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

AND

IN THE MATTER **Proposed Waikato Regional Coastal Plan**

JOINT WITNESS STATEMENT (JWS) IN RELATION TO:

Topic: Controls on fishing methods in relation to potential adverse effects on ecosystems and biodiversity

19 March 2025

Expert Conferencing Held on: 19 March 2025

Venue: Distinction Hotel & Conference Centre

100 Garnett Avenue

Te Rapa, Hamilton, 3241

Independent Facilitator: Marlene Oliver

Admin Support: Leah Newman, Waikato Regional Council

1. Attendance:

1.1. The list of participants is included in the schedule at the end of this Statement.

2. Basis of Attendance and Environment Court Practice Note 2023

2.1. All participants agree to the following:

(a) The Environment Court Practice Note 2023 provides relevant guidance and protocols for the expert conferencing session;
(b) They will comply with the relevant provisions of the Environment Court Practice Note 2023;
(c) They will make themselves available to appear before the Panel;
(d) This statement is to be filed with the Panel and posted on the Council's website.

3. Background and Supporting Information

3.1. The following information was pre-circulated as part of the agenda:

3.1.1. Hearings Panel Direction 7, including: "…. i*s there, or what would be, sufficient information to identify areas impacted by fishing activities; as well as what are appropriate controls on fishing."* Direction 7 from Hearing Panel - Expert conferencing on fishing controls

3.1.2. Correspondence in response to Direction 7 (Seafood NZ, AQNZ/CMFA, MPI) – available on the WRC hearings information webpage

3.1.3. Links to:

- Northland Regional Plan information Marine protection areas - Northland Regional Council and Environment Court final decision topic-14-marine-protected-areas-final-decision-may-2023.pdf
- Bay of Plenty Regional Coastal Environment Plan information Motiti Protection Area

3.1.4. Maps of fishing controls and SIBA areas in WRC supplementary statement of 21 February 2025 Supplementary statement - Bruce McAuliffe and David Phizacklea - Waikato Regional Council

3.1.5. NIWA 2025: Biodiversity data extraction for the Waikato area of the Hauraki Gulf Marine Park, Waikato Regional Council Technical Report 2025/08. Biodiversity data extraction for the Waikato area of the Hauraki Gulf Marine Park | Waikato Regional Council

3.1.6. Department of Conservation and Fisheries New Zealand 2021: Sea Change – Tai Timu Tai Pari Plan marine protected area (MPA) proposals: agency analysis and advice on selection of MPAs towards development of the Hauraki Gulf Marine Park MPA network. Sea Change Proposals - marine protection

3.1.7. The Council's supplementary legal submissions on scope of the requested fishing controls are attached and on the hearings information webpage under 'Legal submissions'.

3.2. Status of central government work in the Waikato region, including trawl corridors and Hauraki Gulf/Tikapa Moana Marine Protection Bill enactment.

3.2.1. Phil Ross and Alicia McKinnon provided an outline of the central government work in the Waikato coastal marine area **(Attachment 1)** and East Waikato Commercial Fishing Restrictions **(Attachment 2 map).** Noting that attachment 2 is not an exhaustive set of Fisheries Act restrictions. They note the Resource Management (Consenting and Other Systems Changes) Amendment Bill had its first reading in December 2024. It includes a proposal to clarify the extent to which councils can control fishing for biodiversity purposes under the RMA. If the Bill is enacted later in 2025, councils will not be able to place rules on fishing unless they are notified in a

council's proposed plan. This will constrain third parties from seeking new fishing controls through processes like these.

3.2.2. To clarify the last two sentences of para 3.2.1, Chris Staite noted that the Bill contains no transitional arrangements for this matter and therefore fishing controls can be included in the WRC proposed plan following notification of the proposed plan.

3.2.3. Shane Kelly noted that a significant amount of work has already been done by MPI and it has led to identification of options for trawl corridors and provided maps for where trawling occurs and probability of occurrence of various taxa that are susceptible to trawling activity. Maps and associated reports are appended to the evidence in chief of Shane Kelly.

3.2.4. Nick Shears noted that the update on central government work outlines a number of proposed initiatives, but nothing is in place at this point in time. Much of this work focuses on managing fisheries. He questions whether this sufficiently addresses protection of indigenous biodiversity across the region. This work can be subject to Government decisions.

