-10-22

²⁹ Ovando, D. (2018). *Of Fish and Men: Using Human Behavior to Improve Marine Resource Management*. University of California Santa Barbara, Santa Barbara California.

³⁰ Hilborn et al (2004) and Ovando, D. (2018), full references above; Hilborn, R. (2017). Are MPAs effective? *ICES Journal of Marine Science*, doi:10.1093/icesjms/fsx068; Rassweiler, A., C. Costello, R. Hilborn, and D. A. Siegel. (2014). Integrating scientific guidance into marine spatial planning. *Proceedings of the Royal Society B-Biological Sciences* 281.

abundance for targeted species increased within the MPAs but decreased outside over a five year period.³¹

105. Because rock lobster are relatively sessile (see paragraph 96above) and closures essentially remove productive rock lobster habitat, the purported “spill-over” benefits are particularly illusory. Some commentators suggest that more or larger closures/reserves are needed for egg production. The science for rock lobster does not support this assertion. A detailed 2021 analysis³² looked at the relationship between spawning stock biomass and recruitment to rock lobster fisheries in New Zealand. For all stocks examined, and all levels of biomass, there is no positive correlation – in fact a weak negative one. Egg production is apparently not the limiting factor on recruitment to rock lobster fisheries (environmental factors, natural mortality etc may be). This reinforces the view that increasing the abundance (biomass) of rock lobster, and its ecological contribution, in CRA 2 including the Hauraki Gulf, needs to be achieved by focusing on properly controlling harvest and will not be achieved by area closures.
106. As a result of shelving of quota by the industry and catch reductions in 2014 and 2018, the CRA 2 stock is rebuilding rapidly, including in the Hauraki Gulf. The most recent rapid update stock assessment of CRA2³³ which provides information about stock status in the interim years between full assessments, suggested that the median stock size in 2021 was above the B_{MSY} based reference level BR, and projected to increase strongly at current levels of catch. The recently completed full stock assessment confirmed these trends. For the reasons noted elsewhere in this section further protected area closures will jeopardise these positive fishery management outcomes for rock lobster.
107. The Information Document refers to (but does not reference) a study purporting that adult snapper at Leigh marine reserve contributed 10.6% of newly settled juveniles to the surrounding area. We presume the intended reference is Qu et al (2021).³⁴ The fishing industry strongly disputes the assertion that Qu et al provides an accurate or reliable basis for assessing potential fisheries benefits of the HPAs or SPAs. For example, Qu et al are unable to attribute any observed effect to the existence of a marine reserve at the site because the counter-factual (i.e., no marine reserve at Leigh) was not assessed, nor is abundance of snapper limited by recruitment.
108. In summary, if the HPAs and SPAs are established without addressing the impacts of displaced catch, they will jeopardise and be incompatible with sustainable fisheries management. The adverse effects of displacement could be mitigated by reductions to TACs, TACCs, and recreational daily bag limits. Given the HPAs and SPAs do not deliver any material benefits, these steps would cause unnecessary further adverse effects.

³¹ Hamilton, S. L., J. E. Caselle, D. P. Malone, and M. H. Carr. (2010). Incorporating biogeography into evaluations of the Channel Islands marine reserve network. *Proceedings of the National Academy of Sciences of the United States of America* 107:18272-18277.

³² Exploratory analysis of stock recruitment relationships for New Zealand rock lobster. NZ Fishery Assessment Report 2021. ISSN 1179-5352

³³ Fishery Assessment Plenary Report November 2021; pages 313-335

³⁴ Qu, Zoe., Thrush, Simon, Parsons, Darren & Lewis, Nicolas 2021. Economic valuation of the snapper recruitment effect from a well-established temperate no-take marine reserve on adjacent fisheries. *Marine Policy* 134 1-8.

3.4.5 Cumulative impacts with other existing and proposed measures

109. The impacts of displaced commercial fishing from the HPAs and SPAs will be cumulative together with other existing and proposed measures in the Gulf and in the wider QMAs that the affected stocks are part of.

110. The existing spatial exclusions in the Gulf include:

- 6 marine reserves (Cape Rodney-Okakari Point, Tawharanui, Long Bay-Okura, Motu Manawa-Pollen Island, Te Matuku, Whanganui-a-Hei);
- 4 CPZs, which are recognised as Type 2 MPAs (Kawau Island CPZ, Whangaparaoa CPZ, Hauraki Gulf CPZ, Great Barrier Island CPZ);
- Numerous spatial restrictions on trawling under fisheries regulations, including prohibition of all trawling in the inner Gulf, and trawling by vessels longer than 20m in a wider area of the Gulf;
- Extensive spatial restrictions on Danish seining under fisheries regulations, including prohibition in the inner Gulf;
- Extensive spatial restrictions on scallop dredging under fisheries regulations, including prohibition in the inner Gulf and the closure in 2022 of the Coromandel scallop fishery (SCA CS) apart from two small areas around Hauturu/Little Barrier Island and near the Colville Channel;
- Several small areas in which set netting is prohibited under fisheries regulations;
- Other spatially-defined fisheries regulatory restrictions including seasonal prohibitions on finfish take, and restrictions on trawl net mesh size;
- Four 'temporary' s.186A closures (Umupuia Beach, Te Mata and Waipatukahu, Waiheke Island, East Coromandel); and
- Areas occupied by marine farms in the Firth of Thames and inner Gulf.

111. Other significant spatial exclusions that will be implemented under *Revitalising the Gulf* include:

- The prohibition of bottom trawling and Danish seining throughout the Gulf, apart from identified trawl corridors;
- The prohibition of commercial scallop dredging outside the current footprint;
- Other spatial exclusions of commercial fishing implemented through measures under the Hauraki Gulf Fisheries Plan, for example to:³⁵
 - protect identified HPSFM;
 - provide for recreational fishing (Special Management Areas);
 - implement netting restrictions on or around reef systems;
 - implement 'voluntary removal agreements' whereby industry must stay out of identified areas of localised depletion for stocks used by all sectors;

³⁵ Draft fisheries plan management actions 1.2.3, 1.2.5, 1.4.9, 2.2.4, 2.5.3, 3.2.2 and 3.5.2.

- support iwi efforts to establish mātaihai and/or taiāpure; and
- protect sites of active mussel restoration;
- New aquaculture development arising from the Government's promotion of aquaculture in the Gulf being enabled through the review of the Regional Councils' coastal plans; and
- Ahu moana management measures, which may include prohibitions or restrictions on commercial fishing.

112. Future spatial exclusions of commercial fishing that may be implemented in the Gulf independently of *Revitalising the Gulf* include:

- Further applications for s.186A 'temporary' closures. There has recently been a significant increase in applications for s.186A closures in the Gulf in response to hapū concerns about the impacts on the exercise of customary fishing rights of localised depletion attributable to high recreational fishing pressure³⁶. Each closure displaces fishing into nearby areas, increasing the likelihood of subsequent closures as adjacent hapū seek to protect their customary fishing rights;³⁷
- Applications for mātaihai reserves, which may become increasingly common as iwi around the Gulf establish rohe moana and transition to using the Kaimoana Regulations;
- Applications for marine reserves under the Marine Reserves Act, which can continue to be made irrespective of the establishment of the HPAs and SPAs – as is evident from the recent application for the Hākaimgō-Matitah (Northwest Waiheke) Marine Reserve (that will also need to be assessed);
- The granting of customary marine title (CMT) under the MACA Act if wāhi tapu associated within those CMTs have conditions prohibit or restrict fishing; and
- The prohibition of fishing in areas identified in regional coastal planning processes under the RMA (or its successor).

113. We have not undertaken a comprehensive analysis of other relevant spatial exclusions in the wider QMAs of affected stocks, but instead provide single example for the most displaced stock – i.e., CRA 2. In addition to existing spatial exclusions within the Gulf, the CRA 2 QMA includes two marine reserves (Tahua and Te Papae o Aotea), four existing mātaihai reserves, closures around the Astrolabe reef, Schooner Rocks and Motunau Plate as part of the Motiti Protection Area made under the RMA³⁸, and an extensive new mātaihai at Cape Runaway.

³⁶ For example, application by Ngāti Manuhiri for multiple sites, including: Omaha, Kawau Island, Mahurangi, Great Barrier and Little Barrier Island

³⁷ Nationally, in the last two years, 5 of the 10 current temporary closures were established and 4 further requests for s.186A closures were made. In 2022 five requests to extend current temporary closures for a further two years have so far been lodged.

³⁸ These are only the initial step in the directions provided by the Environment Court to Bay of Plenty Regional Council. Waikato Regional Council has also recently released a draft Coastal Plan in June 2022, which

114. The implementation of the existing measures identified above has already substantially restricted commercial fishing activity in the Gulf, with significant economic consequences for industry participants. These serious impacts on all CRA 2 quota owners and commercial and non-commercial harvesters are more significant when assessed cumulatively with the impacts of other existing and proposed closures in the Hauraki Gulf. The lack of coordination and integration across these ad hoc measures means that there is no due consideration of their combined effect.
115. The considerable extent of existing and proposed future spatial exclusions in the Gulf and in the relevant QMAs of affected stocks will:
- Exacerbate the total level of displacement of commercial fishing effort, with cumulative impacts on the economics of commercial fishing and the sustainability impacts (including localised depletion) on remaining accessible fish stocks and their supporting ecosystems;
 - Adversely impact on the rebuild programs put in place for fish stocks;
 - Increase the level of competition and conflict between users and fuel the increasing demand for a cascading series of closures;
 - Undermine customary non-commercial fishing rights where closures force displacement and hinder the ability of tangata whenua exercising their customary non-commercial rights; and
 - Significantly restrict the areas to which commercial fishing effort displaced from the HPAs and SPAs can be relocated.

3.5 Network design is inconsistent with Government Policy

116. While the fishing industry considers that there are more effective (and lesser cost) approaches to protecting marine biodiversity than through the establishment of MPAs, if MPAs are to be established, this should occur in a manner that is consistent with government policy rather than ad hoc. A policy-compliant approach at least requires a minimum level of discipline and clarity. It also provides affected stakeholders with more certainty and safeguards than an ad hoc approach to MPA establishment.
117. As far as we are aware, the government's MPA Policy³⁹ has not been formally revoked or replaced and – for all its imperfections – it remains the only government policy on marine protected areas. If the MPA Policy has indeed been superseded or rendered redundant, that has occurred without the involvement, or even notification, of affected parties such as the fishing industry.
118. The proposed HPAs and SPAs are not compliant with the government's own MPA Policy or any other coherent policy framework. Nevertheless – indefensibly, in our view – DOC cherry

identified 87 extensive Significant Indigenous Biodiversity Areas in the coastal marine area, with policies and rules to protect these areas (as per the NZCPS).

³⁹ Marine Protected Policy and Implementation Plan (2005) and the Marine Protected Areas Classification, Protection Standard and Implementation Guidelines (2008) – both documents prepared by the Department of Conservation and the Ministry of Fisheries.

picks aspects of the MPA Policy to justify and support the Gulf marine protection proposals, while ignoring other less convenient aspects of the MPA Policy (for example, the requirement that one example of every habitat type should be protected in a no-take marine reserve and a replicate using other methods (such as measures under the Fisheries Act) as well as the principle that sites should be selected that minimise impacts on existing users).

3.5.1 Representativeness

119. One of the stated outcomes of the proposals is the protection of ‘representative areas’, justified in part by reference to the MPA Policy requirements and network design principles. The fishing industry does not support the notion that ‘representative areas’ require protection, but we do consider that if ‘representativeness’ is an intended outcome, then the analysis supporting that outcome should be objective. That is not the case for the Gulf proposals, as the Agency Advice includes analysis of representativeness that is, in our view, highly partial.
120. To begin with, the Gulf is a part of the Northeastern Coastal Biogeographic region which extends from Ahipara around the tip of North Island and down to East Cape.⁴⁰ The MPA Policy intent is that representativeness should be achieved and analysed on the scale of the bioregion, not on the scale of the much smaller Gulf. Nevertheless, the analysis of representativeness in the Agency Advice was undertaken at the scale of the Gulf only. This ignores the existence of other sites within the bioregion that may be more appropriate (i.e., lesser cost or higher biodiversity values) to achieve representative habitat protection. Furthermore, the Gulf (itself a small part of the bioregion) has been split into even smaller subdivisions, resulting in more habitat types that need to be protected in order to obtain a representative network at a small spatial scale (e.g., sites that are representative of the inner Gulf, the outer Gulf, the eastern Gulf, the Western Gulf and eastern Coromandel, as well as being representative of particular habitat types).
121. Under this analysis, the Gulf has 47 physical habitat types. The Agency Advice states that the proposed measures would protect 40 habitat types in HPAs and existing marine reserves, and a further three habitats in the existing CPZs, leaving 5 habitats *without protection in the network*. The agencies fail to mention that of the 5 unrepresented habitat types, 3 are present in tiny quantities in the Gulf (less than 2 km² each) and of the remaining 2 habitats, one is represented in an SPA, leaving only one habitat type, moderate mid-slope mud, unrepresented (but not necessarily threatened in any way).
122. In spite of the comprehensive representation of the Gulf’s habitat types in the network, agencies consider that 23 physical habitat types are *inadequately represented*. The assessment of adequacy of representation is based on whether the proportion of features protected is of sufficient size, spatial distribution and management regime to effectively represent biodiversity. The conclusion that 23 habitat types have inadequate representation is a judgement call which cannot be readily reviewed based on the evidence provided by agencies.
123. The Gulf also has 9 recognised biogenic habitats. Agencies state that 2 biogenic habitat types are unrepresented in HPAs and existing marine reserves – i.e., biogenic green-lipped mussel and biogenic mangrove above MHW. However, green lipped mussel habitat is

⁴⁰ MPA Classification, Protection Standard and Implementation Guidelines (2008).

represented in one of the existing CPZs, and is also represented in a proposed SPA (and now also in the proposed Ōtata / the Noises HPA). There is also commitment outside of any HPAs or SPAs to undertake restoration of green-lipped mussel habitat. It is not clear why biogenic mangrove above MHW is considered to be a marine habitat type. In spite of the comprehensive representation of biogenic habitats in the network, agencies consider that 6 types are *inadequately represented*. As with the physical habitat types, the basis for this conclusion is opaque.

124. A NIWA analysis of the Sea Change proposals concluded that the MPAs would deliver some benefits for biodiversity conservation but there were shortfalls in biodiversity conservation for some species and habitats (including a number of biogenic habitats) compared with what could be achieved, and a bias toward a subset of features that receive higher priority than others (e.g., rocky reefs). NIWA made a number of recommendations about how the biodiversity protection benefits of the network could be improved, with less cost to existing users, but it is notable that these recommendations have not been progressed by the Government, nor reasons given for not doing so.⁴¹

3.5.2 Replication

125. The Agency Advice states that 22 physical habitats would be protected in MPAs (marine reserves, HPAs and CPZs) in at least 3 locations, and 3 biogenic habitats would be protected in at least 3 locations. This conclusion significantly underestimates the amount of replication in the network – in part, because SPAs are excluded from the analysis, but even with SPAs excluded, the amount of replication in the network is very high.
126. Our own analysis, based on the information provided by agencies, concludes that of the habitats that would be included in the 13 original HPAs (including the 2 marine reserve extensions):
- For 7 of the HPAs, all the included habitat types are already represented in existing marine reserves or CPZs – these HPAs therefore contribute no additional habitat types to the existing MPA network in the Gulf;⁴²
 - For an additional 3 HPAs at least half the included habitats are already represented in existing marine reserves or CPZs;⁴³
 - The habitat types that are represented in existing marine reserves and CPZs are often already replicated across several existing sites (one habitat type – very sheltered shallow rocky reef – is represented in 8 existing MPAs);

⁴¹ Lundquist, C. Tablada, J., Watson, S. 2020. *Evaluation of Biodiversity Protected by Sea Change Tai Timu Tai Pari – Hauraki Gulf Marine Spatial Plan Proposals*. National Institute of Water and Atmospheric Research.

