

In Confidence

Office of the Minister for Oceans and Fisheries

Chair, Cabinet Environment, Energy and Climate Committee

Fisheries system reform agenda [Paper 2 of 7]

Proposal

- 1 This paper seeks agreement to a reform agenda that will strengthen and modernise New Zealand's fisheries management system.

Relation to Government priorities

- 2 The creation of the Oceans and Fisheries portfolio – expanded from the former Fisheries portfolio – signals the Government's commitment to a more holistic, integrated approach to managing the oceans. This is consistent with the Government priority of *Laying the Foundations for the Future* and will assist New Zealand's economic recovery from COVID-19.
- 3 The initial work programme discussed in this paper includes a number of commitments from the Labour Party's 2020 manifesto, including modernising fisheries practices, moving towards an ecosystem-based management approach, and expanding the use of on-board cameras.

Executive Summary

- 4 This is the second paper in a package of Oceans and Fisheries papers:
 - 4.1 Paper 1: Oceans and Fisheries portfolio – ensuring healthy ocean ecosystems
 - 4.2 **Paper 2: Fisheries system reform agenda**
 - 4.3 Paper 3: Fisheries Amendment Bill: Strengthening fishing rules and policies: landings and discards
 - 4.4 Paper 4: Fisheries Amendment Bill: Strengthening fishing rules and policies: offences and penalties and agile decision-making
 - 4.5 Paper 5: Revitalising the Hauraki Gulf – Government Sea Change Strategy
 - 4.6 Paper 6: Initial response to Prime Minister's Chief Science Advisor's report on commercial fishing
 - 4.7 Paper 7: On-board cameras across the inshore fishing fleet [ENV21-SUB0022 refers]
- 5 The vision, objectives, and principles for the Oceans and Fisheries portfolio proposed in *Paper 1* are applicable to all papers in this package. To deliver on this vision, significant reform of the fisheries system is required. This paper seeks agreement to a reform package to ensure commercial fishing is sustainable, productive and inclusive.

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- 6 The Prime Minister's Chief Science Advisor's report *The Future of Commercial Fishing in Aotearoa New Zealand* (the PCSMA Report) was released in March 2021; and envisages an ambitious, innovative future for the commercial fishing sector, operating with minimal environmental impacts. I endorse this.
- 7 To drive significant progress, fisheries system reform needs to:
 - 7.1 create better alignment of incentives to drive more selective fishing underpinned by transparent and accountable commercial fishing practice
 - 7.2 move towards a more ecosystem-based approach to fisheries management¹ (see also *Paper 1*), working alongside local communities and
 - 7.3 ensure all who work in the commercial sector are fairly rewarded for their efforts.
- 8 A first step of reform has already been taken with Cabinet's recent agreement to the business case and funding to expand on-board cameras across the inshore fishing fleet (see *Paper 7*). This paper sets out further proposals for the first two objectives and how the third objective will be explored.
- 9 A further paper seeking approval to consult on the coverage and level of industry funding for on-board cameras will be considered by this committee soon. Also, a paper on changes to the Maori Fisheries Act is under development.
- 10 This reform package will collectively lead to significant improvements across the fisheries system, and the cumulative impacts could be material for some in the industry. I have directed officials to develop an engagement plan across the reform package. A key focus of this will be ensuring that cumulative impacts of the reform programme and related initiatives are clearly assessed and discussed, and that engagement on issues is coordinated, efficient, and effective. This will inform the transition approach across the reform package.

Background

- 11 I outlined the proposed Government vision for the Oceans and Fisheries Portfolio in *Paper 1*. To deliver this, significant reform of the fisheries system is required. A key part of this reform is ensuring commercial fishing is more sustainable, productive and inclusive.
- 12 The PMCSA Report calls for a shared vision and goals for the oceans, and the development of a bold strategic oceans action plan for 2040. This would include a commercial fishing sector that is innovative and technology driven, with highly selective fishing practices and minimal environmental impacts, underpinned by data and agile and responsive regulation.
- 13 *Paper 1* outlines the size and complexity of New Zealand's marine area, the legislative framework that manages this, the pressures the ocean faces and the competing objectives for managing the environment. The fisheries management system provides for the sustainable utilisation of fisheries resources and allocating this resource between recreational, customary, and commercial fishing interests.