3.2.5. Alicia McKinnon notes that in particular the protections measures proposed under the Hauraki Gulf Marine Bill go beyond just managing fisheries resources and that they are designed to avoid adverse effects from activities in the CMA on the aquatic environment (e.g. fishing, sand mining, discharges).

4. Matters considered at Conferencing – Agenda and Outcomes

4.1. Subtopic 1 - Sufficiency of information as a basis to introduce controls on fishing activities in the proposed plan

- The levels of information about the effects of fishing on ecosystems and biodiversity in the Waikato CMA, including the state and trends and sensitive taxa or areas.
- The levels of information on the effects of physical disturbances caused by fishing activities in the Waikato CMA.
- The levels of information about areas impacted by fishing activities in the Waikato CMA.
- Based on the above, the necessity to protect ecosystems and biodiversity in the Waikato CMA from fishing activities.

4.1.1. The science experts agree that physical disturbance from mobile bottom contact fishing (bottom trawling and Danish seining) is by far the single biggest physical disturbance within the Waikato CMA, recognising this activity does not occur in all areas.

4.1.2. The science experts agree with the following statement made in the Ecosystems and Indigenous Biodiversity JWS, 26 November 2024 para 3.6.1.1 :

'3.6.1.1. The ecological experts agree that the adverse effects of mobile bottom contact fishing activities and the adverse effects related to fishing down of key predators on reef systems in the Waikato CMA are significant.'

4.1.3. The science experts agree the effects of mobile bottom contact fishing activities (Reference: The Impacts of seabed disturbance in the Waikato region, Sim-Smith et al 2022 – Waikato Regional Council Technical Report 2023/04, included in the Section 32 supporting documents) can include:

DIRECT EFFECTS

- Loss of habitat complexity
- Mortality or reduced growth of discarded target animals
- Mortality of other animals and plants growing on the seabed
- Changes in sediment-dwelling communities

INDIRECT EFFECTS

- Reduction in reproductive success of the target animal
- Reduction in shellfish and fish recruitment due to loss of biogenic habitat
- Reduced diversity
- Increased predation
- Resuspension of sediments and release of contaminants
- Alteration to natural biogeochemical processes

4.1.4. The science experts consider that on some areas of the east coast there is information to indicate that mobile bottom contact fishing is having and has had adverse effects on indigenous biodiversity. It is known that significant indigenous biodiversity values have already been lost on the east coast. There is more limited information available relating to the west coast.

4.1.5. The science experts agree there is strong evidence that the fishing down of key reef predators (particularly snapper and crayfish) adversely affects reef ecosystems by contributing to the proliferation of urchins, subsequent depletion of kelp forests and formation of urchin barrens. The prevalence of urchin barrens varies across the CMA in relation to other factors. The Te Whanganui-o-Hei/Cathedral Cove Marine Reserve within the CMA provides one example where predators are larger and more abundant, the extent of urchin barrens is considerably lower than the surrounding fished coast. This is consistent with patterns observed within other 'no-take' marine protected areas in north eastern New Zealand.

4.1.6. Nick Shears notes that urchin barrens are extensive along parts of the eastern Coromandel and offshore islands on the east coast, including within SIBA-A. He notes there is extensive urchin barren on the Karewa Gannet Island on the west coast.

4.1.7. The science experts agree there are good levels of information for broad scale reef and seagrass habitat coverage of Mercury Islands. Research has found low numbers and small sizes of predators which is a clear indication of high levels of fishing, both commercial (e.g. potting and bottom longlining) and recreational (e.g. line fishing, diving, potting and spearfishing) of both snapper and crayfish. This is reflected in the presence of urchin barrens at the Mercury Islands, noting that their extent varies considerably among sites across the Islands. (Reference: Fig. 4 and 5 Mapping broad-scale habitat types at the Mercury Islands, northeastern Aotearoa New Zealand, using supervised classification of satellite imagery)