⁴² Rotorua Island, Rangitoto and Motutapu, Aldermen Islands / Te Ruamahua north, Kawau Bay, Tiritiri Matangi, Whanganui-a-Hei marine reserve extension, Cape Rodney – Okakari point marine reserve extension.

⁴³ Te Hauturu-o-Toi / Little Barrier Island, Motukawao Islands / Mokohinau Islands.

- The habitat types are, with just a few exceptions,⁴⁴ replicated multiple times among the proposed HPA and SPA sites, with the number of replicate sites ranging between one and 11 sites; and
- It is not uncommon for a habitat type to be represented over 11 times in the MPA network (existing marine reserves and CPZs, and proposed HPAs and SPAs), and ‘very sheltered shallow rocky reef’ is represented at 20 different sites.

127. In addition, the proposed Ōtata /Noises HPA adds further replication of habitat types and there is also likely to be replication between the habitat types represented in the Gulf proposals and existing MPAs elsewhere in the northern North Island biogeographic region.

128. To put this replication into perspective, the government’s MPA Policy states that the number of replicate MPAs included in the network will usually be two (meaning one site and one replicate site). The amount of replication in the Gulf marine protection proposals is clearly excessive and not consistent with a least-cost approach to biodiversity protection.

3.5.3 Connectivity

129. The Agency Advice acknowledges that connectivity is a difficult principle to assess because it incorporates complex ecological information that is often unavailable (e.g., species larval dispersal and migration) and detailed understanding of hydrodynamic conditions. As a proxy for these complex concepts, the Agency Advice uses the physical distance between sites. This type of analysis is unhelpful and tells nothing about the actual level of connectivity in the Gulf environment. While the distance between MPAs might be relevant if the intervening marine space was completely degraded (such that it would prevent the natural movement of marine species), generally mobile species would be able to move freely between an HPA and an ‘unprotected’ part of the Gulf.

3.6 Inadequate consultation with commercial fishing interests

3.6.1 No meaningful engagement

130. The HPA and SPA proposals have had a lengthy genesis, including through the Sea Change process, the Government’s response in *Revitalising the Gulf*, and the current set of proposals. At no stage during this process has the fishing industry been adequately engaged (and not through lack of effort from the small number of individual representatives who were invited to participate). In particular, the stakeholder group that developed the Sea Change Plan did not include representation of wide parts of industry including those involved in most fin-fishing operations, scallops and the rock lobster industry, even though the Plan has a significant impact on the interests of these quota owners and harvesters. This was important because the Sea Change Stakeholder Group operated within its own confidentiality strictures and there was no opportunity for discussion or consultation on the proposals.

131. The fishing industry supported the development of an integrated Government response to the Sea Change Plan, but was let down by the level and quality of engagement prior to the approval of *Revitalising the Gulf*. Officials provided the industry with very little detail about the

⁴⁴ Five habitat types are represented only once (i.e., without a replicate).

scope of the government's proposed marine protection initiatives and how they would be implemented, severely hindering the industry's ability to provide meaningful input.

132. At that time and subsequently, officials suggested that there would be further opportunities for industry to provide input during statutory consultation on the HPAs and SPAs. This is simply not sufficient – engagement at such a late stage in a process, when decisions have already been made by Ministers, does not engender any sense of stakeholder ownership or support for proposed government measures. Furthermore, consultation on individual HPA and SPA proposals separately from the proposed fisheries management measures in the draft Fisheries Plan reflects a 'silo' mentality rather than the integrated approach that should have informed the government's response.
133. At this very late stage in the process, the fishing industry remains concerned that the problems associated with management of the Gulf have not been clearly identified, the full range of options to address those problems has not been considered, the costs and impacts of the proposed government responses have not been assessed, and the actions of different agencies (e.g., DOC's progression of the HPAs/SPAs and Fisheries New Zealand's work on the Fisheries Plan) are not integrated. The separate actions do not in any way represent an *"ecosystem-based approach to management with both working together to enhance the ecosystem function of the Gulf"* - the key tenets Ministers directed would be drive actions in *Revitalising the Gulf*.

3.6.2 Pre-determination has led to unnecessary costs

134. The Treasury's *Government Expectations for Good Regulatory Practice* (2017) sets out guidance for the design of regulatory systems, including the requirement that regulation seeks to achieve its stated objectives **'in a least cost way, and with the least adverse impact on market competition, property rights, and individual autonomy and responsibility.'**⁴⁵ The proposed HPAs and SPAs are inconsistent with this requirement. The stated objectives of the proposals can quite clearly be met in ways that have less cost and considerably fewer adverse impacts on property rights.
135. When the fishing industry raised the possibility of developing lesser-cost solutions in September 2021, officials informed us that progressing the proposals arrived at through the Sea Change Plan process was a higher priority than adjusting the proposals to incorporate a least-cost approach. Officials stated that engagement with industry had already occurred through the Sea Change process, Ministers had made their decisions, and the proposals might be adjusted after public consultation only to address 'serious red flags'.⁴⁶
136. This was not accurate – there was no substantive engagement with industry in SeaChange – or the subsequent Ministerial Committee and the absence of any genuine opportunity for affected parties to influence the progress of the proposed HPAs or SPAs is in our view unreasonable and contrary to good regulatory practice.

⁴⁵ Expectations for Good Regulatory Practice (2017) www.treasury.govt.nz/regulation/expectations

⁴⁶ Meeting of DOC, FNZ and industry representatives, 1 September 2021.

3.6.3 Bureaucratic creep

137. At every iteration of the Gulf marine protection proposals, there has generally been an increase in the area protected and the level of prohibitions imposed on the fishing industry. This is not a least cost approach to achieving biodiversity protection objectives and, in many cases, the changes have not been made in a transparent manner.
138. In *Revitalising the Gulf* and in agency briefings for Ministers, the changes that officials made to the Sea Change proposals were downplayed.⁴⁷ However, there are significant differences between the Sea Change marine protection proposals and those in *Revitalising the Gulf*. Although three of the Sea Change sites were not progressed, all but one of the 18 sites in *Revitalising the Gulf* were modified by agencies. In nearly all cases, the adjustments increased the size of the HPAs, although some of the SPAs were consequentially reduced in size. In each case where two options were presented in the Sea Change Plan, agencies chose the larger option.
139. Similarly, the Information Document downplays the further changes that have been made since *Revitalising the Gulf*. While it is clear that an additional HPA has been added (the Ōtata / the Noises) it is less apparent that DOC has significantly increased the range of activities that will be prohibited in HPAs and SPAs in a manner that will have additional adverse effects on the fishing industry and for which no justification has been provided (see **Table 1** in [section 3.2](#) of this submission).

3.6.4 Implementation using special legislation

140. The fishing industry objects to the proposed implementation of the HPAs and SPAs using special legislation.
141. The use of special legislation means that it is likely there will be no statutory criteria against which to assess the merits of the proposal. In contrast, biodiversity protection measures implemented under the Fisheries Act can be assessed in relation to the purpose of the Act and the statutory decision criteria for sustainability measures. Even the out-of-date Marine Reserves Act has a statutory purpose and decision criteria which provide a degree of discipline for decision makers – but no such discipline could apply unless the special legislation establishes it.
142. The use of special legislation also likely means that no statutory test will be applied to protect existing fishing rights. Under New Zealand law, nearly all regulatory takings of fishing rights may be implemented only if the relevant statutory tests are met – for example, the Marine Reserves Act requires that a marine reserve must not *interfere unduly with commercial fishing*,⁴⁸ and equivalent tests exist for marine farms (Fisheries Act), mātaihai reserves (customary fishing regulations), and wāhi tapu areas (Marine and Coastal Areas (Takutai Moana) Act 2011). The purpose of these tests is to protect the integrity of the fisheries

⁴⁷ For example, the DOC and FNZ Departmental Briefing to Minister of Conservation and Minister for Oceans and Fisheries (3 March 2021) states that *Our analysis concluded that establishing the 18 sites proposed in the Strategy (noting some **minor changes to those recommended in the Sea Change Plan**) will achieve biodiversity outcomes while also balancing other interests.* [released under OIA].

⁴⁸ Marine Reserves Act section 5(6)(c).

management regime and the interests of existing rights holders, including owners of Settlement Quota so as to provide strong ongoing incentives for positive conservation of fisheries and their supporting ecosystems. No such test will apply in relation to the Gulf marine protection proposals, and therefore there is a high risk that the proposals will interfere with the effective operation of the QMS and will impinge unduly on the rights of individual fishers and iwi quota owners in a manner that is contrary to the Crown's obligations under the Fisheries Settlement.

143. These risks are exacerbated by the absence of effective procedural checks and balances. Unlike a marine reserve or fisheries regulations that are established using secondary legislation, the establishment of HPAs and SPAs by an Act of Parliament provides no opportunity for judicial review. Affected parties are not able to challenge the decision on the basis that the decision-maker failed to take account of mandatory relevant considerations or behaved in an unreasonable manner. The Select Committee process does not provide neutrality or accountability equivalent to the judicial process, particularly if the Committee has a majority of Government members.

144.

4. Objections to individual proposals

4.1 Te Hauturu-o-Toi / Little Barrier Island HPA

4.1.1 Reasons for objection

145. The fishing industry objects to the proposed HPA at Te Hauturu-o-Toi / Little Barrier because:
- The site specific biodiversity protection objectives⁴⁹ do not indicate that the site contains special biodiversity values that require protection. None of the habitat types contained in the HPA are unique to this site and most of the habitat types (7 of 9) are represented in existing marine reserves or CPZs in the Gulf;⁵⁰
 - All credible threats arising from commercial fishing either already are, or will be, fully managed as:
 - i. the area is closed to commercial scallop dredging;
 - ii. any threats associated with other mobile bottom contact fishing methods can be fully managed under the proposed measures in the draft Hauraki Gulf Fisheries Plan; and
 - iii. static and non-bottom-impacting commercial fishing methods do not threaten the identified biodiversity protection objectives;
 - Other activities resulting in threats to marine biodiversity are not prohibited at the site, including anchoring;

⁴⁹ For the purposes of Section 4 of this submission, the 'site specific objectives' are those presented in *Revitalising the Gulf*.

⁵⁰ For the purposes of Section 4 of this submission, the analysis of represented habitats includes all habitat types that are present (i.e., at least 10,000 m²) in an area, as indicated in the **Agency Advice**, Appendix 3.

- The HPA will prevent commercial diving for kina, potentially facilitating the spread of the *extensive kina barrens*⁵¹ which are known to occur at this site; and
- The HPA will have adverse effects on commercial fishing, while providing negligible biodiversity protection benefits.

4.1.2 Impact on commercial fishing

Rock lobster

146. An analysis of industry data indicates that 3 current CRA2 permit holders would be directly impacted by the proposed HPA closure at Te Hauturu-o-toi/Little Barrier Island, and for 2 of the permit holders it is an area of significant catch, accounting for at least 50% of their ACE.
147. The analysis estimated a minimum average of 1.787 and 3.329 tonne of rock lobster were harvested annually in 2017/18 and 2021/22 from the proposed closure respectively. The loss of catch to these permit holders equates to 0.89 and 4.16% of the CRA2 TACC, which provides a port price return of \$169,266 and \$315,272 and a FOB market value of \$247,447 and \$460,889 in each of the respective years.
148. This estimate far exceeds the average total annual landed catch of 0.8 tonne (0.4% of the CRA2 TACC) and average port price revenue of \$65,516 estimates generated by the agencies analysis. The average pre- and post-2018 industry estimates also exceeds the annual landed catch estimates of 1.713 and 2.111 tonne (2.04 and 2.64% of the CRA2 TACC), equating to a port price revenue total of \$136,912 and \$144,036 generated by the MartinJenkins analysis for both the respective 2020/21 and 2021/22 fishing years.

Finfish

149. The proposed closure will have a significant impact on commercial fishers using bottom longline, purse seine, bottom trawl and precision bottom trawl methods. Out of all proposed HPA/SPAs, this area accounts for the second highest volume of finfish catch.

Greenweight tonnes caught by methods BLL, BT, DS, PRB, PS									
Year	EMA	GUR	JDO	JMA	KAH	KIN	SNA	TAR	TRE
2017	50	2	5	0	0	0	45	1	11
2018	406	1	5	60	1	0	33	0	62
2019	15	1	6	0	0	0	30	0	48
2020	501	0	4	0	0	0	16	0	17
2021	35	1	4	0	0	0	31	0	2
Total	1007	5	24	61	2	1	155	1	139

4.1.3 Lesser-cost alternative

150. The marine biodiversity protection objectives at Te Hauturu-o-Toi / Little Barrier can be achieved with less cost by:
- Using Fisheries Act regulations to locate trawl/Danish seine corridors so as to avoid specific areas within the site where sensitive biogenic habitats are present; and

⁵¹ Agency Advice, page 29.

- Adjusting the shore boundaries to enable utilisation of productive rock lobster habitat with minimal loss in size and marine biodiversity representativeness, as is proposed to be undertaken for the proposed HPA closures at the Aldermen Islands/Te Ruamāhua.
- Reducing the area of mud habitat within the proposal area noting that it makes up 140 km² or 70% of the total area, in addition to same habitat type already being protected within the adjacent Cable Protection Zone. In particular, the northern boundary could be adjusted to allow for continued fishing in those higher productive zones that are currently fished which contain no sensitive bio-genic habitat. This would also have the added benefit of increasing the operational size of the open area for trawling between Little Barrier and the southern boundary of the Mokohihau area. The current small size of the open area would constrain activity due to difficulties of operating in a narrow space, meaning the tow restrictions will have a larger effect than noted.
- Supporting councils to effectively manage any other threats to marine biodiversity objectives under the RMA.

4.2 Slipper Island / Whakahau HPA

4.2.1 Reasons for objection

151. The seagrass meadow that occupies part of the Slipper Island / Whakahau HPA is an ecologically significant biogenic habitat that provides juvenile fish habitat. It is agreed that this sub-area of the site merits protection in a least cost manner, but for the reasons set out below do not consider additional restrictions are needed.
152. The fishing industry while supporting the protection of the biodiversity objects to the proposed HPA at Slipper Island / Whakahau because:
 - All credible threats arising from commercial fishing either already are, or will be, fully managed as:
 - i. the area is closed to commercial scallop dredging;
 - ii. there is no information to suggest that other mobile bottom-impacting fishing methods are used in the seagrass meadow (a small subtidal area up to 3m deep). The seagrass meadow has expanded in size since 1973,⁵² including into an adjacent bay, indicating that the protection and restoration of this habitat is compatible with historic and current levels and locations of commercial fishing effort. Any residual threats associated with mobile bottom contact fishing methods can be fully managed under the measures in the Hauraki Gulf Fisheries Plan; and
 - iii. static and non-bottom-impacting commercial fishing methods do not threaten the identified biodiversity protection objectives (which relate to seagrass habitat);
 - The site contains one habitat type (moderate shallow gravel) that, although uncommon in the Gulf, is not represented elsewhere the MPA network. However, there is no

⁵² Agency Advice, page 71.

evidence to suggest that commercial fishing activities threaten moderate shallow gravel habitats;

- Other activities resulting in threats to marine biodiversity are not prohibited at the site, including moorings (which have caused scouring damage). The site is also subject to unmanaged threats, including declining water clarity arising from run-off of excess sediments and nutrients from land-based activities such as forest clearance, pastoral farming and urban development; and
- The HPA will have adverse effects on commercial fishing, while providing negligible biodiversity protection benefits.

