



Submission on Draft Auckland Plan

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Submission on: Draft Auckland Plan

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1. Provisions submitted on:

- a. Chapter 12 Implementation Framework, directive 5.11-5.12, paragraph 5; to include "non-commercial fishers" in the key stakeholders.
- b. The *indicative marine protected areas* and *coastal protection areas* in map 5.1 (Auckland environment) and map 5.5 (marine and coastal environment) Chapter 5: Auckland's Environment.

2. About New Zealand Sport Fishing

- 2.1** New Zealand Sport Fishing Council Inc (New Zealand Sport Fishing Council or NZSF) is a not for profit organisation representing the sport of marine angling nationally. New Zealand Sport Fishing Council was founded and incorporated in 1957 and was originally named the New Zealand Big Game Fishing Council.

New Zealand Sport Fishing Council Inc.

(Previously New Zealand Big Game Fishing Council Est. 1957)

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- 2.2 NZSF and its 59 member clubs promote all forms of participation in marine angling.
- 2.3 NZSF was instrumental as a plaintiff in obtaining better legal recognition for the provisions of the Hauraki Gulf Marine Park Act 2000 through the Court of Appeal's 2008 decision in *Sanford Ltd v New Zealand Recreational Fishing Council Inc and New Zealand Big Game Fishing Council Inc*.

3. Submission

Marine spatial planning – Inclusion of non-commercial fishers within the "key stakeholders" for directive 5.11-5.12-Implementation Framework

- 3.1 Chapter 12 Implementation Framework describes the key stakeholders in relation to preparing a marine spatial plan. Commercial fishers are included in the key stakeholders, however *non-commercial* fishers, both customary and recreational, have been omitted (see directive 5.11-5.12, clause 5; Chapter 12 Implementation Framework). Non-commercial fishing interests includes both Maori customary non-commercial fishing interests and recreational fishing interests.¹
- 3.2 It is submitted this is clearly an oversight or omission, and should be rectified by the inclusion of "non-commercial fishers" (or non-commercial fishing interests) amongst the description of key stakeholders, to the effect that clause 5 of chapter 12 Implementation Framework, directive 5.11-5.12 should be amended to read (as shown in tracking, or to similar effect):

PRIORITY 3. TREASURE OUR COASTLINE, HARBOURS, ISLANDS AND MARINE AREAS

Directive 5.11-5.12

Action	Delivery Lead	Key Stakeholders	Timing
5 Auckland Council to work with Waikato Regional Council (given their statutory planning responsibilities covering the whole Hauraki Gulf area) to prepare a Marine Spatial Plan for the Hauraki Gulf together with the Hauraki Gulf Forum, iwi, Department of Conservation, Ministry of Fisheries, and stakeholders including aquaculture, commercial fisheries and non commercial fishers, tourism, recreation, and conservation interests and environmental science advisors	Hauraki Gulf Forum	Auckland Council, Waikato Regional Council, Iwi, DOC, Ministry of Fisheries, aquaculture industry, commercial fisheries and non commercial fishers	By 2015

Marine spatial planning – indicative marine protected areas – map 5.1 and 5.5, Chapter 5

- 3.3 NZSF acknowledges the work of the Hauraki Gulf Forum, and its recent report on "*Spatial Planning for the Gulf*", 2011. However at present there is no coherent legislative framework for marine spatial planning, and in particular no means, function or ability for Auckland Council to control or exclude fishing activity within any marine spatial plan – a likely goal of any indicative marine protected areas.

¹ See section 21 Fisheries Act 1996

- 3.4 Any ability for local government to control fishing activity through planning controls (other than specific provisions for aquaculture) was revoked when the former maritime planning powers of the Town and Country Planning Act 1977 were repealed on enactment of the Resource Management Act in 1991 (RMA).
- 3.5 Under section 30(2) RMA the functions of regional councils are limited. This provision states:
A regional council and the Minister of Conservation must not perform the functions specified in subsection (1)(d)(i), (ii), and (vii) [of section 30(2) RMA] to control the taking, allocation or enhancement of fisheries resources for the purpose of managing fishing or fisheries resources controlled under the Fisheries Act 1996.
- 3.6 Chapter 5: Auckland's Environment contains a general discussion about treasuring our coastline, harbours, islands and marine areas. However map 5.1 (Auckland environment) and map 5.5 (marine and coastal environment) purports to include express provision for:
- Coastal protection areas;
 - 10 indicative marine protected areas.
- 3.7 Unlike the proposed unitary plan (where there is a general power to control the *use of land*) there is no express legislative power for Auckland Council to create coastal protection areas or indicative marine protected areas where this has the function or purpose of excluding fishing – a likely goal of any indicative marine protected areas. The establishment of marine protected areas has been highly controversial in places, and is subject to its own legislation which is not administered by Auckland Council.
- 3.8 Absent legislative power for Council to control fishing, and absent any coherent legislative framework for marine spatial planning it is sought that the indicative marine protected areas and proposed coastal protection areas be deleted from map 5.1 (Auckland environment) and map 5.5 (marine and coastal environment). It is further submitted:
- (a) It is not the proper role or function of the Auckland Plan, as an aspirational high-order policy document to delineate the location of indicative marine protected areas or coastal protection areas especially in the absence of a clear legislative mandate for marine spatial planning, and absent ability to control fishing effort. Rather, the detail of any indicative marine protected areas and coastal protection areas (*if any*) should be dealt with in the context of preparation of any marine spatial plan (by 2015) which will require appropriate consultation with all stakeholders, and may require further legislation.
- (b) The location of indicative marine protected areas and proposed coastal protection areas are not supported by any narrative or text in chapter 5.

4. Relief/Outcome Sought

- 4.1 **Amend** the reference to "stakeholders" and "key stakeholders" at clause 5 of chapter 12 Implementation Framework, directive 5.11-5.12 so as to include non-commercial fishers, as indicated in the table above.
- 4.2 **Delete** from map 5.1 (Auckland environment) and map 5.5 (marine and coastal environment) the *indicative marine protected areas* and *coastal protection areas*. Instead, the detail and location concerning the inclusion of any indicative marine protected areas and coastal protection areas (if any) should be left for preparation and consideration in any marine spatial plan (by 2015) and a clear legislative foundation.

5. NZSF does **wish to be heard** in support of the above submission.
6. If others make a similar submission, the Association would be prepared to consider presenting a joint case with them at any hearing.

Dated: 31 October 2011

New Zealand Sport Fishing Council Inc
by its President:

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