

IN THE MATTER of the Resource
Management Act 1991
(RMA)

AND

IN THE MATTER of a submission under
clause 6 of the First
Schedule to the Act on the
Proposed Waikato Regional
Coastal Plan

SUBMISSION ON NOTIFIED PROPOSAL FOR REGIONAL COASTAL PLAN

To: Waikato Regional Council (**WRC**)

Name of Submitter: New Zealand Sport Fishing Council Inc (**NZSFC**)

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Introduction

1. This is a submission on the Proposed Waikato Regional Coastal Plan (**Proposal**).
2. NZSFC could not gain an advantage in trade competition through this submission.
3. The specific provisions of the Proposal that NZSFC's submission relates to are:
 - (a) BIO – Biosecurity;
 - (b) ECO – Ecosystems and indigenous biodiversity;
 - (c) NFL – Natural features and landscapes (Seascapes);
 - (d) PA – Public access and recreation;
 - (e) WD – Discharges to water.

General reasons for submission

4. The NZSFC is a recognised national sports organisation with over 36,700 affiliated members from 53 clubs nationwide. NZSFC supports the 700,000 or so New Zealanders that fish. A key role is to advocate for responsible and sustainable management of our marine environment to ensure future generations are able to enjoy the unique resource we have. The NZSFC conducts education programmes, commissions and funds fisheries research projects, and participates in fisheries management.

5. The NZSFC is committed to ensuring that sustainability measures and management controls are designed and implemented to achieve the Purpose and Principles, sections 8 to 10, of the Fisheries Act 1996 (**FA**).
6. The NZSFC also has a keen interest in ensuring that its members and stakeholders interests are protected in the overlapping jurisdiction between the RMA and the FA.¹ This includes maintaining spatial access to fisheries for low impact fishing techniques, and supporting additional controls on all activities that adversely effect marine benthic biodiversity.
7. There are a variety of non-fishing related threats to the marine environment. Of particular concern to NZSFC are discharges of contaminants to water and biosecurity threats. NZSFC supports strong provisions in relation to these matters.
8. A significant part of the coastal marine area within the WRC's jurisdiction comes within the Haruaki Gulf Marine Park. Section 7 of the Haruaki Gulf Marine Park Act 2000 (**HGMPA**) recognises the national significance of the Hauraki Gulf. Section 8 HGMPA sets out the statutory management objectives to recognise the national significance of the Hauraki Gulf, its islands, and catchments:
 - (a) the protection and, where appropriate, the enhancement of the life-supporting capacity of the environment of the Hauraki Gulf, its islands, and catchments:
 - (b) the protection and, where appropriate, the enhancement of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments:
 - (c) the protection and, where appropriate, the enhancement of those natural, historic, and physical resources (including kaimoana) of the Hauraki Gulf, its islands, and catchments with which tangata whenua have an historic, traditional, cultural, and spiritual relationship:
 - (d) the protection of the cultural and historic associations of people and communities in and around the Hauraki Gulf with its natural, historic, and physical resources:
 - (e) the maintenance and, where appropriate, the enhancement of the contribution of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments to the social and economic well-being of the people and communities of the Hauraki Gulf and New Zealand:
 - (f) the maintenance and, where appropriate, the enhancement of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments, which contribute to the recreation and enjoyment of the Hauraki Gulf for the people and communities of the Hauraki Gulf and New Zealand.
9. Under section 9 of the HGMPA:
 - (a) WRC must ensure that any part of the regional plan that applies to the Hauraki Gulf, its islands, and catchments, does not conflict with sections 7 and 8 HGMPA;
 - (b) WRC must treat Sections 7 and 8 as a national policy statement and a New Zealand coastal policy statement and give effect to them in the Proposal.
10. Without derogating from the generality of the above, the specific reasons for the submission are set out below.