4.1.8. Sydney Curtis considers that in recent years recreational harvest estimates by the National Panel Survey and boat ramp surveys has been declining. There is uncertainty as to whether the current levels of recreational fishing effort is/ or is not contributing to a continued spread of urchin barrens on rocky reef ecosystems in the Waikato CMA. E.g., The National Panel Survey has estimated that recreational harvest of rock lobster has decreased from 40 t in 2012 to 9.99 t in 2023. In 2017 in response to sustainability concerns of rock lobster the Minister at the time consulted on catch limits for rock lobster in CRA 2. In 2018 the Total Allowable Commercial Catch for rock lobster in CRA 2 was reduced from 200 t to 80 t and in 2020 the recreational daily bag limit was reduced from 6 to 3. Historic levels of fishing effort have contributed to the proliferation of urchin barrens, it is uncertain whether current levels of fishing effort are continuing to contribute to the spread of urchin barrens.

4.2. Subtopic 2 – Appropriate controls on fishing

- Expert views on managing fishing activity on ecosystems and indigenous biodiversity.
    - Some SIBA areas are not subject to central government protection, do we have sufficient data to determine whether protection under the RMA is required for these areas?

4.2.1. The science experts, excluding Sydney Curtis, consider the indigenous biodiversity of all SIBA that are not estuaries or harbours can be impacted by fishing.

4.2.2. The science experts, excluding Sydney Curtis, consider the greatest benefit to indigenous biodiversity would accrue from having all SIBA protected from the effects of fishing but protection of a limited number of areas would also accrue a benefit to indigenous biodiversity.

4.2.3. Sydney Curtis and Alicia McKinnon consider that the effect of fishing on the indigenous biodiversity within each SIBA should be identified and the appropriate management intervention should be identified accordingly.

4.2.4. The science experts note if the central government management actions in the Hauraki Gulf Fisheries Plan including the bottom trawling and the Danish seining proposals are implemented, as currently drafted, they will provide greater protection of biodiversity in the CMA from mobile bottom contact fishing.

4.2.5. The science experts note if the central government management actions in the Hauraki Gulf Marine Protection Bill are implemented, as currently drafted, they will provide additional protection but do not cover all the SIBA-A.

4.2.6. Nick Shears considers the Hauraki Gulf Marine Protection Bill provides little additional ‘no-take’ protection of shallow coastal areas within SIBA-A in the CMA.

4.2.7. The science experts agree if CRA2 closure in the Hauraki Gulf is implemented this may have benefits for crayfish size and abundance. This may result in benefits for indigenous biodiversity but this is uncertain. This is relevant for the west coast of the Coromandel area.

4.2.8. The science experts, excluding Sydney Curtis, agree if the above (para 4.2.4 - 4.2.7) goes ahead, as currently drafted, there still needs to be additional management measures to address adverse effects in the SIBA-A, such as high protection areas. If the proposals are not implemented as currently drafted, then the science experts would need to review the package of controls to identify whether or not even further protection is required of the SIBA-A.

4.3. Subtopic 3 – Potential provisions to managing fishing under the proposed plan

- Potential provisions to manage fishing under the proposed plan.
    - Discuss proposed provisions for fishing controls in Dave Serjeant rebuttal evidence 10 February 2025, set out in Annexure A.

4.3.1. Council experts noted that potential provisions to manage fishing were considered during the development of the draft and proposed plan. There were four options previously considered by Council and engaged on with stakeholders. (Reference: WRC discussion document Further marine biodiversity protection options, May 2022). All stakeholder feedback was provided in a report that forms part of the Section 32 evaluation.

4.3.2. In relation to the new DD rule and schedule sought by Dave Serjeant the experts consider that should option 4 of the Hauraki Gulf Fisheries Plan to exclude bottom trawling and Danish seining, as currently drafted, be implemented then this should achieve the relief sought. The experts noted the current uncertainty in the implementation of the management proposals which Mr Serjeant has relied upon.

4.3.3. In relation to the new ECO rule, Dave Serjeant considers that the relief sought in relation to 'no-take' for all SIBA-As is still supported by the available evidence on the adverse effects of fishing on indigenous biodiversity.