4.2.2 Impact on commercial fishing

Rock lobster

153. An analysis of industry data indicates that at least 2 CRA2 permit holders would be directly impacted by the proposed HPA closure at Slipper Island/Whakahau. Further analysis is being undertaken to assess the historic effort and potential impact on these permit holders.

Finfish

154. The proposed closure would have some impact, particularly for fishers using Danish seine, bottom longline and bottom trawl.

Greenweight tonnes caught by methods BLL, BT, DS, PRB							
Year	GUR	JDO	KIN	SCH	SNA	TAR	TRE
2017	1.5	0.4	0.1	0.3	7.3	0.0	4.8
2018	1.7	0.3	0.3	0.1	11.9	0.2	4.2
2019	0.3	0.1	0.2	0.1	2.8	0.0	0.1
2020	0.3	0.0	0.0	0.0	2.1	0.0	0.0
2021	0.3	0.1	0.1	0.0	1.4	0.0	0.1
Total	4.1	0.9	0.7	0.4	25.5	0.2	9.1

4.2.3 Lesser-cost alternative

155. The marine biodiversity protection objectives at Slipper Island / Whakahau can be achieved with less cost by:

- Prohibiting anchoring and swing moorings in the seagrass meadow (using bylaws or rules in the regional coastal plan);
- Using fisheries regulations to prohibit bottom-impacting (commercial and recreational) fishing methods in the seagrass meadow should practices change and there is evidence that these fishing methods are used in that area; and
- Supporting councils to effectively manage any other threats to the seagrass meadow, including water quality degradation from threats of terrestrial origin, under the RMA.

4.3 Motukawao Islands HPA

4.3.1 Reasons for objection

156. The fishing industry objects to the proposed HPA at Motukawao Islands because:

- The site specific biodiversity protection objectives do not indicate that the site contains special biodiversity values that require protection. None of the habitat types are unique to this site and most habitat types (7 of 10) are already represented in existing marine reserves or CPZs in the Gulf;
- There is no biodiversity-related justification for prohibiting commercial fishing at the site as all credible threats arising from commercial fishing are already fully managed as:
 - i. trawling, Danish seining and scallop dredging are already prohibited at the site; and
 - ii. static and non-bottom-impacting commercial fishing methods do not threaten the identified biodiversity protection objectives;
- The site is subject to unmanaged threats, including declining water quality associated with land-based impacts on the wider Firth of Thames (in particular, elevated suspended sediment levels);⁵³ and
- The HPA will have adverse effects on commercial fishing, while providing negligible biodiversity protection benefits.

4.3.2 Impact on commercial fishing

Rock lobster

157. Further analysis is being undertaken to assess the historic effort and potential impact of the proposed HPA closure at Motukawao Islands on permit holders.

Finfish

158. The proposed closure would have a low-level impact for fishers using Danish seine and bottom longline with low levels of catch taken from this area.

Greenweight tonnes caught by methods BLL, DS						
Year	GUR	JDO	JMA	KIN	SCH	SNA
2017	0.0	0.1	0.0	0.1	0.0	3.2
2018	0.0	0.1	0.0	0.0	0.0	1.9
2019	0.0	0.0	0.0	0.0	0.0	2.3
2020	0.0	0.0	0.0	0.0	0.0	0.6
2021	0.0	0.0	0.0	0.0	0.0	0.2
Total	0.0	0.1	0.0	0.1	0.1	8.2

⁵³ Identified by agencies as a “direct pressure” on the area. Other ‘direct pressures’ identified by DOC and FNZ include historical commercial scallop dredging and historical dredging for green lipped mussels, neither of which are current threats to the marine biodiversity of the area. [Agency Advice, page 125].

4.3.3 Lesser-cost alternative

159. The marine biodiversity protection objectives at Motukawao Islands can be achieved with less cost by:

- Managing high recreational fishing pressure which is known to occur at or around the site under the Fisheries Act; and
- Supporting councils to effectively manage any other threats to sensitive biogenic habitats, including water quality degradation from threats of terrestrial origin, under the RMA.

4.4 Rotoroa Island HPA

4.4.1 Reasons for objection

160. The fishing industry objects to the proposed HPA at Rotoroa Island because:

- None of the physical or biogenic habitat types (dog cockles and rhodoliths) are unique to this site and all are already represented in existing marine reserves or CPZs in the Gulf;⁵⁴
- There is no biodiversity-related justification for prohibiting commercial fishing at the site as all credible threats arising from commercial fishing are already fully managed as:
 - i. trawling, Danish seining and scallop dredging are already prohibited at the site; and
 - ii. static and non-bottom-impacting commercial fishing methods do not threaten the identified biodiversity protection objectives;
- The site is subject to unmanaged threats, including excess sedimentation and nutrient enrichment from pastoral farmland and exotic forestry, and runoff of contaminants such as heavy metals;⁵⁵ and
- The HPA will have adverse effects on commercial fishing, while providing negligible biodiversity protection benefits.

4.4.2 Impact on commercial fishing

Rock lobster

161. An analysis of industry data indicates that at least 1 CRA2 permit holder would be directly impacted by the proposed HPA closure at Rotoroa Island. Further analysis is being undertaken to assess the historic effort and potential impact on these permit holders.

Finfish

162. Fisheries Inshore is aware that setnet fishing occurs within the area but is concerned that the impact analysis based on the recent two years doesn't adequately assess the impact. We

⁵⁴ Dog cockles are represented in three existing MPAs and rhodolith beds in two existing MPAs.

⁵⁵ These threats are identified by agencies as a "direct pressure" and the major pressures on the Firth [Agency Advice, page 117].

recommend that agencies engage directly with these fishers to better understand the impacts of the proposals on their businesses.

4.4.3 Lesser-cost alternative

163. The marine biodiversity protection objectives at Rotoroa Island can be achieved with less cost by supporting councils to effectively manage any non-fishing threats to sensitive biogenic habitats, including water quality degradation from threats of terrestrial origin, under the RMA.

4.5 Rangitoto and Motutapu HPA

4.5.1 Reasons for objection

164. The fishing industry objects to the proposed HPA at Rangitoto and Motutapu because:
- The site-specific biodiversity protection objectives do not include any site-specific ecological attributes. None of the habitat types are unique to the site and all are represented in existing marine reserves or CPZs in the Gulf;
 - There is no biodiversity-related justification for prohibiting commercial fishing at the site as all credible threats arising from commercial fishing are already fully managed as:
 - i. trawling, Danish seining and scallop dredging are already prohibited at the site; and
 - ii. static and non-bottom-impacting commercial fishing methods are unlikely to threaten the (unidentified) biodiversity attributes of the site;
 - The site is subject to unmanaged threats, including threats arising from the nearby Waitemata harbour such as contamination and non-indigenous invasive species (e.g., Mediterranean fan worm is established in the area);⁵⁶ and
 - The HPA will have adverse effects on commercial fishing, while providing negligible biodiversity protection benefits.

4.5.2 Impact on commercial fishing

Rock lobster

165. Further analysis is being undertaken to assess the historic effort and potential impact of the proposed HPA closure at Rangitoto and Motutapu Islands on permit holders.

Finfish

166. Fisheries Inshore is aware that setnet fishing occurs within the area but is concerned that the impact analysis based on the recent two years doesn't adequately assess the impact. We recommend that agencies engage directly with these fishers to better understand the impacts of the proposals on their businesses.

4.5.3 Lesser-cost alternative

167. As no site-specific ecological objectives have been provided for Rangitoto and Motutapu, a least cost approach to achieving the objectives cannot be developed. However, general management responses are likely to involve:

⁵⁶ Agency Advice, p111.

- Controlling invasive marine species under the Biosecurity Act;
- Managing high recreational fishing pressure which is known to occur at and around the site under the Fisheries Act; and
- Supporting councils to effectively manage any other threats to marine biodiversity under the RMA.

4.6 Craddock Channel SPA

4.6.1 Reasons for objection

168. The fishing industry objects to the proposed SPA at Craddock Channel because:

- The biodiversity protection objectives indicate that the site contains high current soft sediment habitats but there is no explanation as to why these habitats require protection at the site. None of the habitat types are unique to the site and most (4/5) are already represented in existing marine reserves or CPZs in the Gulf;
- All credible threats arising from commercial fishing already are, or will be, fully managed as:
 - i. the area is closed to commercial scallop dredging;
 - ii. any threats associated with other mobile bottom contact fishing methods can be fully managed under the measures in the Hauraki Gulf Fisheries Plan; and
 - iii. static and non-bottom-impacting commercial fishing methods do not threaten the soft sediment habitats; and
- The HPA will have adverse effects on commercial fishing, while providing negligible biodiversity protection benefits.

4.6.2 Impact on commercial fishing

Rock lobster

169. An analysis of industry data indicates that 3 current CRA2 permit holders would be directly impacted by the proposed SPA closure at Craddock Channel. Horn Rock is a well-known area of productive rock lobster habitat; for at least 1 of the permit holders it is an area of substantial catch, accounting for at least 20% of their ACE.

170. The analysis estimated a minimum of 0.130 and 0.78 tonne of rock lobster were harvested annually in 2017/18 and 2021/22 from the proposed closure. The loss of catch to these permit holders equates to 0.07 and 0.98% of the CRA2 TACC, which provides a port price return of \$12,384 and \$73,941 and a FOB market value of \$18,103 and \$108,094 in each of the respective years.

171. These estimates exceed the average total annual landed catch of 0 tonne (0% of the CRA2 TACC) and average port price revenue of \$0 estimates by the agencies and MartinJenkins analysis, given the assumption potting would not be prohibited from the SPA.

Finfish

172. This proposed closure will have a moderate to significant impact on commercial fishers using bottom longline, purse seine, bottom trawl and precision bottom trawl methods. The catch

figures below for snapper highlight the short-comings of the impact analysis utilising the two most recent years only.

Greenweight tonnes caught by methods BLL, BT, DS, PRB, PS									
Year	EMA	GUR	JDO	JMA	KAH	KIN	SNA	TAR	TRE
2017	110.0	0.8	2.2	0.0	0.0	0.3	39.0	0.1	0.6
2018	0.0	0.2	0.7	0.0	0.2	0.1	21.9	0.1	0.3
2019	0.0	0.2	0.9	0.1	0.1	0.1	19.4	0.0	1.1
2020	62.0	0.1	0.6	0.0	0.1	0.2	9.1	0.0	2.4
2021	40.0	0.1	0.8	0.0	0.1	0.1	16.2	0.0	3.2
Total	212.0	1.3	5.1	0.1	0.6	0.9	105.6	0.3	7.6

4.6.3 Lesser-cost alternative

173. The marine biodiversity protection objectives at Craddock Chanel can be achieved with less cost by using Fisheries Act regulations to locate trawl/Danish seine corridors so as to avoid specific areas within the site (in particular, the high current areas) where sensitive biogenic habitats are present.

174. Static bottom contact methods (bottom longlining and potting) should be allowed given the low risk that these method pose to benthic habitats.

4.7 Cape Colville HPA and SPA

4.7.1 Reasons for objection

175. Cape Colville HPA and adjacent SPA include biodiversity values that are ecologically important and support high productivity. The sites include some high current habitat types that are not represented in existing marine reserves and CPZs in the Gulf. The attributes of the sites that support high productivity merit protection in a least cost manner, as recommended below.

176. The fishing industry nevertheless objects to the proposed HPA and SPA at Cape Colville because:

- All credible threats arising from commercial fishing already are, or will be, fully managed as:
 - i. the area is closed to commercial scallop dredging;
 - ii. any threats associated with other mobile bottom contact fishing methods can be fully managed under the measures in the Hauraki Gulf Fisheries Plan; and
 - iii. static and non-bottom-impacting commercial fishing methods do not threaten the high current habitat types;
- The site is subject to unmanaged threats, including water quality impacts arising from terrestrial activities in the adjacent catchment which contains a mix of indigenous forests and high producing exotic grassland; and
- The HPA and SPA will both have adverse effects on commercial fishing, while providing negligible biodiversity protection benefits.

4.7.2 Impact on commercial fishing

Rock lobster

177. An analysis of industry data indicates that 2 current CRA2 permit holders would be directly impacted by the proposed HPA and SPA closures at Cape Colville, and for 1 of the permit holders it is an area of substantial catch, accounting for at least 10 % of their ACE.
178. The analysis estimated a minimum of 1.174 and 0.831 tonne of rock lobster were harvested annually in 2017/18 and 2021/22 from the proposed closure. The loss of catch to these permit holders equates to 0.59 and 1.08% of the CRA2 TACC, which provides a port price return of \$111,247 and \$82,080 and a FOB market value of \$162,630 and \$119,991 in each of the respective years.
179. This estimate far exceeds the average total annual landed catch of 0.25 tonne (0.13% of the CRA2 TACC) and average port price revenue of \$20,769 estimates generated by the agencies analysis (acknowledging the assumption potting would not be prohibited from the SPA). The MartinJenkins analysis method was unable to identify any effort in the proposed HPA for Cape Colville (acknowledging the assumption potting would not be prohibited from the SPA).

Finfish

180. This proposed closures will have a low-level of impact on commercial fishers as catch history indicates only 7t of snapper being caught within the area over the last 5 years.

4.7.3 Lesser-cost alternative

181. The marine biodiversity protection objectives at Cape Colville can be achieved with less cost by:
- Allowing static bottom contact methods (bottom longlining and potting) in the SPA given the low risk that these method pose to benthic habitats.
 - Using Fisheries Act regulations to locate trawl/Danish seine corridors so as to avoid specific areas within the site (in particular, the high current areas) where sensitive biogenic habitats are present; and
 - Supporting councils to effectively manage any other threats to sensitive biogenic habitats under the RMA.

4.8 Mokohinau Islands HPA and SPA

4.8.1 Reasons for objection

182. Mokohinau Islands HPA and the adjacent SPA include biodiversity values that are ecologically important and support high productivity, as well as some sensitive benthic species (e.g., black corals). Most of the habitat types in the HPA (7/10) and SPA (7/11) are represented in existing marine reserves and CPZs in the Gulf. The attributes of the site that support high productivity and the areas that support sensitive benthic species merit protection in a least cost manner, as recommended below.

183. The fishing industry nevertheless objects to the proposed HPA and SPA at Mokohinau Islands because:

- All credible threats arising from commercial fishing already are, or will be, fully managed as:
 - i. the area is closed to commercial scallop dredging;
 - ii. the Hauraki Gulf Fisheries Plan includes measures for the protection of ecologically important marine habitats from any adverse effects of fishing arising from bottom-contacting fishing methods; and
 - iii. it is not necessary to prohibit non-bottom contact methods such as dive fisheries in order to achieve the identified protection objectives;
- Other activities resulting in threats to marine biodiversity are not prohibited at Mokohinau Islands, including anchoring and marine tourism-related activities that may involve interaction with fragile benthic species;
- The HPA will prevent commercial diving for kina, and the inability to harvest kina may have the effect of facilitating the spread of kina barrens which are known to occur at this site – certainly the harvesting that could assist to curtail that will not be able to take place; and
- The HPA and SPA will both have adverse effects on commercial fishing, while providing negligible biodiversity protection benefits.

4.8.2 Impact on commercial fishing

Rock lobster

184. An analysis of industry data indicates that 3 current CRA2 permit holders would be directly impacted by the proposed HPA and SPA closures at the Mokohinau Islands, and for 2 of the permit holders it is an area of significant catch, accounting for at least 50% of their ACE in recent years.

