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Submission: In support of Option 1 of the review of commercial fishing in the Cape Brett to Mimiwhangata area, Northland.

The submitters

1. The New Zealand Sport Fishing Council (NZSFC) appreciates the opportunity to submit on the review of commercial fishing in the Cape Brett to Mimiwhangata area, Northland. Fisheries New Zealand (FNZ) advice of consultation was received on 20 September 2022, with submissions due by 18 October 2022.
2. The NZSFC is a recognised national sports organisation of 53 affiliated clubs with over 38,000 members nationwide. The Council has initiated LegaSea to generate widespread awareness and support for the need to restore abundance 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.
3. The Bay of Islands Swordfish Club (BOISC) is the oldest fishing club in New Zealand, and second oldest in the world. The catch records of the club date back to 1910. The club is affiliated to the NZSFC and has 1200 members mostly based in the Bay of Islands. Every year it hosts 10 annual tournament, but by far the highlight of these tournaments is the International Light Tackle Yellowtail Tournament which has been running for over 50 years and is predominantly fished in the area surrounding Cape Brett.

4. The New Zealand Angling & Casting Association (NZACA) is the representative body for its 28 member clubs throughout the country. The Association promotes recreational fishing and the camaraderie of enjoying the activity with fellow fishers. The NZACA is committed to protecting fish stocks and representing its members' right to fish.
5. The New Zealand Underwater Association is comprised of 43 clubs nationally who represent a cohort of approximately 160,000 participants in underwater activities in New Zealand. These activities include diving, snorkelling, freediving, fin swimming, underwater hockey, spearfishing, underwater photography, underwater rugby, ghost diving marine clean up and Experiencing Marine Reserves. Through our membership we are acutely aware that the depletion of inshore fish stocks has impacted on the marine environment and our members' wellbeing.
6. Collectively we are '*the submitters*'. The submitters are committed to ensuring that sustainability measures and environmental management controls are designed and implemented to achieve the Purpose and Principles of the Fisheries Act 1996, including "maintaining the potential of fisheries resources to meet the reasonably foreseeable needs of future generations..." [s8(2)(a) Fisheries Act 1996].
7. Our representatives are available to discuss this submission in more detail if required. We look forward to positive outcomes from these reviews and would like to be kept informed of future developments. Our contact is Helen Pastor, secretary@nzsportfishing.org.nz

Proposal

8. Fisheries New Zealand (FNZ) has presented two options to ban bottom trawling and Danish seining in the marine area between Cape Brett and Mimiwhangata. FNZ propose these methods are banned using section 11 of the Fisheries Act 1996 with the objective of avoiding, remedying or mitigating any adverse effects of fishing, and to maintain biological diversity. Banning these methods would contribute to the move towards ecosystem based fisheries management.
9. FNZ welcomes feedback on their [two options](#), or alternative boundary lines. Any closure would apply indefinitely.
10. Māori customary non-commercial and recreational fishing would not be impacted by the proposals.
11. Most of the [proposed area](#) has been subject to Environment Court proceedings on the proposed Northland Regional Plan (2017) under the Resource Management Act 1991

(RMA). Appellants are seeking a ban on bottom trawling, bottom pair trawling, Danish seining and purse seining. Since the 3-week Court hearing in July-August 2021 discussions between parties have been ongoing. The NZSFC has been a party to the Environment Court proceedings and contributed to the post-hearing discussions encouraged by the Court, to try and find a mutually acceptable solution amongst the parties. Agreement was not reached amongst the parties. The Environment Court is still considering its decision and has been advised of this FNZ proposal.

Discussion

12. **The submitters support FNZ's Option 1** – to use section 11 of the Fisheries Act 1996 (the Act) to ban bottom trawling and Danish seining from the area described, in preference to any controls under the Resource Management Act.
13. **The submitters believe a Fisheries Act measure as proposed in Option 1 is preferable to a measure under the Resource Management Act.** Fisheries New Zealand has the appropriate regulatory tools, monitoring, controls and enforcement measures in place to administer this closure whereas the Northland Regional Council and others do not.
14. It is obvious when you look at the closure area that existing fishing effort is going to be displaced to the immediate, neighbouring area or rocky reefs. There is a high, unacceptable risk that this displaced effort will result in destruction of the benthic communities in those areas, impacting on the marine ecosystem and depleting biodiversity.
15. The [NZSFC's Rescue Policy](#) specifically seeks to remove mobile, bottom contact industrial fishing methods such as trawling, seining and dredging from the inshore zone, within 12 nautical miles of the coastline. So, while we welcome this proposal, we believe it doesn't go far enough and encourage the Minister to be more ambitious. **We recommend it is extended to phase out bottom trawling, Danish seining, purse seining and scallop dredging along all New Zealand's coastline.**
16. **We do not support Option 2** which allows a trawl corridor through the middle of the benthic protection area. Historical use of destructive fishing methods is not a valid reason to allow them to continue.
17. We also agree with FNZ that commercial fishing with mobile bottom contact gear such as bottom trawling and Danish seining gear is the primary threat to benthic community biodiversity in the area. However, we also support including purse seining in the s11 closure.

18. FNZ advise there is minimal purse seining in the area and that “protecting a very local area from purse seining is unlikely to be effective in restoring pelagic fish and workups because the fish shoals could be fished outside the area”. While there might not much purse seining in the area currently, the marine ecosystem is a complex system with many interactions between species that we just don’t understand.
19. We must also look to the future. The impacts of warmer water on fish movement and preferred habitats are unknown. If we are to ban two methods in the specified area to protect the benthic environment then it makes sense to protect the species in the whole water column from the bottom to the surface.
20. FNZ suggests that a Total Allowable Catch (TAC) review of blue mackerel and possibly other species might be a more appropriate future response if the science and monitoring advice shows that purse seining poses a risk to sustainability. This suggestion gives no comfort.
21. The Minister has a statutory obligation to ‘ensure sustainability’ and have particular regard to kaitiakitanga [guardianship of the resource]. We know from experience that there is a long lag between the time a problem manifests itself and any management response, it can be years even if the local community has highlighted their concerns. The current RMA litigation to protect the east Northland waters is evidence of the lack of management response to local and hapū concerns. Implementing Option 1 is a good start to broader management of this much valued marine area and a step towards achieving the Government’s vision for ecosystem based fisheries management.
22. While there is no proposed impact on recreational anglers, it must be noted the proposed closure area of Option 1 is one of the most valuable areas for recreational fishing in New Zealand. The Bay of Islands Swordfish Club members and guests have been fishing and running tournaments in the waters surrounding Cape Brett (Area Option 1) since 1910.