5. Participants to Joint Witness Statement

5.1. The participants to this Joint Witness Statement, as listed below, confirm that:

(a) They agree that the basis of their participation and the outcome(s) of the expert conferencing are as recorded in this Joint Witness Statement; and
(b) They agree to the introduction of the attached information – refer to paragraph 3.2.1 above; and
(c) They have read the Environment Court's Practice Note 2023 and agree to comply with it; and
(d) The matters addressed in this statement are within their area of expertise; and
(e) In the interests of efficiency, it was agreed that each expert would verbally confirm their position in relation to this para 5.1 to the Independent Facilitator and the other experts and this is recorded in the schedule below.

Confirmed in person: 19 March 2025

Expert's name and expertise	**Party**	**Expert's Confirmation** *Refer Para 5.1*
Dave Serjeant (Planner)	Environmental Defence Society	Yes
Dr Shane Kelly (Scientist - Marine Scientist)	Environmental Defence Society	Yes
Dr Nick Shears (Scientist - Marine ecology)	STET Limited	Yes
Dr Judi Hewitt (Scientist -Soft-sediment benthic ecology risk assessment)	Mussel Reef Restoration Trust	Yes
Alicia McKinnon (Inshore Fisheries management)	Ministry for Primary Industries	Yes
Dr Phil Ross (Scientist - Marine Scientist/Inshore Fisheries management)	Ministry for Primary Industries	Yes
Sydney Curtis (Scientist -Marine science, ecology and fisheries management)	New Zealand Sport Fishing Council	Yes
Dr Michael Townsend (Scientist - Marine ecology)	Waikato Regional Council	Yes
Chris Staite (Planner)	Waikato Regional Council	Yes
Claudia Richardson (Planner)	Waikato Regional Council	Yes
David Phizacklea (Planner)	Waikato Regional Council	Yes
Hannah Palmer (Planner)	Waikato Regional Council	Yes

Attachment 1

Proposed Waikato Regional Coastal Plan (pWRCP)

Expert conferencing 19 March 2025
Topic: Controls on fishing methods in relation to potential adverse effects on ecosystems and biodiversity
Prepared by Dr Phil Ross and Alicia McKinnon, Ministry for Primary Industries

Key central government work in the Waikato Coastal Marine Area (CMA)

Revitalising the Gulf: Government action on the Sea Change Plan

Hauraki Gulf/Tikapa Moana Marine Protection Bill

- The Government plans to introduce 19 new protection areas in the Hauraki Gulf/Tīkapa Moana. This network of marine protection builds on the aspirations of the Sea Change - Tai Timu Tai Pari plan and incorporates feedback from tangata whenua, stakeholders and the public. It will use both new and existing marine protection tools. The Sea Change Plan is available at this weblink: https://gulfjournal.org.nz/wp-content/uploads/2022/01/5086-SCTTTP-Marine-Spatial-Plan-WR.pdf
- For the Waikato part of the Hauraki Gulf Marine Park these new protections include five full no-take High Protection Areas (HPAs) (Slipper Island/Whakahau, Matukawao Islands, Alderman Islands/Ruamahua (south and north), and Cape Colville), one Seafloor Protection Area (SPA) at Cape Colville, and an extension of the Te Whanganui-o-Hei/Cathedral Cove Marine Reserve. These areas have all been identified as SIBA-A areas in the pWRCP.
- The Hauraki Gulf Marine Protection Bill completed its second reading in December 2024. We expect it to complete the final stages over the next couple of months. Refer to the NZ Parliament website for an update on the progress of the Bill: https://bills.parliament.nz/v/Bill/78ff85f3-7991-4963-60b2-08dba2a4022f?Tab=history

Hauraki Gulf Fisheries Plan

- A key component of *Revitalising the Gulf: Government Action on the Sea Change Plan* was the direction to develop a Hauraki Gulf specific Fisheries Plan for inshore fisheries under the provisions in section 11A of the Fisheries Act.
- The finalised Hauraki Gulf Fisheries Plan was approved in August 2023 by the Minister for Oceans and Fisheries: https://www.mpi.govt.nz/dmsdocument/58396-Hauraki-Gulf-Fisheries-Plan
- The extensive and integrated package of fisheries management actions in the fisheries plan, alongside the other workstreams within *Revitalising the Gulf,* is expected to collectively deliver improved fisheries outcomes for the Hauraki Gulf, under this unique and holistic area-based Fisheries Plan.