185. The analysis estimated a minimum of 2.487 and 1.5 tonne of rock lobster were harvested annually in 2017/18 and 2021/22 from the proposed closure. The loss of catch to these permit holders equates to 1.24 and 1.88% of the CRA2 TACC, which provides a port price return of \$235,530 and \$142,050 and a FOB market value of \$344,318 and \$207,660 in each of the respective years.

186. This estimate exceeds the average total annual landed catch of 2 tonne (1% of the CRA2 TACC) and average port price revenue of \$162,999 estimates generated by the agencies analysis. The average pre-2018 industry estimate also exceeds the annual landed catch estimates of 0.182 and 1.68 tonne (0.22 and 2.1% of the CRA2 TACC), equating to a port price revenue total of \$14,525 and \$114,580 generated by the MartinJenkins analysis for both the respective 2020/21 and 2021/22 fishing years.

Finfish

187. The proposed closure will have a significant impact on commercial fishers using bottom longline, purse seine, bottom trawl and precision bottom trawl methods. Out of all proposed HPA/SPAs, this area accounts for the highest volume of finfish catch.

HPA

Greenweight tonnes caught by methods BLL, BT, PRB							
Year	GUR	JDO	KIN	SCH	SNA	TAR	TRE
2017	0.1	0.2	0.1	1.2	2.5	0.1	0.0
2018	0.1	0.3	0.2	0.9	5.9	0.3	0.1
2019	0.1	0.2	0.1	0.2	9.5	0.1	0.0
2020	0.3	0.3	0.1	0.2	6.6	0.4	0.0
2021	0.2	1.1	0.1	0.2	17.7	0.5	0.5
Total	0.8	2.1	0.6	2.8	42.1	1.4	0.7

SPA

Greenweight tonnes caught by methods BLL, BT, DS, PRB								
Year	GUR	JDO	JMA	KIN	SCH	SNA	TAR	TRE
2017	2.5	4.1	0.1	0.4	0.5	32.4	0.6	15.3
2018	2.6	5.4	0.3	0.7	1.6	35.0	1.4	4.2
2019	2.4	5.6	0.4	0.4	2.5	29.2	1.6	2.1
2020	2.4	4.9	3.2	0.4	1.4	29.1	1.5	1.7
2021	4.1	6.4	0.6	0.3	1.7	30.2	1.0	3.2
Total	14.1	26.3	4.6	2.2	7.8	155.9	6.1	26.5

4.8.3 Lesser-cost alternative

188. The marine biodiversity protection objectives at Mokohinau Islands can be achieved with less cost by:

- Using Fisheries Act regulations to locate trawl/Danish seine corridors so as to avoid specific areas within the site where sensitive benthic species such as black corals are present;
- Allowing static bottom contact methods (bottom longlining and potting) in the SPA given the low risk that these method pose to benthic habitats.
- Using Fisheries Act regulations to protect identified areas of black corals from static bottom-contact fishing methods (recreational and commercial), where justified on the basis of adverse effects;
- Reducing the size of the SPA noting that it significantly duplicates protection of deep sand habitat (221km²) that is also found within the Cable Protection Zone and HPA (100km²).
- Managing high recreational fishing pressure that is known to occur at and around the site under the Fisheries Act; and
- Using regulations under conservation legislation to ensure that marine tourism activities do not interact with sensitive benthic species such as black coral.

4.9 Aldermen Islands / Te Ruamāhua (north) and (south) HPAs

4.9.1 Reasons for objection

189. The fishing industry objects to the proposed HPAs at Aldermen Islands / Te Ruamāhua (north) and Aldermen Islands / Te Ruamāhua (south) because:

- The biodiversity protection objectives indicate that both sites contain sensitive benthic invertebrates on reef structures, but there is no explanation as to why these habitats require protection at the sites. At the northern site, none of the habitat types are unique and all are already represented in existing marine reserves or CPZs. The inclusion of extensive areas of moderate deep mud habitat in both the southern (76km², 49% of the HPA) and northern areas (122km², 92% of the HPA) results in significant levels of duplication, contributes little biodiversity or ecological benefit but significantly impacts commercial fishing that occurs in these areas. ;
- All credible threats arising from commercial fishing already are, or will be, fully managed as:
 - i. the area is closed to commercial scallop dredging;
 - ii. trawl vessels avoid fishing in the reef areas (as noted in the agency analysis, the Hauraki Gulf Fisheries Plan includes measures for the protection of ecologically important marine habitats from any adverse effects of fishing; and
 - iii. it is not necessary to prohibit static bottom contact methods such as potting and bottom longline, or non-bottom contact methods such as purse seining, surface longlining and dive fisheries in order to achieve the identified protection objectives;
- Other activities resulting in threats to marine biodiversity are not prohibited at the site, including anchoring and marine tourism-related activities that may involve interaction with fragile benthic species;
- The HPAs will prevent commercial diving for kina, potentially facilitating the spread of kina barrens which are known to occur at these sites; and
- The HPAs will both have adverse effects on commercial fishing, while providing negligible biodiversity protection benefits.

4.9.2 Impact on commercial fishing

Rock lobster

190. Further analysis is being undertaken to assess the historic effort and potential impact of the proposed HPA closures at Aldermen Islands/Te Ruamāhua on permit holders.

Finfish

191. The proposed closures will have a significant impact on commercial fishers using bottom longline, purse seine, bottom trawl and precision bottom trawl methods. Out of all proposed HPA/SPAs, the combined areas account for the third highest volume of finfish catch.

Alderman South

Greenweight tonnes caught by methods BLL, BT, DS, PRB, PS											
Year	EMA	GUR	JDO	JMA	KAH	KIN	SCH	SKJ	SNA	TAR	TRE
2017	1.1	1.1	1.1	133.7	0.1	1.1	0.8	93.0	14.4	14.6	1.2
2018	0.0	0.7	0.6	36.1	10.0	0.4	0.9	0.0	14.2	14.3	72.3
2019	1.1	0.6	0.6	392.2	0.1	0.4	1.0	17.9	10.3	4.8	2.0
2020	0.0	0.7	0.4	165.7	0.0	0.7	1.0	30.0	13.2	2.6	5.7
2021	198.0	0.3	0.3	0.3	2.9	0.2	0.2	14.1	7.7	2.1	36.6
Total	200.2	3.4	2.9	728.0	13.1	2.7	4.0	155.0	59.6	38.4	117.8

Alderman North

Greenweight tonnes caught by methods BLL, BT, PRB, PS										
Year	EMA	GUR	JDO	JMA	KIN	SCH	SKJ	SNA	TAR	TRE
2017	0.0	0.4	0.1	0.6	2.6	0.7	18.0	15.5	6.7	0.1
2018	0.1	0.8	0.4	1.0	1.4	1.4	0.0	15.4	8.5	0.8
2019	0.0	0.2	0.1	0.1	0.7	1.1	316.0	8.6	2.4	0.2
2020	0.0	0.2	0.1	0.1	0.5	1.3	41.0	8.4	2.1	0.3
2021	0.0	0.1	0.1	0.0	1.1	0.4	0.0	7.6	1.5	0.8
Total	0.1	1.6	0.9	1.8	6.2	4.9	375.0	55.6	21.2	2.2

4.9.3 Lesser-cost alternative

192. The marine biodiversity protection objectives at the Aldermen Islands / Te Ruamāhua could be achieved with less cost by:

- Using Fisheries Act regulations to locate trawl/Danish seine corridors so as to avoid specific areas within the site where sensitive benthic species such as black corals are present. The Fisheries NZ research project exploring trawl corridor options for balancing fishing and habitat protection and recovery in the Hauraki Gulf highlighted that greater biodiversity gains could be achieved around the Alderman Islands with less impact on commercial fishing⁵⁷. This was achieved by extending trawl restrictions over the full extent of reef structures, including those located between the proposed north and south HPAs areas. Provision for continued trawl activity in areas (corridors) of low biodiversity value but valuable for fishing (mud habitats on the western and eastern sides of the MPAs) resulted in a win/win scenario; and
- Using Fisheries Act regulations to protect identified areas of black corals or other sensitive benthic species from static bottom-contact fishing methods (recreational and commercial), where justified on the basis of adverse effects;
- Managing high recreational fishing pressure that is known to occur at and around the site under the Fisheries Act; and

⁵⁷Draft Report (yet to be published) Bennion, M.; Brough, T.; Leunissen, E.; Morrison, M.; Hillman, J.; Hewitt, J.E.; Rowden, A.A.; Lundquist, C.J. (2022). Exploring options for balancing fishing and habitat protection and recovery in the Hauraki Gulf. New Zealand Aquatic Environment and Biodiversity Report.

- Using regulations under conservation legislation to ensure that marine tourism activities do not interact with sensitive benthic species such as black coral.

4.10 Kawau Bay HPA and SPA

4.10.1 Reasons for objection

193. Kawau Bay HPA and SPA contain a number of different types of biogenic habitats which provide juvenile fish habitat and merit protection in a least cost manner, as recommended below.

194. The fishing industry nevertheless objects to the proposed HPA and SPA at Kawau Bay because:

- None of the habitat types in the HPA are unique to the site and all are already represented in existing marine reserves or CPZs in the Gulf. The SPA includes a wide variety of habitat types but none are unique to this site and most (20/26) are already represented in existing marine reserves or CPZs;
- All credible threats arising from commercial fishing are already fully managed as:
 - i. the entire area is closed to commercial scallop dredging;
 - ii. trawling and Danish seining are already prohibited throughout the HPA and in over half the SPA. The only area open to mobile bottom-impacting fishing methods is to the east of Kawau Island where no specific biodiversity values have been identified (instead, the valued attributes are located between Kawau Island, other islands and the mainland); and
 - iii. static and non-bottom-impacting commercial fishing methods do not threaten the identified biodiversity protection objectives at the Kawau Bay HPA and SPA sites (particularly as no sensitive benthic invertebrates have been identified at the site);
- Other activities resulting in threats to marine biodiversity are not prohibited at the site, including trampling of intertidal rock platform communities and anchoring. The site is subject to numerous unmanaged threats as the mainland catchments around Kawau Bay have been extensively modified by pastoral farming, horticulture and residential, light industrial and roading developments. Unmanaged threats include increased nutrient and stormwater contaminant runoff from catchment development and the non-indigenous invasive species that are present at the site, such as *Undaria* (well established), Mediterranean fan worm, Asian paddle crab; and
- The HPA and SPA will both have adverse effects on commercial fishing, while providing negligible biodiversity protection benefits.

4.10.2 Impact on commercial fishing

Rock lobster

195. An analysis of industry data indicates that at least 1 CRA2 permit holder would be directly impacted by the proposed HPA and SPA closures at Kawau Bay. Further analysis is being undertaken to assess the historic effort and potential impact on these permit holders.

Finfish

196. The proposed closures will have a moderate to significant impact on commercial fishers, particularly those using bottom longline and Danish seine. The impact analysis under-estimates the impact of this closure, noting that for the last two fishing years, the catch for snapper has been considerably lower than previous recent years.

197. Fisheries Inshore is aware that set-net and ring-net fishing occurs within the area but is concerned that the impact analysis based on the recent two years doesn't adequately assess the impact. We recommend that agencies engage directly with these fishers to better understand the impacts of the proposals on their businesses.

198.

Greenweight tonnes caught by methods BLL, BT, DS, PRB							
Year	GUR	JDO	KAH	KIN	SCH	SNA	TRE
2017	1.0	1.9	0.7	0.3	0.1	46.5	0.4
2018	0.1	0.2	1.8	0.3	0.2	21.5	0.1
2019	0.2	1.7	0.5	0.2	0.3	45.9	1.7
2020	0.1	0.2	0.3	0.1	0.2	14.2	1.2
2021	0.1	0.1	0.0	0.0	0.2	14.3	0.2
Total	1.6	4.1	3.2	0.9	0.9	142.4	3.5

4.10.3 Lesser-cost alternative

199. The marine biodiversity protection objectives at Kawau Bay can be achieved with less cost by:

- Allowing static bottom contact methods (bottom longlining, set-netting, ring-netting and potting) in the SPA given the low risk that these methods pose to benthic habitats.
- Managing high recreational fishing pressure that is known to occur at and around the site under the Fisheries Act;
- Controlling invasive marine species under the Biosecurity Act; and
- Supporting councils to effectively manage other threats such as anchoring, vehicles on beaches, and urban development pressures under the RMA.

4.11 Tiritiri Matangi HPA and SPA

4.11.1 Reasons for objection

200. The fishing industry objects to the proposed HPA and SPA at Tiritiri Matangi because:

- The site specific biodiversity protection objectives do not indicate that the site contains special biodiversity values that require protection. None of the habitat types are unique to the site and all are already represented in existing marine reserves or CPZs in the Gulf;
- There is no biodiversity-related justification for prohibiting commercial fishing at the site as all credible threats arising from commercial fishing are already fully managed as:

- i. the area is closed to commercial scallop dredging;
 - ii. trawling is prohibited throughout the HPA, SPA and adjacent CPZ, and Danish seining is prohibited in almost all of the HPA and SPA, and in the adjacent CPZ. The highest identified biodiversity values are associated with strong flow in the Whangaparaoa Passage – an area in which all commercial mobile bottom-impacting fishing methods are already prohibited; and
 - iii. static and non-bottom-impacting commercial fishing methods do not threaten the identified biodiversity protection objectives (particularly as no sensitive benthic invertebrates have been identified at the site);
- The HPA and SPA are clearly intended to reallocate benefits from marine resources rather than to achieve biodiversity protection for ecological purposes. Agencies explicitly state that marine protection would *enhance non-extractive recreational use of the area*,⁵⁸
 - Other activities resulting in threats to marine biodiversity are not prohibited at the site, and invasive species such as Mediterranean fan worm are abundant in places;
 - Establishment of an HPA will prevent commercial diving for kina, potentially facilitating the spread of kina barrens which are known to occur at this site; and
 - The HPA and SPA will both have adverse effects on commercial fishing, while providing negligible biodiversity protection benefits.
 - An assessment of the potential impacts of the HPA on commercial fishing was not completed by agencies prior to the release of the *Revitalising the Gulf* strategy, as the area was amended subsequent to the impact assessment process. While agencies committed to undertaking a complete assessment should the proposal be taken forward, this information has not been made available through either the agencies or the MartinJenkins analysis.

4.11.2 Impact on commercial fishing

Rock lobster

201. An analysis of industry data indicates that at least 1 CRA2 permit holder would be directly impacted by the proposed HPA and SPA closures at Tiritiri Matangi. Further analysis is being undertaken to assess the historic effort and potential impact on these permit holders.

Finfish

202. This closure will have a significant impact on fishers using Danish seine as it contributes 33% of their catch taken within the proposed MPAs.

⁵⁸ Agency Advice, page 102.

Greenweight tonnes caught by methods BLL, DS							
Year	GUR	JDO	KAH	KIN	SCH	SNA	TRE
2017	0.3	1.8	0.1	0.1	0.0	26.2	0.0
2018	0.1	0.3	0.1	0.0	0.0	6.6	0.0
2019	0.2	1.0	0.1	0.3	0.0	14.1	0.0
2020	0.1	0.2	0.0	0.0	0.0	12.8	0.0
2021	0.0	0.7	0.0	0.1	0.0	5.5	0.0
Total	0.6	4.1	0.4	0.5	0.1	65.2	0.1

4.11.3 Lesser-cost alternative

203. The marine biodiversity protection objectives at Tiritiri Matangi can be achieved with less cost by:

- Allowing static bottom contact methods (bottom longlining and potting) in the SPA given the low risk that these method pose to benthic habitats.
- Managing high recreational fishing pressure that is known to occur at and around the site under the Fisheries Act;
- Controlling invasive marine species under the Biosecurity Act; and
- Supporting councils to effectively manage other threats to marine biodiversity objectives under the RMA.