¹ An ecosystem-based approach to fisheries management requires integrated management of competing values and uses of fisheries resources while maintaining the ecosystems that support them. A shared understanding of what it can achieve within New Zealand will be developed.

History of the fisheries management system, including the QMS

- 14 Until 1986 New Zealand's commercial fisheries essentially operated under an open access regime, with limited controls. This regime, alongside bulk-harvesting fishing methods, contributed to overfishing and the depletion of some fish stocks.
- 15 These problems led to the introduction of the quota management system (QMS) in 1986. The QMS was designed to rationalise fishing efforts and introduce output controls to limit catch. The QMS allocates shares in each fish stock as quota. Quota generates an entitlement to catch a proportion of the total allowable commercial catch each year, known as annual catch entitlement (ACE). Both quota and ACE are tradeable.
- 16 The QMS was later incorporated into the Fisheries Act 1996, which placed a greater emphasis on sustainability. This includes the management of the effects of fishing on fish stocks and the aquatic environment, including protected species, non-target fish stocks and habitats.

Economic impact of the fisheries management system

- 17 Commercial fishing plays an important role in New Zealand's economy, contributing \$4.2 billion per year in total economic activity, including \$1.4 billion in export revenue for the year ended June 2020. The seafood industry (including aquaculture) employs about 13,500 people.
- 18 By providing long-term rights and controlling the amount of fish taken, the QMS has made advances in not only the sustainable utilisation of New Zealand's fisheries, but also the economic efficiency of the industry.
- 19 Since the introduction of the QMS, there has been a major rationalisation of the fishing sector. In the first 20 years, about 3000 fishers (including 1000 permit holders) exited the industry. In the 2019/20 fishing year, about 860 vessels fished across all species. Some 37 were deepwater vessels, with the remaining being inshore vessels. Deepwater vessels are large and relatively expensive, allowing them to catch large quantities of fish and operate in adverse conditions offshore.
- 20 This rationalisation has also led to quota for some fish stocks being held by a small number of larger firms, particularly deepwater quota. There has also been rationalisation of the inshore sector, although some quota is still relatively widely disbursed. Small-scale fishers who operate by purchasing ACE make up around 80 percent of the inshore fleet. Only a small proportion own some or all their needed quota. This influences where benefits are captured in the fisheries value chain.

The Fisheries Settlement

- 21 The introduction of the QMS led to Māori mounting successful legal challenges that recognised their rights to the fisheries resource. Consequently, in the Deed of Settlement in 1992 (the Fisheries Settlement), Māori were provided with 10 percent of existing quota, and 20 percent of quota that subsequently entered the QMS. The Crown also provided \$150 million to purchase 50 percent of Sealord Products Limited. As part of the Fisheries Settlement, Māori agreed that the QMS was an appropriate regime for exercising their commercial fishing rights and responsibilities.
- 22 Māori now collectively own around 40 percent of quota, and have diversified interests across the sector, including catching, processing, marketing, and food services. This

income stream makes an important contribution to the economic, social and cultural wellbeing of some iwi.

- 23 The Fisheries Settlement also settled customary fisheries claims by requiring the responsible Minister to recognise and provide for non-commercial customary food gathering by Māori and the special relationship between tangata whenua and important customary food gathering areas. Māori also have rights and interests relating to the management of the environmental effects of fishing.