<u>Some examples of relevant Hauraki Gulf Fisheries Plan management actions</u>

- *Exclude bottom trawling and Danish seining*: Four options to prohibit trawling and Danish seining from the Hauraki Gulf Marine Park (shallower than 200 metres) were publicly consulted on in November 2023 and the current Minister for Oceans and Fisheries is considering these options. Refer to attachment 1 for a map of the Hauraki Gulf Marine Park.

- *Identify habitats of particular significance for fisheries management*: This is a national level management initiative. During 2025 Fisheries NZ will be publishing an online register of habitats of particular significance for fisheries management, including for some areas in the Waikato CMA. The register, alongside other best available information, will inform our fisheries management advice. Refer to the MPI website for updates on this work: https://www.mpi.govt.nz/fishing-aquaculture/sustainable-fisheries/habitat-of-particular-significance-for-fisheries-management/
- *Facilitate the co-development of a management plan for restoring healthy kelp forests*: This management plan will consider the causes and address the environmental impacts of kina barrens and include management considerations for predator species such as snapper and rock lobster. It is proposed that a draft management plan will be circulated to a broader audience in mid-2025.

Review of sustainability measures for rock lobster in CRA 2 (Hauraki Gulf, Coromandel and Bay of Plenty)

- A review of sustainability measures for the CRA 2 stock for the fishing year starting 1 April 2025 is currently in progress. CRA 2 biomass has increased significantly since being subject to a rebuild in 2018 and at the scale of the Quota Management Area (QMA) the stock is well above the management target. However, within the Hauraki Gulf part of the CRA 2 QMA there are concerns about areas of localised depletion and the occurrence of urchin barrens.
- Fisheries New Zealand sought feedback on proposed changes for the CRA 2 stock between 12 December 2024 and 12 February 2025. This included proposals to change the catch settings from 1 April 2025, and to close the inner Hauraki Gulf to all commercial and recreational rock lobster fishing (refer attachment 2). Feedback on managing the CRA 2 stock to a higher target (leaving higher biomass in the population) was also sought and will be considered in more detail later in 2025.
- The Minister for Oceans and Fisheries will be publicly announcing his decisions soon. Refer to the MPI website for updates: https://www.mpi.govt.nz/consultations/review-of-sustainability-measures-for-fisheries-april-2025-round/