4.12 Whanganui-a-Hei (Cathedral Cove) marine reserve

4.12.1 Reasons for objection

204. The fishing industry objects to the proposed extension of Whanganui-a-Hei marine reserve, irrespective of whether the extension is implemented using an HPA or a marine reserve, because:

- The site-specific objectives do not identify specific ecological values that apply to the extension (as opposed to the existing marine reserve) and the extension does not protect any habitats that are not already protected within the marine reserve;
- There is no biodiversity-related justification for prohibiting commercial fishing at the site as all credible threats arising from commercial fishing are already fully managed, as:
 - i. the area is closed to commercial scallop dredging;
 - ii. bottom trawling and Danish seining are already prohibited across the entire site, apart from a small corner to the north-east; and
 - iii. static and non-bottom impacting commercial fishing methods do not threaten the identified biodiversity protection objectives;
- Any issues associated with fishing pressure around the edge of the existing marine reserve should be managed under the Fisheries Act, not by extending the marine reserve;

- The site is subject to numerous unmanaged threats, including large numbers of visitors (resulting in trampling impacts on intertidal organisms and disturbance of coastal wildlife), heavy boat traffic, and overnight launch visits; and
- The extension of the marine reserve will have adverse effects on commercial fishing, while providing negligible biodiversity protection benefits.

4.12.2 Impact on commercial fishing

Rock lobster

205. An analysis of industry data indicates that at least 2 CRA2 permit holders would be directly impacted by the proposed extension to the marine reserve at Whanganui-a-Hei (Cathedral Cove). Further analysis is being undertaken to assess the historic effort and potential impact on these permit holders.

Finfish

206. This closure will have low impact on fishers.

Greenweight tonnes caught by methods BLL, DS					
Year	GUR	KAH	KIN	SNA	TRE
2017	0.5	0.1	0.1	5.5	0.6
2018	0.2	0.9	0.3	3.1	0.0
2019	0.8	0.2	0.0	3.3	0.0
2020	0.3	0.1	0.0	3.0	0.0
2021	0.3	0.7	0.0	3.7	0.0
Total	2.1	2.0	0.5	18.7	0.7

4.12.3 Lesser-cost alternative

207. The marine biodiversity protection objectives at Whanganui-a-Hei marine reserve can be achieved with less cost by:

- Managing high recreational fishing pressure that is known to occur at and around the site under the Fisheries Act;
- Managing the adverse effects of large visitor numbers under the Conservation Act and Marine Reserves Act; and
- Supporting councils to effectively manage other threats to marine biodiversity objectives under the RMA.

4.13 Cape Rodney-Okakari Point marine reserve

4.13.1 Reasons for objection

208. The fishing industry objects to the proposed extension of Cape Rodney-Okakari Point marine reserve, irrespective of whether the extension is implemented using an HPA or a marine reserve, because:

- The site-specific objectives do not identify specific ecological values that apply to the extension (as opposed to the existing marine reserve) and the extension does not protect any habitats that are not already protected within the marine reserve;
- All credible threats arising from commercial fishing already are, or will be, fully managed, as:
 - i. the area is closed to commercial scallop dredging;
 - ii. any threats associated with other mobile bottom contact fishing methods can be fully managed under the measures in the Hauraki Gulf Fisheries Plan;
 - iii. static and non-bottom-impacting commercial fishing methods do not threaten the identified biodiversity objectives; and
 - iv. rock lobster abundance is rebuilding as a consequence of successful fisheries management measures implemented in recent years. An implicit objective of the proposal is to 'buffer' the rock lobster population inside the reserve from impacts external to the reserve.⁵⁹ However, no evidence is provided to link fluctuating rock lobster numbers inside the reserve to fishing activity immediately beyond the reserve boundary. It is more likely that the rock lobster population inside the reserve is fluctuating in response to the same environmental signals that affect rock lobster recruitment beyond the boundaries. Extending the marine reserve will not protect resident rock lobsters from wider environmental factors which are known to influence rock lobster population growth – but good fisheries management will;
- The site is subject to unmanaged threats, including large numbers of visitors, urban development impacts in the wider Gulf, and algal blooms exacerbated by rising ocean temperatures; and
- The extension of the marine reserve will have adverse effects on commercial fishing, while providing negligible biodiversity protection benefits.

4.13.2 Impact on commercial fishing

Rock lobster

209. An analysis of industry data indicates that at least 1 CRA2 permit holder would be directly impacted by the proposed extension to the marine reserve at Cape Rodney-Okakari Point. Further analysis is being undertaken to assess the historic effort and potential impact on these permit holders.

Finfish

210. This closure would have a low-to-moderate impact on BLL fishers.

⁵⁹ Agency Advice states that *the movement of rock lobsters beyond the boundaries [of the existing marine reserve] means their abundance within it mirrors population trends in the wider fishery. Although still more abundant within the reserve than outside it, rock lobster numbers have declined to pre-protection levels.*

Greenweight tonnes caught by methods BLL, BT, PRB							
Year	GUR	JDO	KAH	KIN	SCH	SNA	TRE
2017	0.5	0.1	0.5	0.1	0.0	12.1	0.5
2018	0.7	0.1	3.2	0.2	0.0	24.4	0.3
2019	0.8	0.1	0.8	0.0	0.1	13.2	0.5
2020	1.3	0.2	0.4	0.0	0.0	14.5	0.2
2021	1.5	0.1	0.4	0.0	0.1	15.4	0.1
Total	4.9	0.5	5.4	0.3	0.3	79.6	1.6

4.13.3 Lesser-cost alternative

211. The marine biodiversity protection objectives at Cape Rodney-Okakari Point marine reserve can be achieved with less cost by:

- Managing high recreational fishing pressure that is known to occur at and around the site under the Fisheries Act;
- Managing the adverse effects of large visitor numbers under the Conservation Act and Marine Reserves Act; and
- Supporting councils to effectively manage other threats to marine biodiversity objectives under the RMA.

4.14 The Ōtata / the Noises HPA

4.14.1 Reasons for objection

212. The fishing industry objects to the proposed HPA at the Ōtata / the Noises because:

- No site specific biodiversity objectives have been provided to identify attributes at the site that require protection. None of the habitat types included in the original Noises site (as described in the Agency Advice) are unique to this site and all are already represented in existing marine reserves or CPZs in the Gulf;
- There is no biodiversity-related justification for prohibiting commercial fishing at the site as all credible threats arising from commercial fishing are already fully managed, as:
 - i. the area is closed to commercial scallop dredging;
 - ii. bottom trawling and Danish seining are already prohibited at the site; and
 - iii. static and non-bottom impacting commercial fishing methods do not threaten the identified biodiversity protection attributes (e.g., biogenic dog cockles);
- The site is subject to unmanaged threats, including declining water quality in the inner Gulf;
- Establishment of an HPA will prevent commercial diving for kina, potentially facilitating the spread of kina barrens which are known to occur at this site; and
- The HPA and SPA will both have adverse effects on commercial fishing, while providing negligible biodiversity protection benefits.

4.14.2 Impact on commercial fishing

Rock lobster

213. An analysis of industry data indicates that at least 1 CRA2 permit holder would be directly impacted by the proposed HPA closure at the Ōtara/Noises. Further analysis is being undertaken to assess the historic effort and potential impact on these permit holders.

Finfish

214. This closure would have a low impact on fishers using bottom longline and Danish seine methods.
215. Fisheries Inshore is aware that set-net fishing occurs within the area but is concerned that the impact analysis based on the recent two years doesn't adequately assess the impact. We recommend that agencies engage directly with these fishers to better understand the impacts of the proposals on their businesses.

216.

Greenweight tonnes caught by methods BLL, DS.

Year	GUR	JDO	SNA
2017	0.0	0.7	2.7
2018	0.0	0.1	3.8
2019	0.0	0.1	4.3
2020	0.0	0.0	0.1
Total	0.1	0.9	10.9

4.14.3 Lesser-cost alternative

217. The marine biodiversity protection objectives at the Ōtara / the Noises can be achieved with less cost by:
- Managing high recreational fishing pressure that is known to occur at and around the site under the Fisheries Act; and
 - Supporting councils to effectively manage other threats to marine biodiversity objectives under the RMA.

5. Recommendations

218. The fishing industry recommends that instead of implementing the proposed HPAs and SPAs, all identified threats to marine biodiversity *throughout* the Gulf should be managed using the lesser cost management approaches identified in [section 4](#) of this submission. In particular, we recommend that:

- Fishing-related threats should be managed under the Fisheries Act through the development, approval and implementation of the Hauraki Gulf Fisheries Plan (HGFP);
- The Fisheries Plan process should take priority over HPA and SPA establishment because measures under the Fisheries Plan will manage fishing-related threats to habitat and biodiversity more effectively, throughout the Gulf, and with less cost to sustainable utilisation;
- The current gap in the draft Fisheries Plan regarding genuine constraint of recreational fishing effort and catch should be rectified as the Plan is developed; and
- Actions in the Gulf to support biodiversity must be undertaken in a manner that best ensures long-term success with all parties committed to playing their part. That means it should be done in an integrated manner (not separate) using an ecosystem-based approach that addresses all threats. To enable this our preference is that the HPA and SPA process be deferred until the HGFP can progress and then reconsider and address any remaining adverse effects of fishing in the Gulf.
- In its role to ensure overall effective action across all activities commensurate with the level of risk they pose to conservation of biodiversity in the Gulf, central government should support regional councils and territorial local authorities to implement their responsibilities under the RMA (and any replacement legislation) to effectively avoid, remedy or mitigate the adverse effects on marine biodiversity of the activities (marine and terrestrial) that they are responsible for.

219. If, contrary to the recommendations above, all or any of the proposed HPAs and SPAs are progressed, we recommend that:

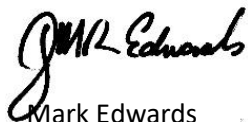
- Any network of HPAs and SPAs should be redesigned in a manner that is compliant with the requirements of the Government's MPA Policy, so that excessive replication of habitats is reduced (among other matters);
- Site specific objectives should be developed through a multi stakeholder process so that the prohibitions and management responses can be tailored to the effective management of activities that threaten the achievement of the identified objectives;
- Prohibitions and other controls in HPAs and SPAs should be justified on the basis of the adverse effects of the activity on the biodiversity objectives of the site;
- The proposal should be adjusted to mitigate the impacts of displacing commercial and recreational fishing. If closures proceed for reasons that do not relate to achieving the sustainability purpose and principles of the Fisheries Act, the fishery should be 'rebalanced' by reducing TACCs and recreational daily bag limits to remove the effect of

displaced catch, and commercial rights owners compensating for the loss of ability to exercise their quota rights;

- Any prohibitions and controls on activities should be implemented under existing legislation; and
- If special legislation is used, the legislation should require councils to take specific actions to manage threats to the biodiversity protection objectives of the HPAs and SPAs, including actions to manage threats arising from terrestrial activities that are within the councils' jurisdictions.

Thank you for the opportunity to provide a submission on the Hauraki Gulf marine protection proposals.