¹ *Attorney-General v The Trustees of the Motiti Rohe Moana Trust & Ors* [2019] NZCA 532

BIO – Biosecurity

11. NZSFC agrees with the statement in the coastal plan that marine based activities have the potential to introduce and exacerbate the spread of marine pests, including harmful aquatic organisms and that this can have irreversible effects on the coastal marine area, including biodiversity and economic losses, and the alteration of ecosystem function.
12. NZSFC supports the suite of rules in the biosecurity chapter. NZSFC supports in particular BIO-R1 Discharge of contaminants from in-water cleaning of vessels and moveable structures with minimal fouling as the applicable standards mean that it is appropriate to provide a permitted activity pathway for this low risk activity.

ECO – Ecosystems and indigenous biodiversity

13. In *Attorney-General v The Trustees of the Motiti Rohe Moana Trust & Ors* [2019] NZCA 532 the Court of Appeal found Regional Councils have jurisdiction to control fisheries resources, provided that they do not do so for FA purposes which would contravene s30(2) of the RMA. While NZSFC's strong preference is for fisheries resources to be comprehensively managed under the FA to maintain indigenous biodiversity, it has no choice but to engage in this space given the Court of Appeal's decision.
14. NZSFC's submission on this matter in summary is that:

The Motiti decision enables the WRC to control destructive and indiscriminate fishing methods such as trawling, dredging, Danish seining and purse seining that have significant adverse effects on indigenous biodiversity.

 - (c) The NZSFC opposes the use of the RMA to prevent low impact recreational fishing methods e.g. line and hook fishing. Controlling these low impact fishing activities is not needed to maintain and enhance indigenous biodiversity given the existing regulation under the Fisheries (Amateur Fishing) Regulations 2013. The values of identified indigenous biodiversity areas illustrates are not threatened by recreational fishing. Preventing low impact recreational fishing activities is inconsistent with enabling peoples social and cultural wellbeing and fails to give effect to the HGMPA.
15. The section 32 evaluation considers these issues and identifies three broad options:
 - Option 1: Do nothing and maintain the status quo – retain the existing policies and implementation methods in the operative plan without significant modification.
 - Option 2: Draft new policies and implementation methods for biodiversity generally in a new chapter without identifying significant indigenous biodiversity.
 - Option 3: Identify and map significant indigenous biodiversity sites accompanied by new policies and implementation methods in a specific chapter for ecosystems and indigenous biodiversity
16. The proposed plan has identified significant indigenous biodiversity areas, based on available information, and the section 32 reporting focuses on a range of sub options to this approach (3.1-3.4).
17. NZSFC supports option 3.2:

Option 3.2: Option 3 plus prohibit activities that disturb the foreshore and/or seabed within identified significant marine areas. Include a new schedule that identifies and maps ecologically significant marine areas vulnerable to disturbance activities. New rules added throughout the proposed plan that prohibit the disturbance of the seabed

or foreshore within the identified significant marine areas. This option would work in conjunction with the biodiversity protection methods offered under other legislation.

18. There is strong community support for this approach. It is necessary in order to give effect to the New Zealand Coastal Policy Statement 2010 (**NZCPS**) and the HGMPA. In particular, Policy 11(a) NZCPS requires the avoidance of adverse effects on specified taxa and environments, and Policy 11(b) requires the avoidance of significant adverse effects on specified taxa and environments. Mobile bottom contact fishing methods cause significant adverse effects on marine benthic communities which qualify for protection under policy 11 NZCPS.
19. The NZSFC submit that controls on mobile bottom contact fishing methods out to the 12nm limit are needed to maintain and enhance indigenous biodiversity. On the west coast Māui Dolphin rely on this ecosystem for their survival. The ongoing risks to the survival of this iconic species warrants a resource management response in terms of rules that prevent trawling activities which disturb the benthic environment and contribute to marine mammal mortality.
20. There are many peer-reviewed studies highlighting adverse effects of bottom trawling and scallop dredging on seafloor habitats and marine species populations, for example:

“Disturbance, through bottom fishing activities such as dredging and trawling, has impacts not only on the commercially-targeted species, but also on the benthic communities and habitats, the resident biota, and on key ecosystem functions (Thrush & Dayton 2002). These effects include the modification of sedimentary characteristics through sediment removal and turnover (Guerra, García et al. 2003), and damage or destruction of many species, particularly large, habitat-forming epibenthos. These changes to habitats can cause ongoing modification of ecosystem functioning (de Juan et al. 2009).”²