Fisheries research

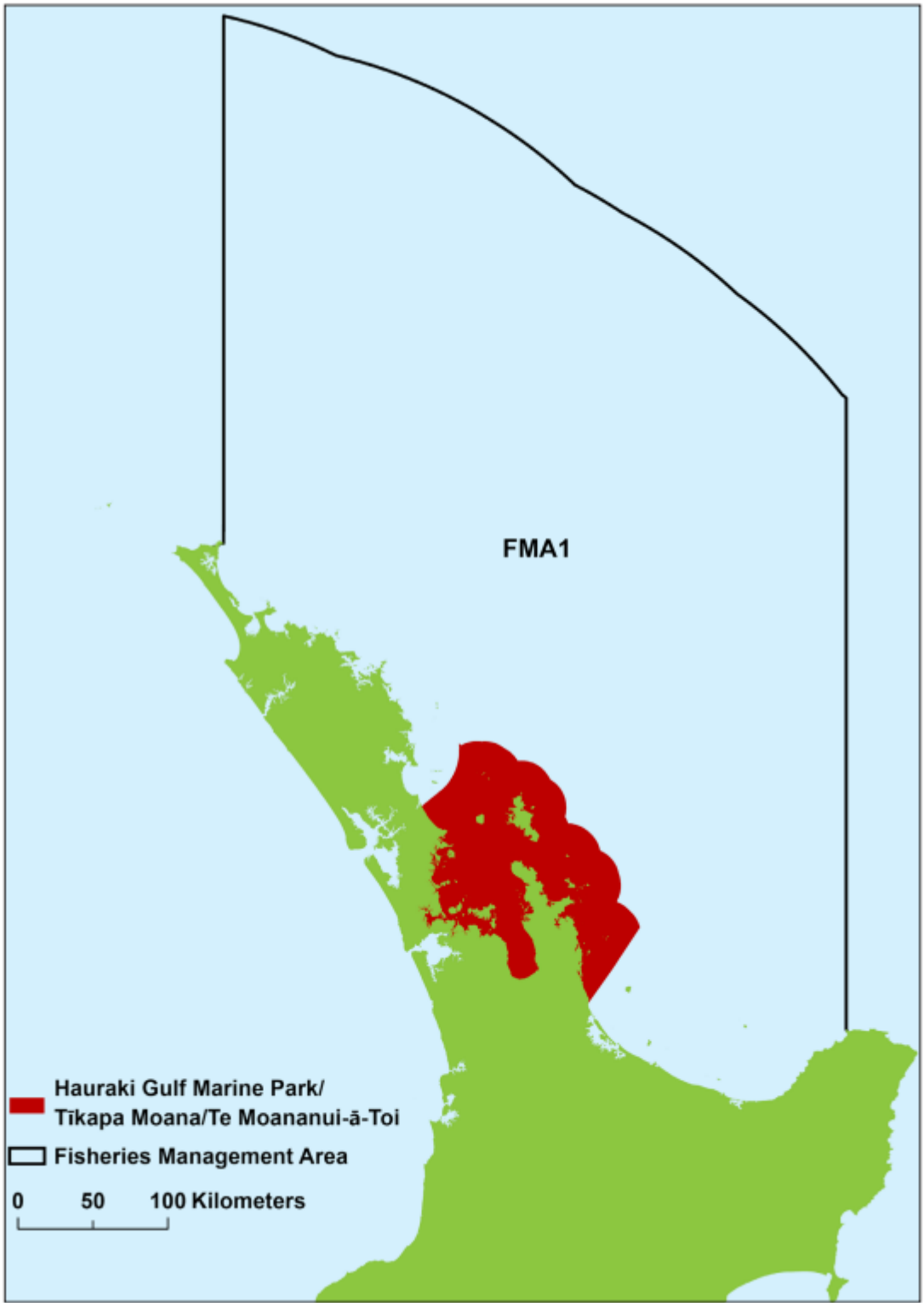
- MPI has several research projects underway or proposed which are relevant to the Waikato CMA and will be used to inform any future management actions (while noting there is other historical research in the area):
    - Project BEN2023-01 - An update to the New Zealand bottom-contacting trawl footprint through the development of methods to estimate the extent and intensity of seabed contact by trawl gear using commercial fisher-reported and geospatial position reporting data. The final report for this project is due in June 2025.
    - Project BEN2024-02 - Hauraki Gulf benthic baseline video analysis and model validation and development will provide additional data on benthic biodiversity that will be used to develop abundance models for key taxa, with a delivery date of June 2026. This project has just been awarded.

- Project: ZBD2023-03 - Summarising and updating knowledge on the distribution of kina barrens in key regions of New Zealand. Key outputs will include a publicly available spatial layer based on recent satellite imagery characterising the extent of sea urchin barrens from Cape Reinga to East Cape, including the Hauraki Gulf. Publication of the research report is likely by August 2025.
- Project BEN2024-04 – An estimate of seabed contact by fishing methods other than trawling across New Zealand. This project is yet to be tendered, but if that is successful results could be expected at the end of 2026.