Yours sincerely



Mark Edwards
NZ Rock Lobster Industry Council



Laws Lawson
Fisheries Inshore New Zealand

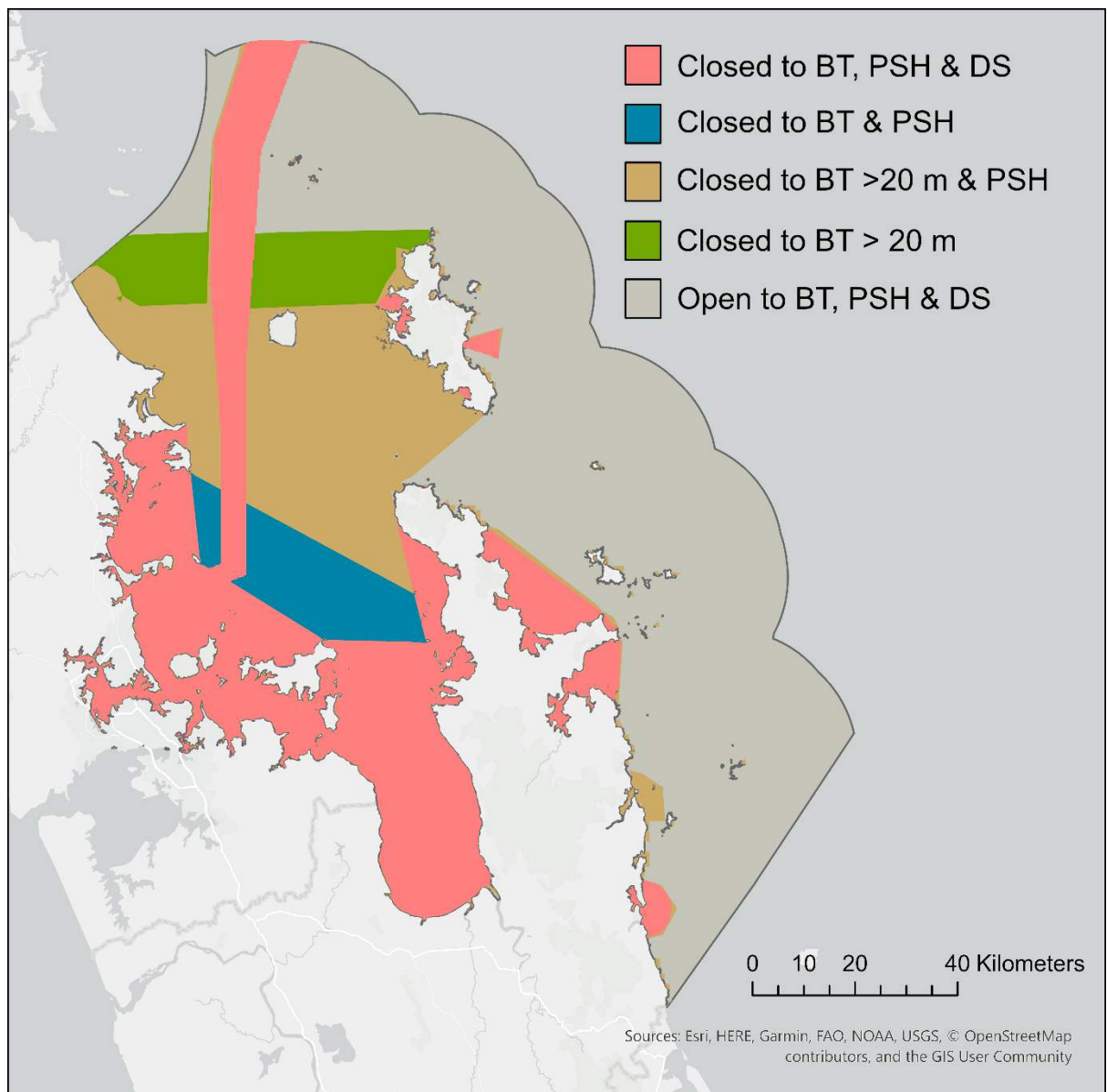


Storm Stanley
Paua Industry Council

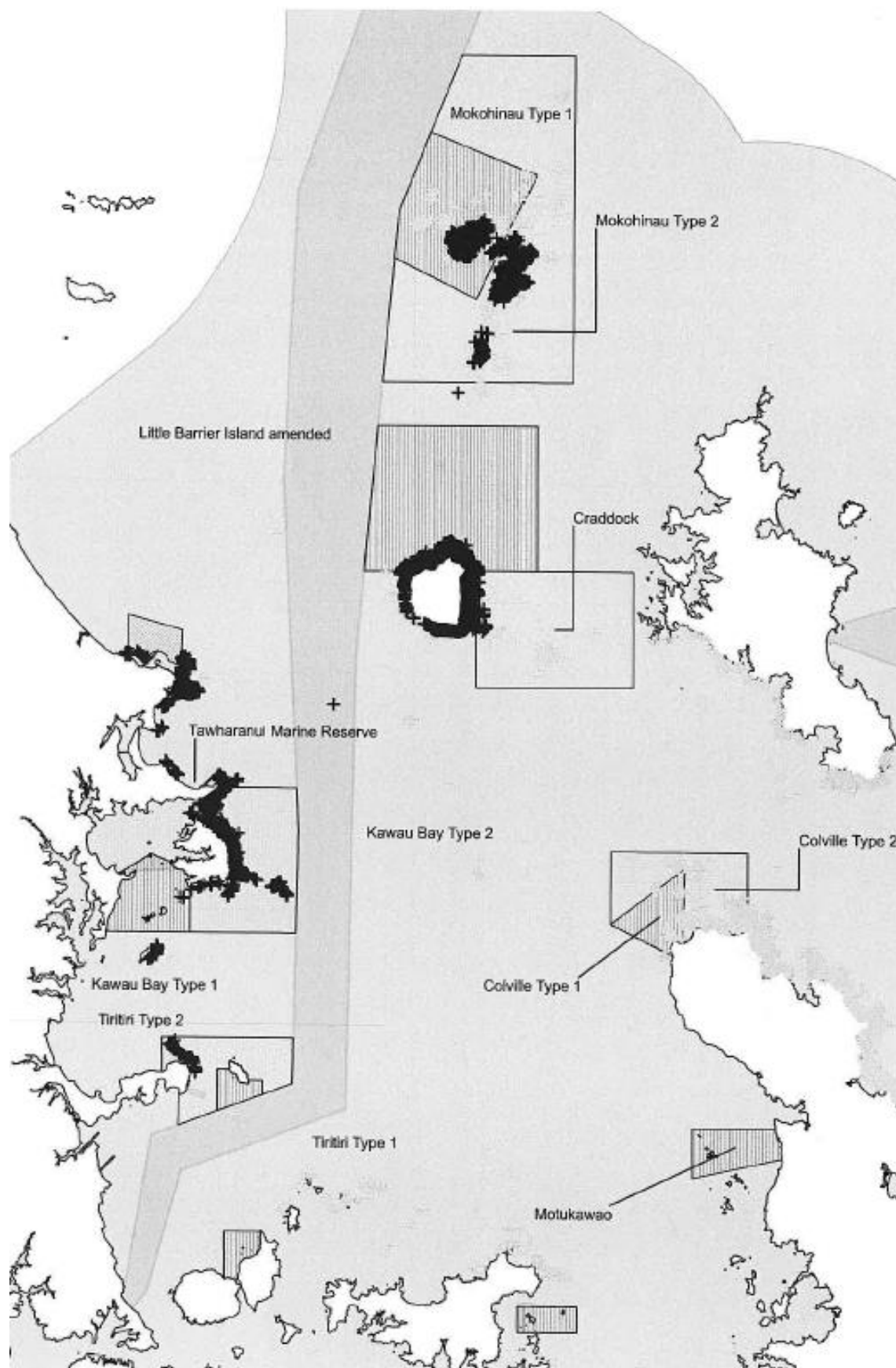
6. Appendices

6.1 Trawl and Danish seine Fisheries Restrictions within the HGMP

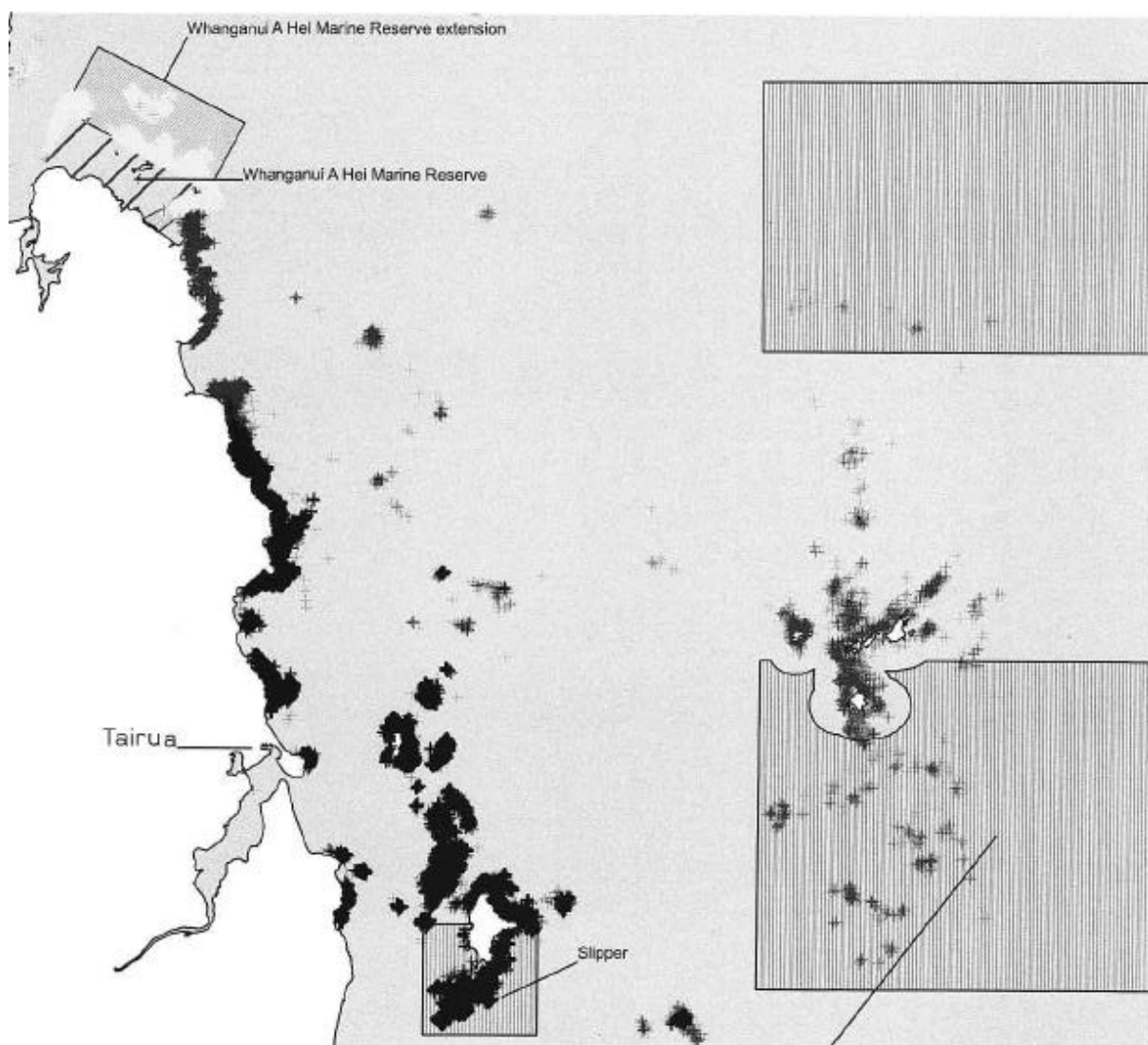
Areas open/closed to commercial fishing in the Hauraki Gulf Marine Park. Closed areas for Danish Seine, bottom trawling (vessels >20 m and <20 m), and precision seafood harvesting (PSH) methods are shown.



6.2.1 Inner Hauraki Gulf Rock Lobster Effort in Proposed Closures



6.2.2 Outer Hauraki Gulf Rock Lobster Effort in Proposed Closures



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28 November 2022

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SUPPLEMENTARY SUBMISSION ON HAURAKI GULF MARINE PROTECTION PROPOSALS

1. Fisheries Inshore New Zealand (Fisheries Inshore) was a party to an industry submission dated 11 November 2022. We continue to support that submission.
2. At the meeting on 17 November 2022 with the Department of Conservation (DOC) to discuss DOC's Hauraki Gulf Marine Protection Proposals, DOC representatives invited the industry parties to make a supplementary submission relating to the proposals if industry parties considered changes could be made to the proposed areas which would reduce the impact on industry activities while still preserving the biodiversity values. This supplementary submission is in response to that invitation.
3. As a consequence of that meeting and the processes outlined to us by DOC officials, we have chosen to also comment on wider aspects of the consultation in addition to the area specific recommendations.

Role of Fisheries Inshore

4. Fisheries Inshore is the industry body that represents the interests of stakeholders in the inshore finfish sector. The waters of interest to Fisheries Inshore stretch out generally to the edge of the Territorial Sea and occasionally extend beyond that. The Gulf includes those waters from the shore to the Territorial Sea limit and stretch from Mangawhai Heads to Waihi in the south.
5. The stakeholders we serve include not only industry participants but also the consumers and members of society who collectively have the right to enjoy the benefits of the New Zealand's waters and in this instance the Hauraki Gulf. New Zealanders have a right to enjoy the benefits of their domain including a supply of fish - the commercial fishing sector has the right to provide society with that fish from society's domain. We believe that the fishery benefits of the Hauraki should be made available to all parts of society, not just those that have the resources to catch their own fish or those that prefer the fish to stay in the water. Approximately 80% of New

Zealanders eat fish from New Zealand waters at least once a month but less than 10% of us catch fish once per year. Utilisation is an integral component of the benefits. We all wish to have a healthy Hauraki Gulf that can provide a sustainable flow of benefits now and into the future. But Fisheries Inshore also wants to ensure that Aucklanders can not only derive benefits from seeing a healthy gulf and knowing the Gulf is well-stocked with fish but can also enjoy eating fish from that Gulf.

6. That underpins our interest in the Hauraki Gulf. We all want a healthy Gulf but we want the benefits to be shared equitably, including those who chose to consume fish from their Gulf.

The Inclusion of Lining and Potting in Seafloor Protection Areas (SPAs)

7. At that meeting, the DOC ecologist clarified that the consultation paper contained an error in that it suggested potting and lining would be prohibited in all Seafloor Protection Areas (SPAs) whereas it was intended that potting and line fishing would be allowed in all SPAs except the Mokohinau Islands SPA.
8. It is difficult to accept given the level of scrutiny applied in drafting consultation material that the error was not detected prior to the public release of the material. It is also unacceptable that, having become aware of the error during the consultation period, DOC did not advise stakeholders as to the error.
9. Industry and doubtless other submitters were misled by the error and the matter will arise further when any decisions are announced and all stakeholders become aware of the error.
10. However, we endorse the approach outlined by the DOC ecologist and appreciated the clarification even at that late stage. We reiterate that there should be no restrictions on bottom longlining and potting in the SPAs – these activities can continue without compromising the biodiversity you are seeking to provide protection for. While we realise final decisions will be taken by Ministers, we trust that your analysis and recommendations to them will make clear that prohibitions of bottom long-lining and potting are not needed to protect the biodiversity in the SPAs.

Choice of Revitalising the Gulf Fisheries Plan or DOC Hauraki Gulf Marine Protection Proposals?

11. Fisheries Inshore has major reservations as to the continuation of this consultation process.
12. At the 17 November 2022 meeting, DOC officials indicated that Ministers were concerned with the slow progress of the *Revitalising the Gulf* process and wished to get something over the line by the last quarter of 2023. This DOC consultation was a response to that request.
13. The proposals are largely as contained in the earlier “*Revitalising the Gulf*” proposals.
14. A key element of *Revitalising the Gulf* is a Hauraki Gulf Fisheries Plan (the Fisheries Plan). Fisheries New Zealand is developing that plan with a consultation planned in the near future. The Minister for Oceans and Fisheries will consider the draft plan under section 11A of the Fisheries Act and approve sustainability measures under Section 11 to give effect to the plan. Once approved, the Plan will have statutory status as a matter that must be taken into account by decision makers under the Fisheries Act and must be had regard to by councils when preparing regional plans under the RMA or its successor Act.

15. A fundamental mechanism proposed in the Fisheries Plan is that bottom trawling and Danish seining will be prohibited throughout the Gulf with the exception of “suitable corridors” established under the Plan¹. The areas closed to bottom trawling and Danish seining will be far more spatially extensive than the proposed SPAs. Rather than the DOC approach of the Gulf being open to trawling except for those specified areas where trawling and/or seining is prohibited by HPAs or SPAs, the Fisheries Plan approach is based on the whole Gulf being closed to trawling and/ or seining except for those specified areas where it is specified that trawling and/ or seining is permitted. These measures will be implemented through Section 11 sustainability measures and become operative when approved by the Minister. The DOC approach would close approximately 1,520km² (10% of the HGMP) to trawling and Danish seining whereas the Fisheries Plan could result in significantly more of the Gulf being closed with some scenarios being considered closing more than 50% of the Gulf.
16. The selection of permitted areas open for trawling and Danish seining will be based on a more informed assessment of both conservation and utilisation spatial values. The Plan seeks to ensure that the current areas of high conservation and utilisation value are preserved for those purposes so that biodiversity is protected but without significant displacement of fishing elsewhere in or beyond the Gulf. The degree of overlap between those two values has been shown by analysis to be small. It is hardly surprising that areas where there is an absence of high levels of commercial fishing will be areas that can retain high conservation value. Generally, these are areas where the nature of the substrate will cause more damage and cost to fishing gear than any catch return. Overlaps may occur where fishing activity is lighter. The trade-off decisions for these areas will be better informed and subject to a more collaborative process than the current DOC proposals.

Use of Available Information

17. We note that this DOC consultation based on implementing the earlier “*Revitalising the Gulf*” proposal but makes no direct reference to and seemingly fails to take advantage, in determining either the High Protection Areas (HPA) or the Seafloor Protection Areas (SPAs), of the updated information available from the Zonation based mapping of conservation and utilisation values underpinning the measure within the Fisheries Plan to implement trawl corridors. While we understand that the updated detailed mapping of conservation and utilisation values was not available at the time the initial *Revitalising the Gulf* MPA proposals were developed, it has become available subsequently and prior to the release of the consultation document. We would have expected DOC to incorporate that new information into and update the proposals on which it is now consulting.

Biodiversity Information

18. We have appended the Zonation current biogenic habitat layer and the aggregate mobile bottom contact fishing commercial fishing layer in Appendix I of this submission. We are aware that the material in the Appendix was released to the HGMP working group on a confidential basis. However, we see no reason why informed and detailed mapping resources should not be shared between the two proposal processes – they contain only information that will become public in the near future and which is highly relevant to the selection and spatial definition of

¹ Draft Hauraki Gulf Fisheries Plan, *Revitalising the Gulf* – Government action on the Sea Change Plan

both HPAs and SPAs. Given that the information is highly relevant and material to this consultation, we make no request for the information to be treated as confidential.

19. Fisheries Inshore notes that there are significant differences between the Zonation conservation values and the areas defined in the current DOC proposal as HPAs and SPAs. We would have expected the areas to have a high degree of correlation, both in identification and spatial distribution of the high value biogenic habitat/biodiversity. That seemingly does not exist. Below we include thumbnails of the DOC proposal and the current biogenic habitats layer² for comparison. Larger copies are contained in the attached Appendix.