Analysis

- 24 The fisheries management system, including the QMS, has overall served New Zealand well and a number of international assessments have rated it highly. However it is a product of its time and reflects the science, technology, and management approaches of the 1980s and 90s.
- 25 For example, the rules for what fish must be landed and what can be returned to the sea are outdated. The system was designed without the modern verification technology now available to more easily detect illegal behaviour; instead severe penalties apply where it is detected.
- 26 Environmental performance also needs to be improved, to address localised depletion and seabed habitat effects, and respond to the increasing and cumulative pressures on the marine environment, including climate change and land-based effects. An overview of some of these key fisheries management issues in New Zealand and their location is provided in Appendix 1.
- 27 While I consider that the QMS should be retained, change is needed to incentives in order to achieve better outcomes for commercial fishers and for the environment. Technology and data driven innovation is creating new opportunities to do so.

Drivers for Change

- 28 I consider there to be four key drivers for improving the management system, which are outlined below.

Improving sustainability

- 29 Overall, New Zealand's fish stocks are in good health. However, there are notable exceptions and some stocks suffer localised depletion, such as tarakihi on the East Coast of the North Island, rock lobster in the Bay of Plenty, and several scallop stocks.
- 30 There is also a growing focus on the impacts of fishing on the broader marine environment, particularly seabirds and the seafloor. Minimising the impact of bottom trawling will require collaboration, innovation, and evidence-based decision making.
- 31 Illegal discarding in inshore commercial fisheries is a long-standing problem, which has been incentivised by low levels of monitoring and market pressures on fishers. This includes high grading (where fishers discard fish of low value in order to land more valuable fish), or where fishers want to avoid sourcing ACE or paying deemed values. The rules for what must be landed or can be discarded have exacerbated the problem, because they are inconsistent and open to interpretation (See *Paper 3*).
- 32 While the volume of illegal discarding is contested, its existence is undeniable. This has been highlighted by previous Ministry for Primary Industries (MPI) compliance

operations (eg Operations Hippocamp and Achilles), research undertaken by the Universities of Auckland and British Columbia, and the 2016 Heron Report, an independent review of fisheries compliance operations which found serious failings in decisions not to prosecute for fishing dumping. Discarding must be addressed to improve the sustainability of commercial fishing.

In addition to fishing, there are other pressures on the marine environment

- 33 Non-fishing pressures on the marine environment are also increasing and have a cumulative impact. Climate change is introducing temperature fluctuations, sea level rise and ocean acidification. The effects on fisheries are being noticed by both scientists and fishers, at both a macro and localised level.
- 34 Land-based impacts, including sedimentation and nutrient run off, have also increased and have significant localised effects on fisheries habitats. New Zealand has one of the highest rates of sediment runoff in the world; equivalent to around 35 million truckloads of sediment entering the sea annually. Some of this sediment is long-standing erosion of mountains, but much is soil loss following deforestation of land, or from intensive agriculture. The impacts of sediment are complex, cumulative and localised, for example in the Kaipara Harbour, Tolaga Bay and Otago/Southland kelp beds.

Fairer returns for fisher efforts

- 35 I have concerns about whether the efforts of some of those who work in the sector are fairly rewarded. The significant number of inshore fishers who do not own quota, and significant reliance on overseas workforce in the deepwater fleet, are focal points for these concerns.
- 36 Improving environmental performance will require significant investment, and some inshore fishers may not have the capital or capabilities required to successfully transition to higher standards of operation. As a result, the transition could worsen equity issues within the commercial fishing sector, with some small fishing operators being unable to afford it. The market composition, dynamics and pressures of deepwater and inshore fishing are complex, and the reform programme will need to consider these factors.
- 37 There are also equity issues for small coastal communities. For example, I am aware that some coastal communities do not have direct access to local fish due to commercial arrangements which require fish to be received by a Licenced Fish Receiver that is not based locally. Local access to local fish is a priority and barriers to this need to be identified and addressed.

Innovation will be key to change

- 38 Technology provides new opportunities for innovation of both fishing practice and regulation. Innovation has already made impacts on fishing practice, both at a large scale and with smaller practical changes that reduce the impact of fishing on the environment and improve the value of catch. A larger scale example is Precision Seafood Harvesting, a collaborative project between Moana New Zealand, Sanford, Sealord, Plant and Food Research and the Ministry for Primary Industries.
- 39 Precision Seafood Harvesting is a new harvesting method that allows fish to swim freely resulting in fish being caught in far better condition, providing opportunities for higher value products and release of unwanted bycatch. The technology has been approved for use in both deepwater and inshore fisheries, including hoki, ling, snapper and tarakihi.