“The total number of epifaunal organisms was significantly reduced following a single pass of a trawl (90%) or scallop dredge (59%), as was the diversity of the associated community and the total number of *M. modiolus* at the trawled site. At both sites declines in anthozoans, hydrozoans, bivalves, echinoderms and ascidians accounted for most of the change. A year later, no recovery was evident at the trawled site.”³
21. Bottom trawling also disturbs and re-suspends vast quantities of sediment with plumes of sediment present several days after a single trawl. This alters natural sediment fluxes and reduces organic carbon turnover (Pusceddu et al. 2014), the depth of the oxic layer in sediments (Churchill 1989, Warnken et al. 2003, Bradshaw et al. 2012), reducing morphological complexity and benthic habitat heterogeneity. The mixing of sediments and overlying water can alter the chemical makeup of the sediment and have considerable effects in deep, stable waters (Rumohr 1998). Chemical release from the sediment can also be changed, as shown for phosphate in the North Sea (ICES 1992, noting lower fluxes were observed after trawling events). The nature and extent of these effects in the Hauraki Gulf remains poorly understood and a precautionary approach is therefore required.
22. NZSFC submits that the Proposal has failed to adequately identify significant benthic areas within the CMA. For instance, the proposed Alderman Islands protected areas (see boxes below) have as an element of their values and objectives to protect sensitive biogenic habitats on soft and hard substrates (e.g. sponges, soft corals and black coral) and the species associated with them. Given the occurrence of these indigenous biodiversity values

² Baird S.J., Hewitt J., Wood B.A. (2015). Benthic habitat classes and trawl fishing disturbance in New Zealand waters shallower than 250 m. *New Zealand Aquatic Environment and Biodiversity Report No. 144*.

³ Cook R., Farin as-Franco J.M., Gell F.R., Holt R.H.F., Holt T., et al. (2013) The Substantial First Impact of Bottom Fishing on Rare Biodiversity Hotspots: A Dilemma for Evidence-Based Conservation. *PLoS ONE* 8(8): e69904. doi:10.1371/journal.pone.0069904

in these areas, it is highly likely that the same indigenous biodiversity values are to be found in adjoining similar habitats:



23. A complicating factor is that the Fisheries New Zealand is currently consulting on a proposal to exclude mobile bottom contact fishing from parts of the Haruaki Gulf Marine Park. To the extent that areas are closed to mobile bottom contact fishing under the Fisheries Act, then it is not necessary to take action under the RMA. However, where no action is taken under the Fisheries Act, it is open to WRC to take action to fill the gap.
24. Purse seining is another fishing method which has significant adverse ecological consequences for marine biodiversity. There is a substantial purse seine fishery around the Coromandel Peninsula that targets pelagic fish, such as jack mackerel and pilchard. A purse like net is used to surround and capture entire schools of fish “workups”. Purse seining affects the availability of workup resources, critical food resources for threatened and at risk seabird species and contributes to direct mortality through bycatch. Purse seining also impacts on

the food sources of marine mammals. In return, purse seining generates negligible economic value. Purse seining ought to be prohibited to maintain and enhance indigenous biodiversity.

25. NZSFC is strongly opposed to Option 3.3:

Option 3.3: Option 3 plus prohibit the taking of all plants and animals within identified significant marine areas. Include a new schedule that identifies and maps ecologically significant marine areas vulnerable to disturbance activities. New rules added that prohibit the taking of plants and animals within the identified significant marine areas. This option would work in conjunction with the biodiversity protection methods offered under other legislation.

26. There is limited community support for this approach given its significant adverse social, cultural and economic consequences. The associative values of recreational fishing are an outstanding value of seascapes (a matter which is addressed in more detail below). Prohibiting fishing in large areas will adversely effect these outstanding landscape values.