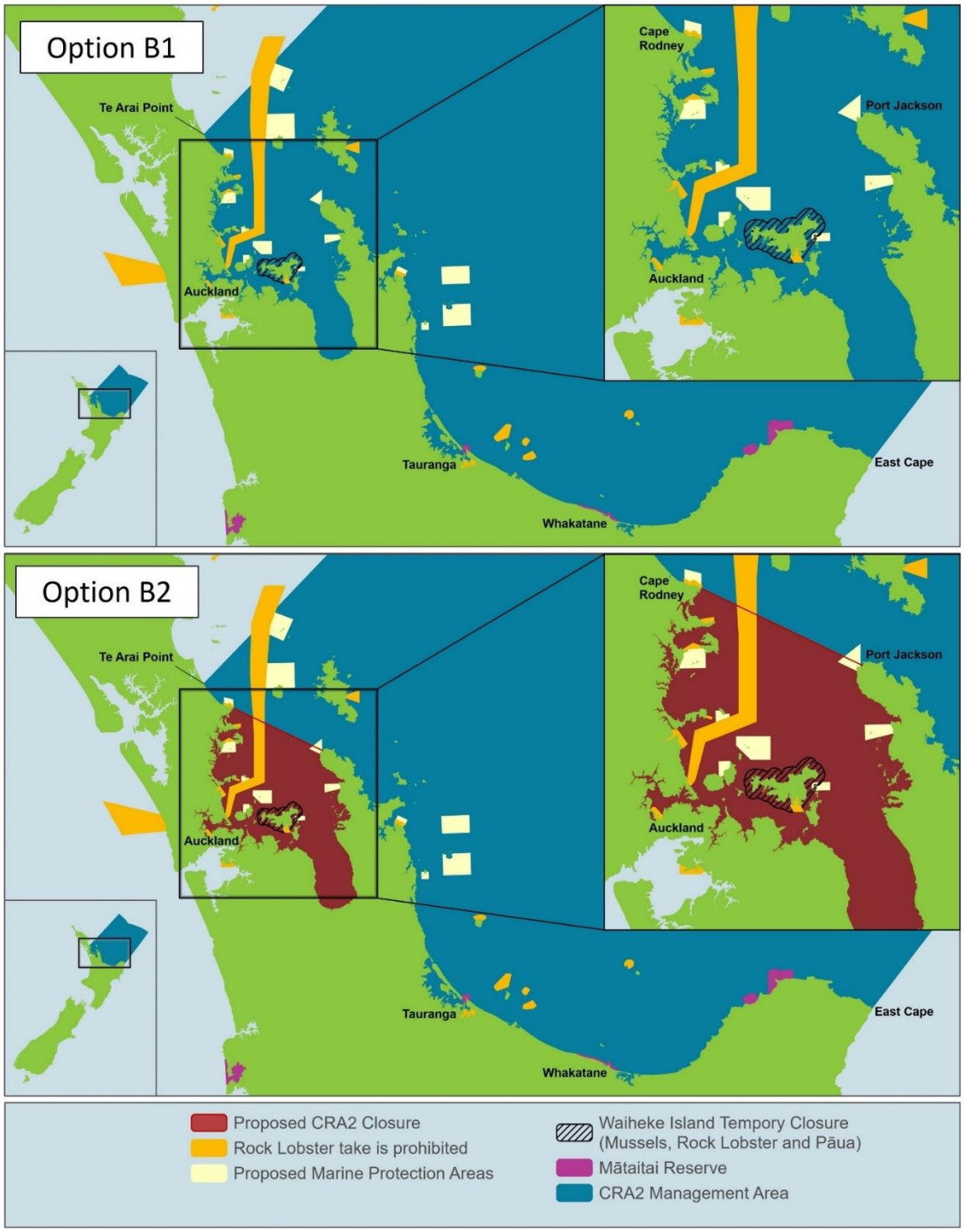
Hector's and Maui dolphins Threat Management Plan (TMP) 2020

- The TMP looks at all known human-induced threats to the dolphins, such as: fishing, toxoplasmosis, oil and gas exploration, mining and tourism.
- As part of the TMP, extensive Fisheries Act restrictions have been introduced to prohibit bottom trawling and set netting along the west coast of the North Island to manage fishing related threats: https://www.mpi.govt.nz/dmsdocument/40883-MPI-Dolphin-TMP-Factsheet-North-Island-June-2020

Attachment 1: Map of Fisheries Management Area 1 and the Hauraki Gulf Marine Park

