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# NZ Sport Fishing Council submission on the proposed fishing closure around Astrolabe Reef (Te Tau o Taiti) for customary purposes

**Submission: The New Zealand Sport Fishing Council and affiliated Bay of Plenty fishing clubs do not support the current proposal.**

## NZ Sport Fishing Council - LEGASEA

1. The New Zealand Sport Fishing Council (NZSFC) is a national sports organisation with over 32,000 affiliated members from 57 clubs nationwide. The Council has initiated LegaSea to generate widespread awareness and support for the need to restore access to abundant fishstocks in our inshore marine environment. Also, to broaden NZSFC involvement in marine management advocacy, research, education and alignment on behalf of our members and LegaSea supporters. www.legasea.co.nz

2. The Council and LegaSea supporters (the submitters) again object to the Ministry's tight consultation timetable. The Ministry for Primary Industries (MPI) posted notification of this proposal with limited supporting material on 12 February 2016, with submissions due by 14 March. This is just 21 working days at a time where resources are stretched responding to significant proposals for spatial management nationally, the Marine Protected Areas (MPA) Act consultation document, and the the Hauraki Gulf marine spatial plan. In our view this timeframe does not allow for adequate consultation, it is particularly difficult for non-commercial organisations such as ours who must consult with a broad range of interests and affiliate members. This timeframe does not constitute acceptable consultation and, in our opinion is most likely unlawful as per ss 12 and 13 of the Fisheries Act and as ruled by the Court of Appeal[1].

3. We have a number of strong affiliated clubs in the wider Tauranga area and they have been proactive in raising the priority of this issue with our Fisheries Management Committee. NZSFC representatives are available to discuss this submission in more detail if required. We look forward to positive outcomes for fishers in the Bay of Plenty and would like to be kept informed of future developments. Our contact is Dave Lockwood.
secretary@nzsportfishing.org.nz

[1] International Airport Ltd and Air New Zealand (CA 23/92, 73/92[1993] 1 NZLR 671).

## Purpose of the closure

4. MPI will have received our submission on the MPA discussion document. NZSFC makes it very clear that there needs to be a clear purpose statement with clear objectives and a realistic way to measure progress and success for any MPA proposal or fishery closure. The purpose stated in this application is to apply "for a S186A temporary closure made under the Fisheries Management Act 1996 for Te Tau o Taiti (Otaiti) Astrolabe reef." This is not a purpose statement. There is some reference to the objectives in a Preliminary Draft Customary Fisheries Plan in Appendix 6 of the application which has not been made public until now and is certainly not finalised or agreed to by Iwi, the Minister or the public.

5. In the background of the application there is a desire to support and maintain the biomass and biodiversity gains created by the four and a half year exclusion zone due to the recovery efforts for MV Rena and a statement that closure has had a positive effect on the biomass of the immediate area around Otaiti (Astrolabe).

6. According to the MPI website a S186A closure is designed to respond to localised depletion of fisheries resources. The criteria are: "The Minister must be satisfied that the closure/ restriction/ prohibition will improve the availability or size of a species of fish"

7. NZSFC submit that a four and a half year temporary closure has been in place and no additional benefit will come from extending that. The proposed S186A closure will prohibit any customary use for a further two years (as well as availability to everyone else) of natural resources that have already had a chance to build up. There is no way the Minister can be satisfied that the closure will improve availability of fish as fishing will be prohibited.

8. There is also no rationale or purpose stated in the application for the current exclusion zone to be extended from 2 nmiles to 3 nmiles from the reef. Simple geometry shows that a circle with a 2 nmile radius covers 4300 ha, while a 3 nmile radius covers 9700 ha. That is a 126% increase in the size of the existing closure with no justification, no economic impact statement and no analysis of the impact on other marine users. The lack of this basic data makes this proposal inadequate and most likely unlawful.

## Economic impact

9. The Rena disaster had a significant social, cultural and economic impact on all fishers in the region. Our Bay of Plenty clubs and members have a long and well documented association with the Astrolabe Reef and its fisheries. These have included many very meritorious fishing records, the New Zealand record women's broadbill swordfish of 221.8kg, world class black marlin to 424kg, numerous world class striped marlin captures to 165kg, and world class yellowtail kingfish to 30kg. All these species were found around the reef during the summer months. In addition, there were often foaming schools of skipjack tuna, trevally and kahawai that frequented the surface, mixed with trophy snapper lurking below. The impact of the disaster on fishers and charter operators in this region has been well documented in the Rena hearings. The best way to mitigate these adverse effects is to reopen the existing exclusion area to fishing.

10. We draw your attention to the submission made by Russ Hawkins, a charter operator in the area, who has submitted extensive evidence which shows naturally abundant fish stocks existed at the reef, even before the "Rena" events occurred.

11. Astrolabe Reef is arguably one of NZ's most iconic recreational fishing locations. While it is accessible in good weather, recreational fishing days are naturally limited by weather conditions. It is a special place to our Bay of Plenty members and the wider community, and it deserves to be treated with respect. Club representatives are willing to collaborate on future management initiatives in the area but would find that difficult if this closure was approved.