- 40 The introduction of electronic catch and position reporting, underpinned by improved technology, is a significant advancement for the fisheries management system. Electronic reporting provides verifiable information about fishing activity in near-real time, at a much finer spatial scale. This enables better monitoring of compliance and fisheries management. Emerging technologies, such as artificial intelligence and machine learning, will enable new uses of this data.

Reform Agenda

- 41 The fisheries management system, through the Fisheries Act and the QMS, has secured a broad platform for the sustainable management of New Zealand's fisheries. This paper has set out new challenges and opportunities facing the system and concludes that change is required.
- 42 I propose a reform agenda with proposals to deliver change across three broad areas:
- 42.1 creating better alignment of incentives to drive more selective fishing underpinned by transparent and accountable commercial fishing practice
 - 42.2 moving towards a more ecosystem-based approach to fisheries management, working alongside local communities and
 - 42.3 ensure all who work in the commercial sector are fairly rewarded for their efforts.
- 43 The first steps of reform have already been made through Cabinet approving the Business Case and funding to expand the roll-out of on-board cameras across inshore vessels. ^{s9(2)(f)(iv)}
- 44 To maximise the benefits provided by cameras, I now seek to strengthen commercial fishing rules and policies:
- 44.1 in *Paper 3*, I seek agreement to amend the Fisheries Act and associated fisheries regulations to incentivise fishers to minimise by-catch and
 - 44.2 in *Paper 4*, I seek agreement to establish a new graduated offences and penalties regime to better incentivise compliance, changes to facilitate further use of on-board cameras, and changes to enable more responsive decision-making.
- 45 To move towards a more ecosystem-based approach to fisheries management:
- 45.1 I propose to establish an Industry Transformation Plan that sets a path to support fishers to innovate: to less impactful, more selective fishing practices, that can deliver better quality and higher value fish, and reduce the environmental impacts of fishing, including reducing the impacts of trawling on the benthic environment.
After consulting the Minister for Economic and Regional Development, I will come back to Cabinet to confirm the Industry Transformation Plan. ^{s9(2)(f)(iv)}
 - 45.2 In *Paper 5*, the Minister of Conservation and I seek approval to publicly release the Revitalising the Gulf – Government Sea Change Strategy

- 45.3 I am considering further measures to reduce the impact of fishing on protected species, including to protect Hector's dolphins and revising the *National Plan of Action on Sharks*, and
- 45.4 I am exploring options for achieving better ecosystem outcomes, including managing fisheries at higher abundance levels in some circumstances. For example, the longer-term environmental impacts of scallop dredging on both scallops and the biodiversity of the scallop beds could potentially outweigh the immediate economic benefits of dredging for scallops.²
- Similarly, managing snapper at higher levels of abundance could lead to increased abundance of larger snapper, which could play an important role in the rocky shore ecosystem by maintaining a balance between kina and seaweed.
- 46 The Government is currently working to improve New Zealand's immigration system to ensure it delivers better outcomes for communities and the economy and enables access to great job opportunities for New Zealanders. I propose to establish a non-statutory ministerial inquiry into the use and allocation of migrant labour across the New Zealand seafood industry.
- 47 This ministerial inquiry will assist the Government's work to understand how settings could be changed in the seafood sector to support the objectives of its wider immigration reform programme. This includes transitioning the seafood industry away from its reliance on foreign labour and accelerating efforts to attract more New Zealanders into rewarding and fulfilling jobs in the sector.
- 48 Draft terms of reference for the ministerial inquiry are provided in Appendix 2. I will also seek to confirm the appointment of inquiry members at the Cabinet Appointment and Honours Committee, and will discuss and confirm fees for the inquiry members with the Minister for the Public Service. Funding for the inquiry members and to establish and support a secretariat will be through MPI baseline. I anticipate receiving a final report later in 2021.
- 49 In addition, I intend to deliver a broader programme of changes through the development of the Government's response to the PCSMA Report, the process for which is set out in *Paper 6*.
- 50 These proposals will complement existing Government work programmes that address the effect of land-based activities on the marine environment. This includes:
- 50.1 reform of the resource management system, which will place greater emphasis on the protection and restoration of the natural environment, including environmental limits for coastal water quality
- 50.2 implementation of *Essential Freshwater*, which includes requirements for regional councils to monitor sediment and to initiate mitigations where levels exceed specified bottom lines; and for farmers to prepare environment plans that include measures to mitigate erosion, and to control the expansion and management of intensive winter grazing and
- 50.3 investments being made through programmes such as Jobs for Nature. This includes \$100 million to mitigate the impact of sediment in the Kaipara Harbour.