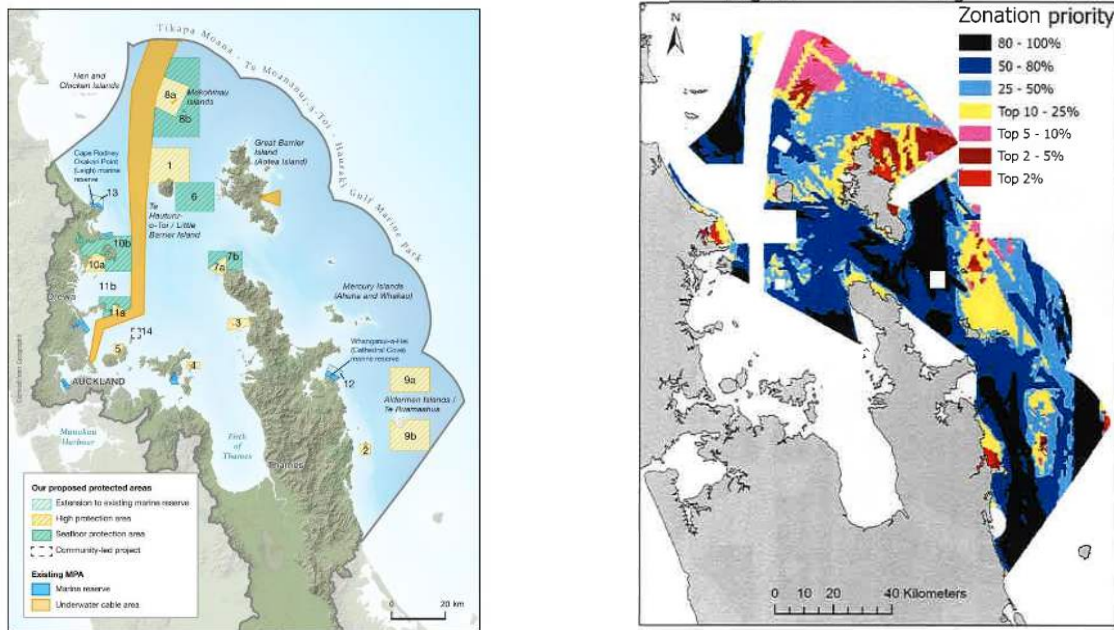


Figure 57. Agency recommended protection areas

20. Our comparison of the two maps indicates:

- a. the high value Te Hauturu-o-Toi / Little Barrier Island biogenic habitat consists of a 0.5km rocky reef fringe with additional high value biodiversity extending from the western shore and otherwise surrounded by low value marine biodiversity - in comparison the Te Hauturu-o-Toi / Little Barrier Island HPA covers 185 km² primarily consisting of low value soft sediment but excluding the western shore. Adjacent to this is the Cradock Channel SPA with an area of 141 km² of soft sediment containing little biodiversity of value.
- b. The high value Mokohinau habitat consists of the coastal fringe and a reef structure extending some 5 kms to the northeast of the island with very little habitat of value to the south of the island. In comparison the HPA consists of an area of 118km² including some but not all of the reef, with the SPA covering some of the high value habitat to the north but only low value habitat to the south of the island. Interestingly the HPA/SPA proposal documentation contains the same Ecological Values statement for both areas despite the strong differences in the habitat value layers.

² Exploring Options for balancing fishing and habitat protection and recovery, NIWA paper to HG-BGSAP Workshop 3: 16 May 2022

- c. The high value Aldermen Islands habitat extends 12 kms northwards from the Aldermen Islands to include the Sugarloaf Reefs. There appears to be little to the south. In comparison, the Aldermen's North HPA (138 km²) includes only the top 2 kms of the Sugarloafs and an extensive area of otherwise low value biodiversity. The Aldermen South HPA (150 km²) includes the Aldermen Islands and a small section of the Sugarloafs. Again we note the two HPAs share the same Ecological Value statement despite significant changes in the biodiversity content. The majority of the Sugarloaf Reef would not be protected by the DOC proposal.
- 21. That there are significant differences in value and spatial distribution for every HPA and SPA casts serious doubts on the credibility of the HPAs and SPAs in this consultation as being areas worthy of additional protection.
 - 22. That concern is heightened when the exactly the same worded Ecological Values statements are used in different HPA and SPA descriptions. The ecological value statements are, on the face of the information, of dubious validity and should not be used to justify the HPAs and SPAs.

Fishing Information

- 23. In addition to the improved information on the biodiversity, the Zonation layers now available, and which could have been used in the DOC consultation, include significant information on the fishing values of the Hauraki Gulf.
- 24. We have included in Appendix 1 the aggregate fishing value layer for bottom trawling and Danish seining. The layers are drawn from FNZ catch and spatial data reported by fishers and provides a visual indication of the value of the Hauraki Gulf water space to fishers. Such information is vital to understanding the impacts on fishers and fishing activity. This information was available to DOC for inclusion in the consultation documentation but was omitted.
- 25. One of the valuable outputs of the fishing activity layers is that it provides an indication of how fishers operate within the space. It should not be assumed that all areas are identical and can be fished in any random pattern to achieve the same catch levels. Fishing is a conscious process based on good knowledge of where the fisher expects fish to be given the particular fish being targeted, the time of year, the gear used, tides and currents, and the nature of the underlying substrate and habitat. Fishers fish where they expect fish will be – that means they will often follow a contour line knowing that fish will swim by preference along the contour rather than across the contours. Some species are better caught with reference to the direction of the current. Consequently, not all tows will be a straight line.
- 26. DOC made available to stakeholders a report from Martin Jenkins on the current level of commercial fishing activity within the proposed protected areas. The report was based on catch information reported by fishers and assessed by FNZ to have been caught within the areas. To obtain a valuation, Martin Jenkins applied export prices for the species or, in the absence of a species export price, the port price. Some adjustment to the port price could have been applied but the value of such species is likely to be of no material value.
- 27. The outputs of the exercise were not verified by any party.

Implementation Aspects

- 28. In terms of achieving operational status, the DOC proposals require new special legislation to be enacted but DOC seeks to make significant progress by late 2023. Government has admitted it has an extremely busy legislative programme and will be hard pressed to pass the legislation it

has already in the pipeline. The prospects of special legislation being passed as the key mechanism to protect the Gulf biodiversity by the end of the 2023 year appears extremely slim.

29. In contrast, the Fisheries Plan will use existing Fisheries Act regulatory provisions. Section 11 measures can be developed as a consequential adjunct to the formal Fisheries Plan consultation. The time to implementation of protection through the Plan could likely be achieved within a nine-month window. In all probability, it would be in place before the special legislation for the DOC Hauraki Gulf is introduced into the House for its first reading. If the Government wishes to achieve marine protection for the Gulf in 2023, the Fisheries Plan offers a far greater prospect of success.

Our Recommendation – Halt the Process, Complete the Fisheries Plans and then Re-consider the Need for Additional Protection

30. In our earlier submission we recommended that *“Instead of continuing the current consultation for the proposed HPAs and SPAs, the fishing industry recommends that central and regional government should work with tangata whenua and stakeholders to implement an ecosystem approach to effectively manage the full range of threats to marine biodiversity across the entirety of the Gulf using existing tools available to government and Regional Councils. For fishing-related threats, the first priority should be the completion and implementation of the proposed actions in the Hauraki Gulf Fisheries Plan. Actions under a comprehensive fisheries plan can fully manage all fisheries-related threats to marine biodiversity more effectively, and at significantly lower cost, than the proposed HPAs and SPAs. The need for any additional biodiversity protection, such as HPAs and SPAs, could be assessed and addressed in that wider context”*.
31. Having re-considered the material in order to respond to DOC’s agreement to receive Fisheries Inshore proposals for some boundary changes for the HPAs and SPAs, we are even more convinced of that course of action. The priority task for DOC and the Hauraki Gulf parties should be to finalise the Fisheries Plan and have it ready for consultation early in the new year.
32. The current DOC proposal should be halted and re-considered in the light of that plan. The reliance on and identification of trawl corridors renders the SPAs redundant. We are opposed to their inclusion in the consultation.
33. There will doubtless be a need for measures in the wider plan to create *no-take* and wider protection for areas of outstanding marine biodiversity and measures to reduce fishing pressure on the Gulf. The HPAs will have a role in that protection. However, they should be integrated into the Fisheries Plan process and covered under Section 11 measures until special legislation can be passed.
34. Marine protection for the Gulf should not be an inter-agency race using separate instruments, with a needless and extensive call on resources from the agencies and all stakeholders to contribute to duplicating initiatives. For marine protection to work and be accepted by all the parties both on and off the water, the protection needs to be a considered, integrated, well managed, pan-agency, collaborative initiative.

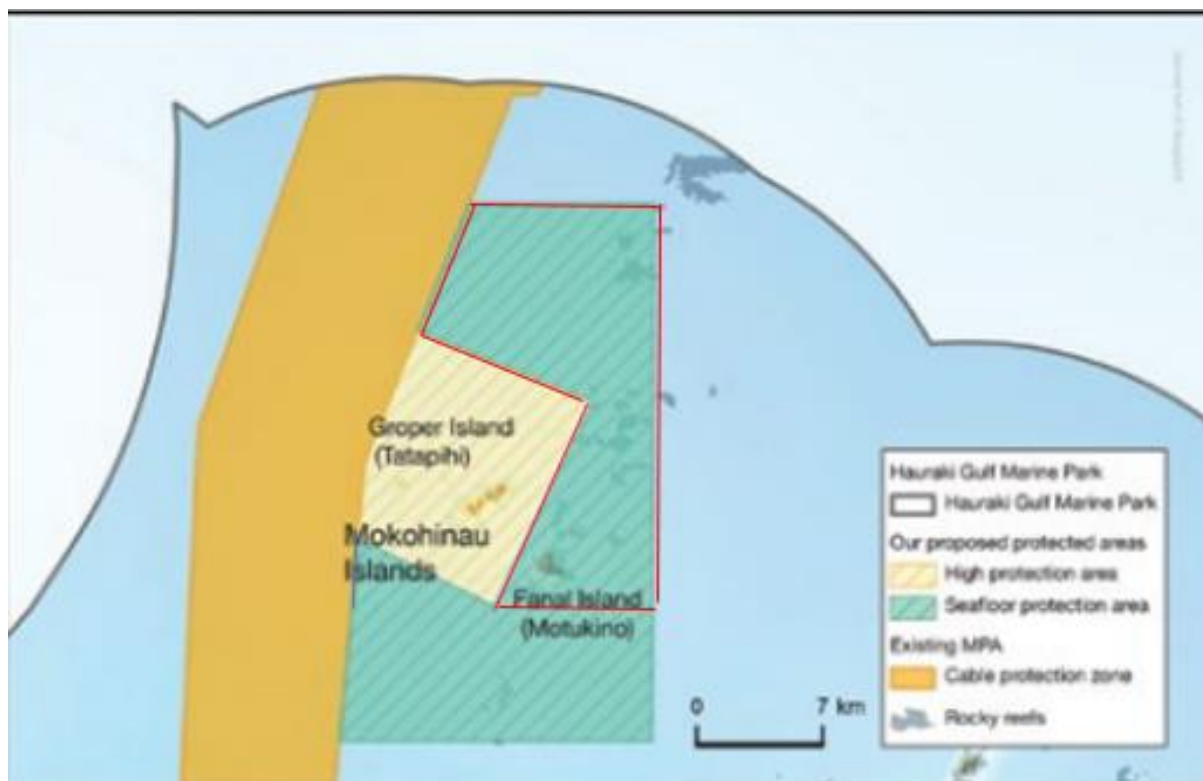
Comments on the Proposed Protection Areas

35. Notwithstanding the opposition expressed above, Fisheries Inshore makes the following comments in respect of the HPA and SPA areas. We have focused our attention on the larger areas which will impact on our trawl and Danish Seine activity. The changes proposed below would reduce the impact on fishers but would in all cases protect the valuable productive

biogenic habitats of the areas. We have superimposed our preferences in red boxes onto the existing maps.

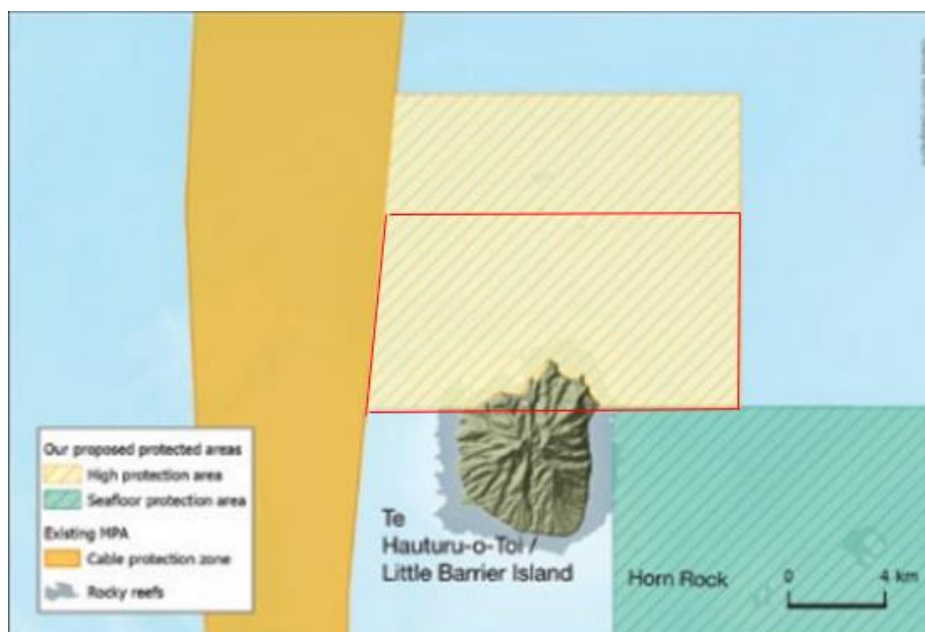
Mokohinau Islands HPA/SPA

36. Fisheries Inshore recommends that the southern section of the SPA be removed, reducing the impact of the measure on fishers. The existing HPA would be retained, as would protection over the rocky reef habitats, including black coral habitat within the SPA. The area to be removed contains moderate deep mud and moderate deep sand habitat which accounts for 91.57 km² (28%) and 221km² (68%) respectively of habitat within the SPA. Both of which habitat types are extensively protected within the adjacent cable protection zone (364km² of moderate deep mud and 60km² of moderate deep sand).
37. Moving the southern boundary, in conjunction with the northern boundary of the Little Barrier HPA (see below), increases the spatial size of the “open area” between the SPA and HPA thereby allowing for fishing operations to occur. The DOC proposed current narrow gap between the two areas highly constrains the practical use of the area for fishing meaning the restriction on fishers will extend beyond the closed areas.