12. There is some potential for Astrolabe Reef as a dive location. But this is an open ocean location, exposed to wind, waves swell and current from all directions. Dive boats would need to anchor on the reef and divers would need to be pretty confident and experienced. The anchor and chain will damage the benthic life on the reef. There will not be similar economic benefits to from a closure to those seen from Poor Knights dive operations at Astrolabe. The high cliffs, bays and headlands offer flat water diving on most days with light to moderate winds. The East Auckland Current brings clear oceanic waters and some subtropical species. There are dozens of dive sites to choose from, the most popular of which are safe for less experienced divers. There can be six large charter boats and 20 recreational boats at the Poor Knights and all have plenty of room to spread out. One company 'Dive Tutukaka' takes 12,000 visitors to the Poor Knights per year. There will no doubt be some diver interest in Astrolabe, whether it is open to fishing or not, but it is not the Poor Knights.

## Biological impact

13. There is a theme running through the S186A application and the Preliminary Draft Customary Fisheries Plan that the Astrolabe Reef area is an important contributor to rebuilding fish stocks in the Bay of Plenty. NZSFC submit that this view is not supported by the facts. The Astrolabe Reef would hold a tiny fraction of the overall population of common inshore species in the Bay of Plenty such as kahawai, kingfish, snapper, hapuku, tarakihi and trevally. These species either move away from deep reefs such as Astrolabe to spawn, and/or have long juvenile stages which disperse far and wide (See biological notes on spawning of coastal species below).

14. The other species of interest to our members are the highly migratory billfish and tuna species which all spawn in the tropics but are drawn to the Astrolabe area by the huge schools of jack mackerel, koheru, pilchards and krill which all feed in this productive area. So rather than being a generator for fish stocks in the region the Astrolabe Reef is an accumulator of fish from the more dispersed populations in surrounding areas. Much like fish aggregation devices (FADs) in pelagic fisheries.

## Biological notes on spawning of coastal species from MPI Plenary Reports and associated sources

15. The spawning habitat of kahawai is unknown but is thought to be associated with the seabed offshore. Schools of females with running ripe ovaries have been caught by bottom trawl in 60–100 m in Hawke Bay. Other females with running ripe ovaries have been observed in east coast purse seine landings sampled in March and April 1992, and between January and April in 1993.

16. Kingfish have occasionally been caught in spawning condition in late December and early January but appear to move into deeper water to spawn. Juveniles are found under drifting weed mats and debris and disperse over a wide area.

17. Snapper move inshore during the spawning season favouring areas close to harbours and estuaries which is the favoured habitat of post-settlement snapper. The winter grounds are thought to be in deeper waters where the fish are more widespread.

18. Hapuku spawning occurs during winter, anecdotally earlier in the north of New Zealand than in the south, but running ripe fish are seldom caught and spawning grounds are unknown. The smallest juveniles are virtually unknown, but are mottled, pelagic and epi-pelagic, often schooling in association with drifting weed and disperse over a wide area.

19. Tarakihi spawn in summer and autumn in several areas around New Zealand. The three main spawning grounds identified are Cape Runaway to East Cape, Cape Campbell to Pegasus Bay, and the west coast of the South Island near Jackson Bay. Few larval and post-larval tarakihi have been caught and identified. The post-larvae appear to be pelagic, occur in offshore waters, and are found in surface waters at night. Post-larval metamorphosis to the juvenile stage occurs in spring or early summer when the fish are 7–9 cm long and 7–12 months old.

20. Trevally are likely to be batch spawners, releasing small batches of eggs over periods of several weeks or months during the summer. Juveniles are found in bays, estuaries and harbours.

## Summary

21. NZSFC has previously supported S186A fishing closures where there has been both a clear purpose to restore abundance and productivity of the marine environment and prior engagement with the local community.

22. We acknowledge there is time pressure to have this proposal considered soon because the BOPRC Harbourmaster is preparing to lift the existing closure.

23. If a robust outcome is sought, one that is supported by the public, the Council recommends a process whereby tangata whenua can engage in meaningful dialogue with the public. It takes time to build trusting relationships and time for the public to understand the significance and potential benefits of customary management.

24. The NZSFC and affiliated Bay of Plenty fishing clubs do not support the proposal because:

    a) The notification and submission period is too short for proper consideration of the resulting social, biological and economic impacts and is probably unlawful.
    b) There is no clear statement of purpose or objectives.
    c) The Minister cannot be satisfied "the closure will improve the availability or size of a species of fish" as this proposal excludes fishing access to and area that has already been closed for 4.5 years and no fish will be available from 9700 ha of the Bay of Plenty.
    d) There is no purpose or rationale stated in the application for the current exclusion zone to be extended from 2 nmiles to 3 nmiles, a 126% increase in size.
    e) There has been a significant economic impact of the Rena disaster on fishing businesses in the region. A continued and expanded fishing closure will to nothing to mitigate this adverse impact.
    f) The Astrolabe Reef is too exposed and too small to be compared with the Poor Knights and the dive tourist traffic it generates.
    g) Stocks of kingfish and kahawai have rebuilt in the Bay of Plenty because of a stock wide precautionary approach to management not the closure of one reef in the Bay.
    h) The Astrolabe Reef works as an effective accumulator of fish and closure will have limited impact on spawning success or populations in surrounding areas.
    i) The adverse effects on fishing businesses and fishers of this proposal outweigh any perceived or real benefit.