² Research indicates that high-density beds of scallops are disproportionately more important for fertilisation success during spawning, and that survival of juveniles is greater in more complex habitats.

Implementation – input, participation and consultation

- 51 The reform programme reflects a transformation in the minimum standards and level of verification for the commercial fishing sector, and the cumulative impact of this reform will be significant. A key feature of progressing this reform programme, including consultation processes, will be ensuring that cumulative impacts are clearly outlined and discussed.
- 52 The Government is required to act consistently with Treaty Settlements and the principles of the Te Tiriti o Waitangi / Treaty of Waitangi when making decisions that impact Māori rights and interests in fisheries. Individual Treaty settlements require engagement through regionally focused Iwi Fisheries Forums and through consultation with Iwi Post Settlement Governance Entities. Representative bodies, including Te Ohu Kaimoana and Mandated Iwi Organisations, have responsibilities arising from the 1992 Fisheries Deed of Settlement, and will be consulted as appropriate.
- 53 Engagement with iwi/Māori and stakeholders has informed most aspects of this reform package and will continue as they progress. This includes changes to landings and discards rules, offences and penalties, the Government Sea Change Strategy, and the roll-out of cameras; and is discussed in further detail in *Papers 3, 4, 5 and 7* respectively.
- 54 Engagement with iwi/Māori and stakeholders is yet to occur on other aspects of the reform agenda, but will be critical to its success. This includes the inquiry into the use and allocation of migrant labour across the industry and Industry Transformation Plan proposed in this paper, and the response to the PMCSA Report outlined in *Paper 6*.
- 55 I have directed officials to develop an engagement plan across the fisheries system reform agenda. A key focus of this plan will be ensuring that cumulative impacts of the reform programme and related initiatives are clearly outlined and discussed, and that engagement on issues is undertaken in a coordinated, efficient and effective manner.
- 56 Iwi/Māori have raised concerns that while there have been discussions at an early stage in the development of some aspects of the reform package, that was some time ago. Proposals have now been developed to a stage where more detailed assessments of impacts on social, cultural and economic rights and interests can be undertaken, including consideration of cumulative impacts.
- 57 MPI has commissioned research to improve its methodology for assessing such impacts, to support informed decisions. This analysis will inform the transition approach across the reform agenda, particularly the scope of the proposed Industry Transformation Plan which will be a key mechanism to support transitions.
- 58 Fishers will be supported through the national seafood sector support network established by the Government in 2020 in response to the impacts of COVID-19. In March 2021 the network turned into FirstMate New Zealand, a charitable trust that will provide support to commercial fishers and aquaculture farmers, and their whānau, to address the cumulative pressures and dynamics of the industry.
- 59 FirstMate will operate at a regional level, through a number of locally-based advisers who will connect those seeking advice and support to the appropriate services. Alongside business advice, counselling and a range of other services, the network will also provide links and opportunities for training, mentorship, and help with access to innovation funding.