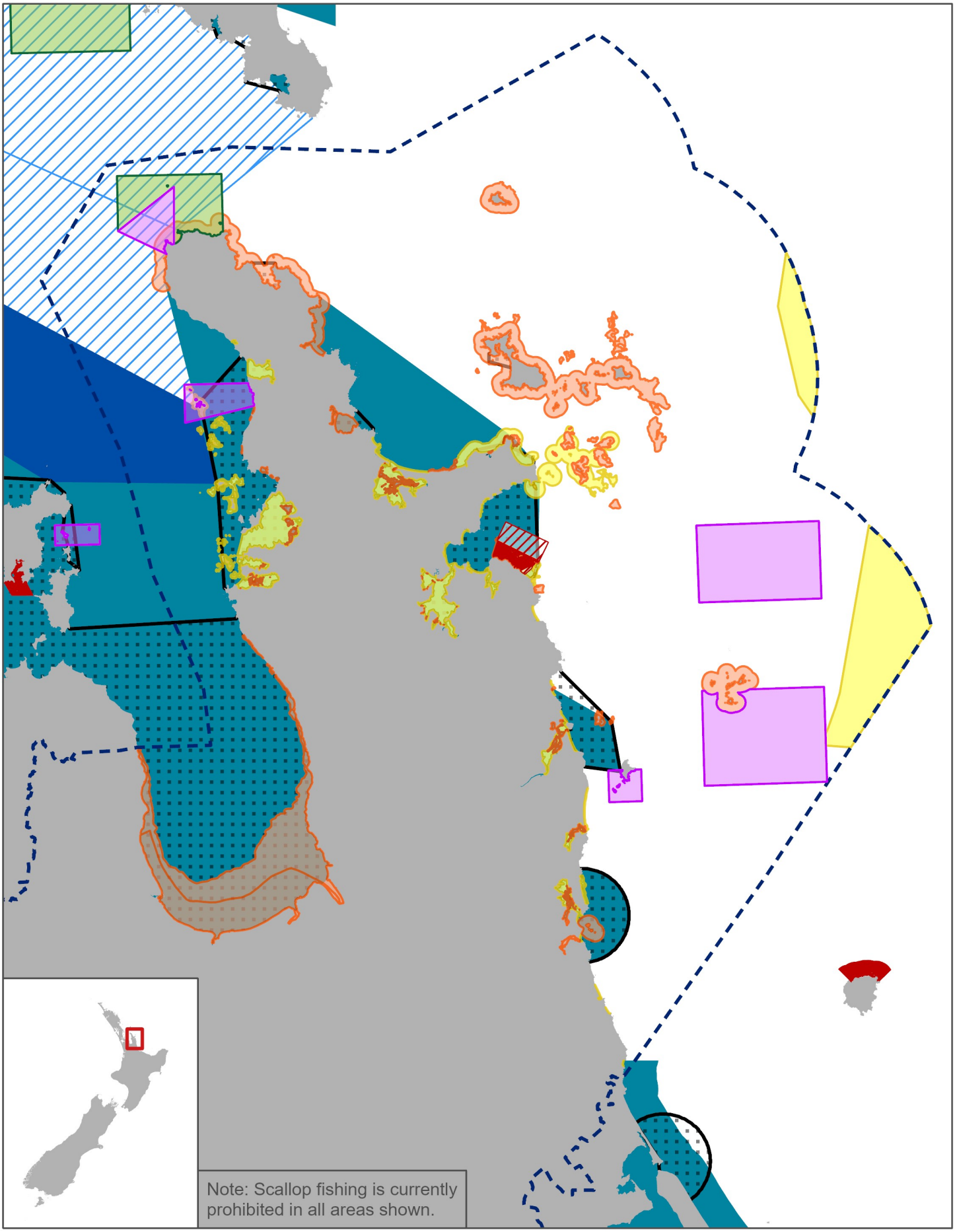


Attachment 2: Existing and proposed spatial management measures for the CRA 2 QMA.



The **upper panel (Option B1) shows existing areas** in which harvest of rock lobster is currently or proposed to be prohibited, including marine reserves, mātaitai reserves, section 186A temporary closures, submarine cable and pipeline protection areas, and High Protection Areas proposed in the Hauraki Gulf Marine/Tīkapa Moana Protection Bill. The **lower panel (Option B2) includes the proposed spatial closure** for all commercial and recreational rock lobster fishing within the inner Hauraki Gulf.

Fisheries New Zealand
Tini a Tangaroa



East Waikato Commercial Fishing Restrictions

Date: 18/03/2025
Produced by: Spatial Intelligence
Reference: r250063
Coordinate System: Mercator 41

Significant Indigenous Biodiversity Areas (SIBA)
- SIBA-A
- SIBA-B
- Marine Reserve
- MR Extension
- HG-HPA
- HG-SPA

- Waikato Regional Boundary
- Trawl and Danish Seine Prohibition
- Trawl Prohibition
- PSH Trawl Net Prohibition
- Scallop Take Prohibited (pre-2022)

0 3 6 nm
0 5 10 km
1:560,000

N