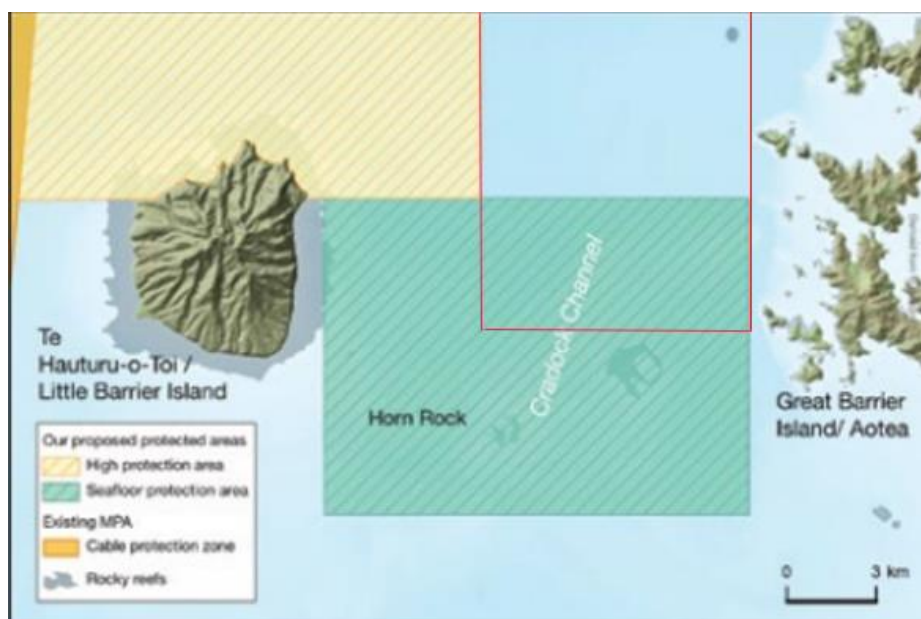
Te Hauturu-o-Toi / Little Barrier Island HPA/SPA

38. Fisheries Inshore recommends that the HPA be focused more tightly on the island and the “Coral patch” area to the north towards the Mokohinaus with the northern limit dropped by 4 km. That would open up an area that only contains moderate deep mud but retain protection for the higher value reef and coral area. The top of the area should link with the top of the moved Craddock SPA that we propose below.



Craddock SPA

39. Fisheries Inshore recommends that the SPA should be moved northward by 5kms. While trawling and Danish seining activity in the SPA is limited, the move northward would reduce the impact on trawl activity and industry revenue in the area while offering greater protection of the biogenic habitat that occurs between Little and Great Barrier Islands (see Appendix Map 2).

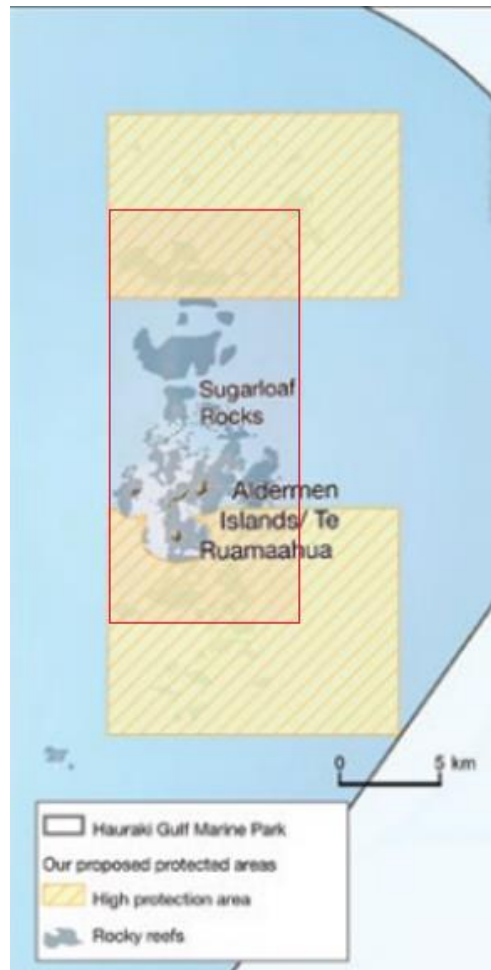


Aldermen Islands (Ruamaahu) HPA (north and south)

40. Fisheries Inshore expected that the HPA would have been one continuous area focused on the rocky reef and biogenic habitats that exist between the islands and the Sugarloaf Rocks northwards. This would enable the eastern margin to be brought inwards, and the northern margin down by 2 kms and join the two areas into one contiguous block as shown in red. This would have the benefit of increasing the amount of rocky reef and biogenic habitat under

protection, while allowing fishing to continue in some of the moderate deep mud habitat that makes up 122.7km² (98%) of the northern area and 76km² (49%) of the southern area for fishing.

41. We would however seek guidance from the recreational and customary non-commercial sectors as to the value of the area for their fishing activity. If they valued the area highly, Fisheries Inshore would recommend that at least some of the contiguous area be designated to be a SPA to provide for such fishing activity.



Laws Lawson
Executive Chair
Fisheries Inshore New Zealand

APPENDIX 1 MAPS

MAP 1: PROPOSED HIGH AND SEAFLOOR PROTECTION AREAS

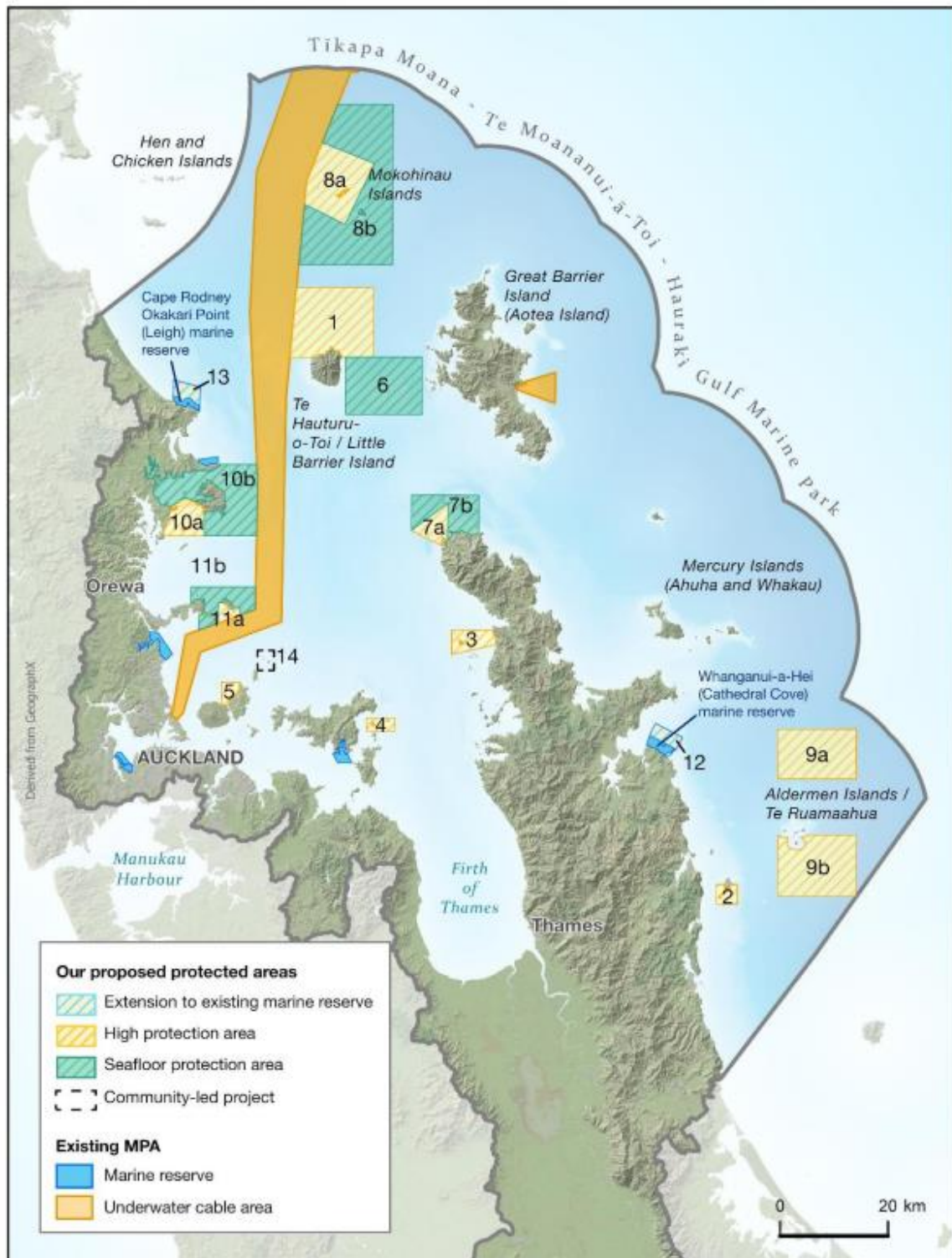
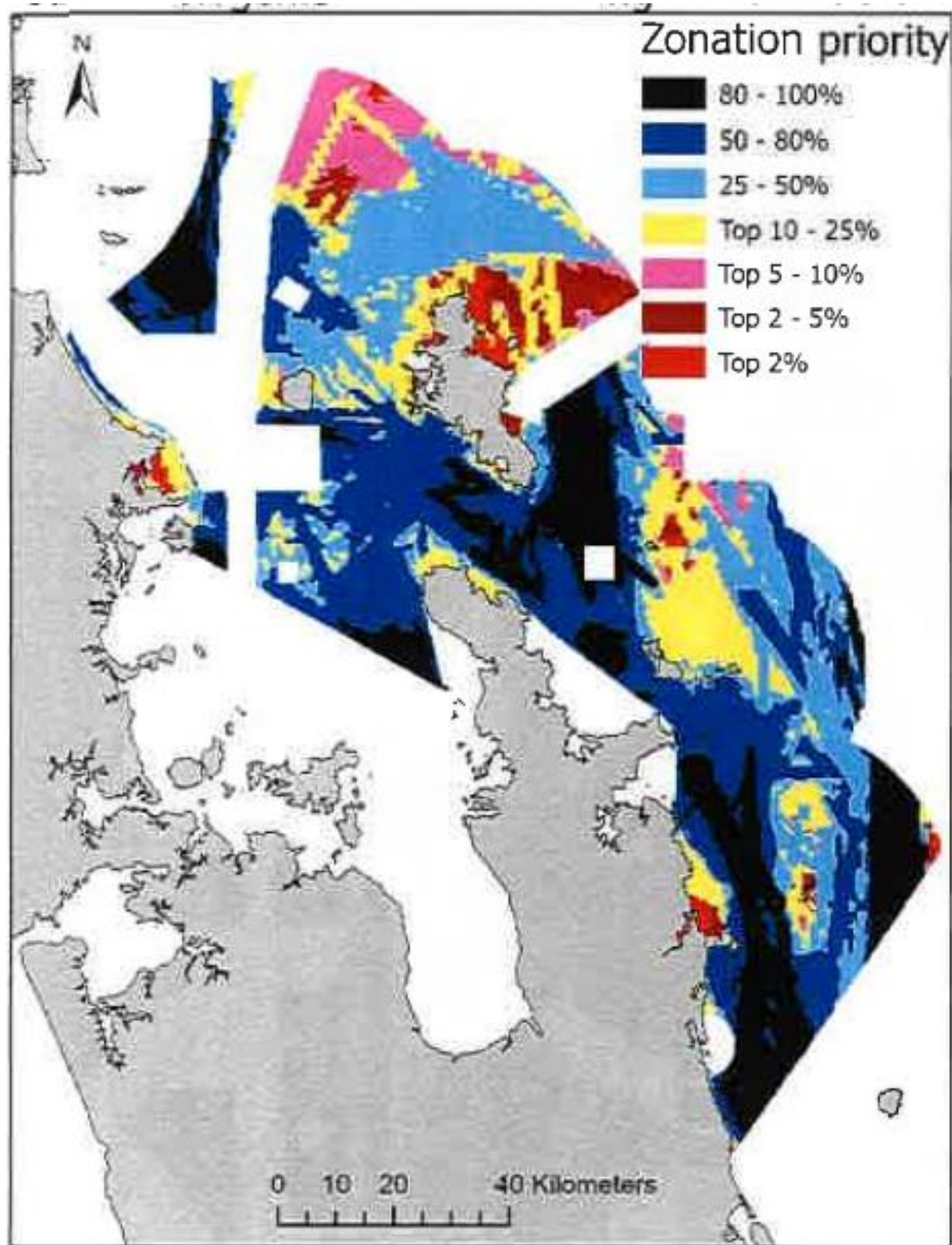
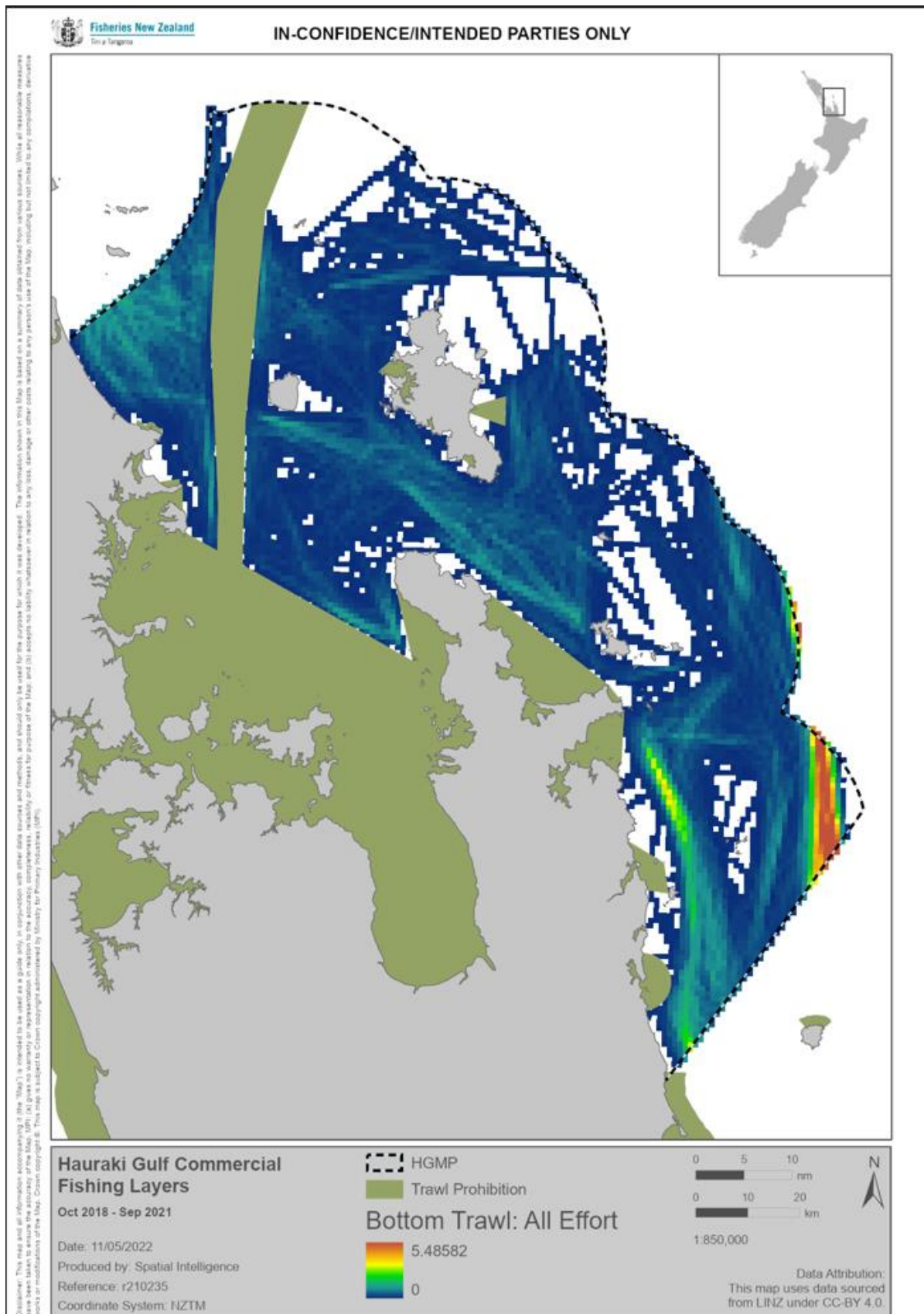


Figure 57. Agency recommended protection areas.

MAP 2: CURRENT BIOGENIC HABITAT PRIORITISATION



MAP 3 BOTTOM TRAWL EFFORT



MAP 4

DANISH SEINE EFFORT