Financial implications

- 60 There are no financial implications arising directly from this paper. Funding for on-board cameras has been considered separately. The next steps of the reform agenda within this year will be delivered within baseline. Proposals identified through this work may have future financial implications. Where appropriate, funding would be sought in upcoming budgets.

Legislative implications

- 61 There are no legislative implications arising directly from this paper. Where necessary, Cabinet approval is sought through relevant papers.

Impact Analysis

- 62 A Regulatory Impact Statement is not required for this paper, as there are no legislative or regulatory changes to be agreed by Cabinet. *For Papers 3 and 4* where there are legislative or regulatory changes, a Regulatory Impact Statement is provided.

Agency consultation

- 63 The following agencies have been consulted: The Ministry of Business, Innovation and Employment; Ministry for the Environment; Ministry of Justice; Office for Māori Crown Relations – Te Arawhiti; Office of the Privacy Commissioner; Te Puni Kōkiri; and The Treasury. The Department of the Prime Minister and Cabinet and Department of Conservation have been informed.

Publicity

- 64 I intend to announce the policy decisions in this paper in within the next two months. I then intend to proactively release this paper, its attachments and the accompanying briefing, on MPI's website.
- 65 Proactive release would be subject to consideration of any redactions that would be justified if the information had been requested under the Official Information Act 1982.

Recommendations

I recommend that the Committee:

- 1 **Note** that the current fisheries management system, including the Quota Management System (QMS), was introduced to address overfishing and the depletion of some fish stocks under the previous regulatory regime
- 2 **Note** that overall the QMS was a significant advance in the regulation of New Zealand's fisheries, enabling utilisation while providing a basis for managing fisheries at a sustainable level, as well as improving the economics of the industry
- 3 **Note** that there are increasing pressures and new opportunities for the fisheries management system and changes are required
- 4 **Note** that the Prime Minister's Chief Science Advisor's Report *The future of commercial fishing in Aotearoa New Zealand* envisages an ambitious future for the commercial fishing sector, which would be innovative and technology driven, with highly selective

fishing practices and minimal environmental impacts, underpinned by data and agile and responsive regulation

- 5 **Note** that the accompanying paper, Oceans and Fisheries portfolio – ensuring healthy ocean ecosystems, outlines the broader range of work for the Oceans and Fisheries portfolio
- 6 **Note** that separate papers set out recommendations for:
 - 6.1 legislative changes to progress strengthened rules and policies for commercial fishers
 - 6.2 Revitalising the Hauraki Gulf – Government Sea Change Strategy and
 - 6.3 the development of a Government response to the Report from the Office of the Prime Minister's Chief Science Advisor, *The future of commercial fishing in Aotearoa New Zealand*

Ministerial inquiry into the use and allocation of migrant labour

- 7 **Note** that the Minister for Oceans and Fisheries is initiating a non-statutory ministerial inquiry into the use and allocation of migrant labour across the seafood industry
- 8 **Invite** the Minister for Oceans and Fisheries to finalise the draft terms of reference in Appendix 2
- 9 **Note** that the Minister for Oceans and Fisheries will seek approval of appointees through the Cabinet Appointment and Honours Committee
- 10 **Note** that the Minister for Oceans and Fisheries anticipates receiving a final report detailing outcomes and potential interventions in the latter half of 2021