27. The approach of prohibiting the taking of all plants and animals within significant marine areas is not efficient and effective and therefore is not the most appropriate. The reality is that not all harvest of plants and animals has an adverse effect of indigenous biodiversity values. For instance, many of the significant marine areas identified relate to avifauna values. These birds are already protected under the Wildlife Act 1953, so no RMA rules are required in relation to these birds specifically. To protect these values associated with avifauna, it is not necessary to prevent all taking of plants and animals. For instance, the taking of crayfish presents no risk whatsoever to birds. It is acknowledged that recreational line fishing presents some risk to birds. However, a complete prohibition on such fishing is not the most efficient and effective response. Education is key. The NZSFC has a FishCare educational programme that includes safe release and fishing practices around seabirds. Best practice approaches can be applied to keep risk to a less than minor degree.⁴ In addition, there are a range of more appropriate methods available under the Fisheries Act, including Rāhui and the amateur fishing regulations.

28. It also must be borne in mind that the Hauraki Gulf / Tīkapa Moana Marine Protection Bill proposes additional no take Marine Reserves and 12 Highly Protected Areas within the region. These measures provide adequate protection and there is no need under the RMA for further restrictions on low impact recreational fishing activities.

29. Finally, NZSFC is broadly supportive of the objective and policy suite proposed for this chapter, which reflects and gives effect to the HGMPA and the NZCPS. NZSFC supports in particular the recognition at ECO-P3 that a minor or transitory effect may be an acceptable adverse effect. This is a vital qualifier to the otherwise rigid application of “avoid” policies.

NFL – Natural features and landscapes (Seascapes)

30. Policy 15 of the NZCPS requires plans to map or otherwise identify areas where natural features and natural landscapes require protection, and include provisions to achieve this. Outstanding natural features and landscapes (seascapes) are identified in Schedule 3 of the Proposal and included in the planning maps.

31. Policy NFL-P1 is to: *“avoid adverse effects of activities on the values and characteristics identified in Schedule 3 that contribute to outstanding natural features and landscapes in the coastal marine area”*

⁴ <https://fishcare.co.nz/minimal-impact-on-other-sea-life/>

32. Many of the identified Seascapes in Schedule 3 recognise the outstanding associative values of recreational fishing in these areas. NZSFC supports the identification of outstanding associative values of recreational fishing in Schedule 3 and supports the policy approach of avoiding adverse effects on these values.

PA – Public access and recreation

33. The maintenance and enhancement of public access to and along the coastal marine area is a matter of national importance under the RMA. NZSFC supports the proposed chapter in relation to public access and recreation and seeks that it be retained.

WD – Discharges to water

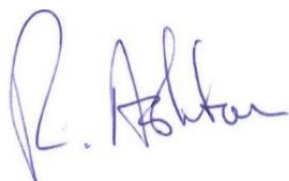
34. Discharges of contaminants to water has significant adverse effects on marine ecology. NZSFC support strong provisions in this regard and broadly support the proposed chapter.

Relief sought

35. NZSFC seeks the following decision from the local authority:
- (a) Retain chapter 9: BIO – Biosecurity;
 - (b) Identify and map ecologically significant marine areas vulnerable to disturbance activities and include new rules that prohibit or restrict the disturbance of the seabed or foreshore within the identified significant marine areas, including by mobile bottom contact fishing methods such as bottom trawling, Danish seine and scallop dredging;
 - (c) Prohibit purse seining to maintain and enhance indigenous biodiversity;
 - (d) Do not include additional restrictions on low impact hook and line fishing and hand gathering (by any fisheries sector);
 - (e) Retain references to outstanding associative values of recreational fishing in Schedule 3, add further references to such values as appropriate;
 - (f) Retain policy NFL-P1;
 - (g) Retain chapter 19: PA – Public access and recreation;
 - (h) Retain chapter 24: WD – Discharges to water;
 - (i) Such further, other, alternative and consequential relief (including to objectives, policies, rules, mapping and other methods) as is appropriate to give effect to the relief sought and the reasons for this submission.
36. NZSFC wishes to be heard in support of its submission.

DATED the 13th day of November 2023

NEW ZEALAND SPORT FISHING COUNCIL INC
by its lawyers and duly authorised agents
BROOKFIELDS



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