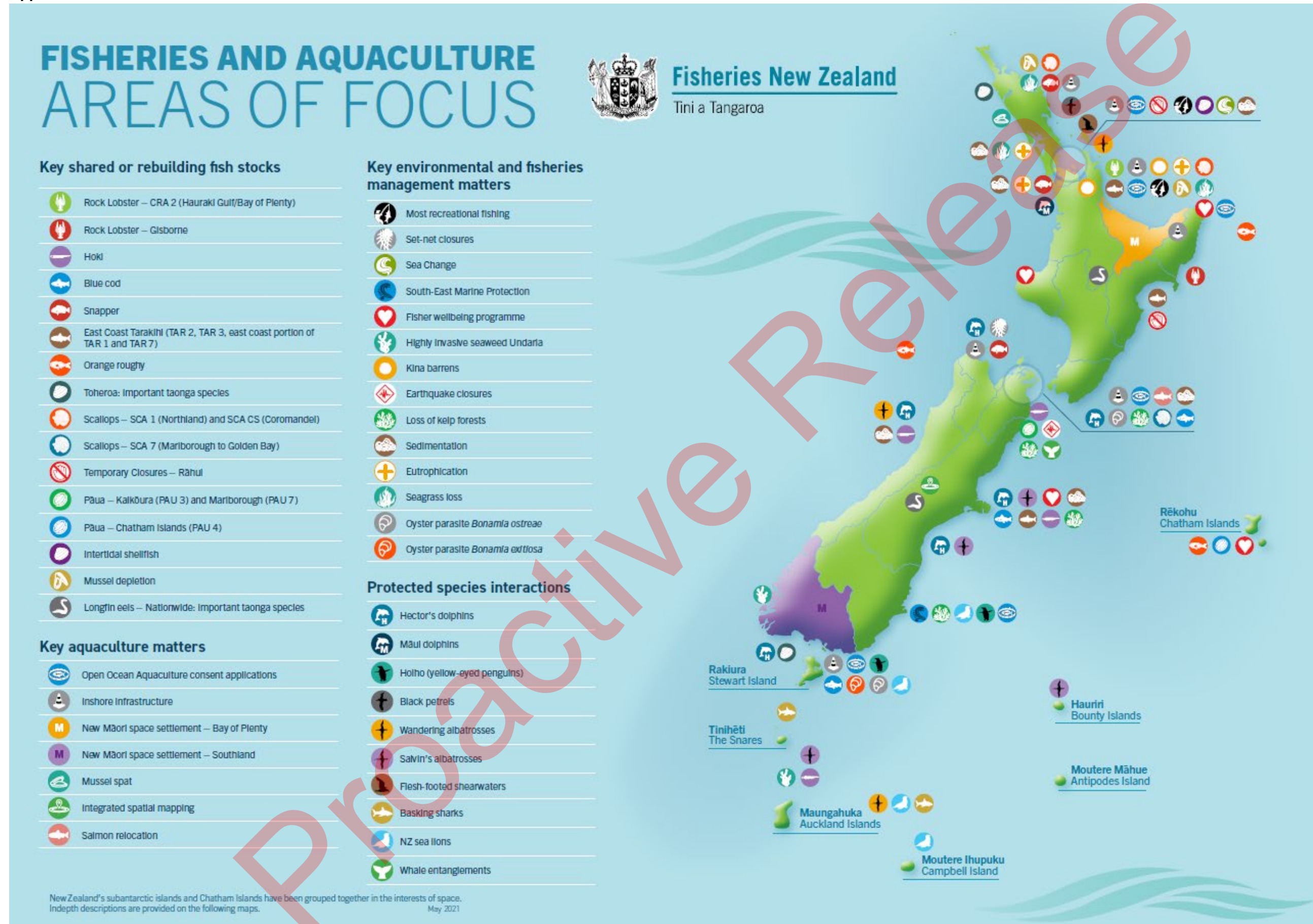
Industry Transformation Plan

- 11 **Invite** the Minister for Oceans and Fisheries to initiate an Industry Transformation Plan which outlines actions to achieve key aspects of the reform agenda, with a focus on reducing the environmental impacts of fishing and increasing the value received from fisheries
- 12 **Note** that the Minister for Oceans and Fisheries will direct officials to engage with iwi and key industry stakeholders on the scope and approach to developing the Industry Transformation Plan
- 13 **Note** that the Minister for Oceans and Fisheries will subsequently seek confirmation of the finalised Industry Transformation Plan from Cabinet.

Authorised for lodgement

Hon David Parker
Minister for Oceans and Fisheries

Appendix 1: Areas of focus



Proactive Release

s9(2)(f)(iv)

Proactive Release

Proactive Release

Proactive Release