Our Fishing FUTURE

- *a healthy marine environment enjoyed by all*
- *taking pride in an abundant and healthy marine environment where our community extends manaakitanga over our fisheries and oceans*
- *unity and inclusion within the recreational fishing community*
- *equity of access through stakeholder engagement*
- *understanding and valuing our marine environment and its resources so we can all be responsible for a better future*

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About Our Fishing Future

Our Fishing Future was formed in mid 2014 on the back of a common understanding,[1] reached across all users of the fisheries resource, on what was needed to improve management of shared fisheries. Critically, it was recognised that the recreational sector is effectively standing on the sidelines when management decisions are being made, even though it is able to participate in 'consultation' undertaken on behalf of various Minister's by officials. Other sectors are either much better resourced or have better defined rights that serve to protect their interests within a consultative process.

The consensus was that a national body representing all recreational fishing interests should be formed. That body was envisaged as a single entity that was aligned to the various fishing bodies that already exist up and down the country. It was recognised that this is where a lot of the knowledge of how fisheries were performing resides. However these bodies typically lack the resource to pull their knowledge together and to participate on an equal footing with the customary and commercial sectors in decision-making processes. As a consequence, the fragmented and often confrontational approach that emerges out of current Government-led consultation processes means that the sector's potential to add value to New Zealand is being greatly diluted.

Once formed, the national recreational fishing body would actively participate in discussions over shared fisheries management and oversee the implementation of agreements. Once the relationships between sector groups matured, there would be the opportunity for the Minister to consider limiting his or her

[1] The five key areas of common ground arising from the multi-sector workshop in 2014 were as follows:

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involvement to situations where statutory backing for agreements was required or sector disputes could not be resolved.

Our Fishing Future has been established as an Incorporated Society with elected officers and membership open to all New Zealanders. It has a medium term goal of being self funded. As such it is set up to become that national body – but it could just as easily step aside to facilitate a new entity to assume that mantle. The important driver is to empower the recreational sector to stand on its own two feet and take a lead role in decision making.

Overall stance

Mixture of:

- Supportive in part
- Oppose in part

Section 2: The need for a new approach to marine protection

1. Do you agree there is a need for reform of New Zealand's approach to marine protection?

Our Fishing Future notes that New Zealand's fisheries management framework has come a long way since the crisis brought about by over fishing in the late 1970's and early 1980's.

Key reforms include the implementation (and subsequent refinement) of the Quota Management System (QMS), the Settlement of Treaty Claims following the introduction of the QMS, and the enhanced environmental obligations that came in with the introduction of the Fisheries Act 1996.

Our fisheries are now in much better shape than they were 30 years ago and the abundance of many shared fisheries has improved over that time. Furthermore we are seeing evidence of consumer preferences driving enhanced environmental stewardship by the commercial sector in high value fisheries. This augurs well for the future.

Our view is that the greatest benefit for marine management in its broadest sense would be gained from further investment in the existing legislative framework, rather than developing a multi-faceted Marine Protection Act.

So we support the focus being on an integrated approach towards the Fisheries Act for active management, the Resource Management Act for managing externalities to fishing and the Marine Reserves Act to establish no take areas. In particular, we believe the Fisheries Act has been underutilised for active management, and the Resource Management Act has not managed externalities to fishing in the way it could, and should.

The greatest challenge to managing environmental impacts on fisheries seems to be coming from sectors that treat the marine environment, or at least parts of it, as an externality. This is most obviously evidenced by the impacts of land-based development on the coastal marine area. A second challenge for enclosed waters is the impacts of intensification of marine farming. Areas like the Marlborough Sounds are showing signs of a drop off in productivity of wild fisheries. The Resource Management Act has a key role to play in managing these effects but Council's priorities are elsewhere.

We appreciate that there is a need to update the way in which the fisheries management framework addresses biodiversity related obligations that arise out of international conventions that New Zealand is a signatory to. But we see the proposed reforms as having a narrow focus around this, and not reflecting the stewardship ethic that is emerging out of defining rights of access with associated responsibilities for fisheries management.

The recreational sector lacks capacity to participate in fisheries management and is keen to see this addressed. The sector itself can have adverse effects on the marine environment and this is largely left to the Government to manage through a regulatory regime, and hence ownership of the problem is not sheeted home to the sector. These impacts would be better addressed through fine scale management that can only occur if the sector as a whole is better resourced and able to fully participate in decision making.

Therefore Our Fishing Future submits that improved management of environmental effects within the Territorial Sea first requires the better specification of recreational fishing rights so that the sector can become actively involved in management processes, alongside the other classes of resource users. Only then can we expect true collaboration to occur in the context of shared fisheries. In association with this, we consider an increased focus should be placed on managing the effects authorised under the Resource Management Act 1991.

2. Are they any significant issues that haven't been identified?

Our response to Q1 raises issues that go beyond the discussion document.

3. Are there parts of the existing approach to marine protection that should be retained? Why?

Our response to Q1 highlights that there are many facets of the current regime that serve to protect the marine ecosystem that should be retained. Overall, our fisheries have improved over the last 30 years and the Fisheries Act provides a range of tools for ensuring sustainability, including protection of significant habitats and interdependent stocks and associated and dependent species.

Notwithstanding examples where a high level of protection has been achieved through fisheries legislation (such as Double Cove in a spatial sense and Toheroa in a species context) we agree that for the purposes of full protection, the Marine Reserves Act 1971 (MRA) is outdated. A new legislative base for delivering on a community consensus to create a marine reserve is supported.

Section 3: The proposal: a new approach to marine protection

4. Do you support the outlined objectives of the new MPA Act?

We support the objectives of the new MPA to the extent that they update the provisions of the MRA. However we consider that the four tiered approach goes too far, and has the real potential to undermine the gains made under the Fisheries Act 1996, and unnecessarily introduces a third agency into the fisheries management decision-making process within the TTS.

5. Are there additional objectives that should be included in marine protection reform?

Our view is that the objectives for the reform may have gone too far. This gives rise to a potential to undermine the effectiveness of the Fisheries Act 1996 in both ensuring sustainability and providing for utilisation. It is clear that New Zealand has chosen a unique path to ensuring sustainability and hence our circumstances should be carefully considered before adopting international guidelines. In our view the discussion paper does not provide the in depth policy analysis that would highlight the areas where the Fisheries Act is not working, beyond the need to update the MRA.

At the evening consultative meeting in Blenheim, the Minister referred to international best practice marine environment protection justifying the four tiered approach and the need for a single legislative mechanism. We note the lack of reference to such best practice in the consultative documents.

We have also considered the demand on a single legislative mechanism to be able to deliver on integrated community-driven initiatives. The two examples given are the Guardians of Fiordland and Te Korowai. In each case the implementation package required extensive use of the Fisheries Act, by way of customary tools or fine scale regulatory provisions that go beyond the intended scope of the MPA legislation. So it is difficult to envisage what single mechanism could be designed to provide a solution to such proposals.

Furthermore, the two examples are relatively unique in the way they have been driven by a highly motivated community of interest and the likelihood of further examples would seem remote. Initiatives led or co-ordinated by Government Departments on the west and south-east coasts of the South Island are somewhat different in that the parties have been appointed, and in the case of recreational involvement in particular, appointees are far from representative. In those instances, we question the need for new legislation to deliver on a forum recommendation that does not have the backing of the wider community from the outset.

6. Are the four categories proposed for marine protection an appropriate way to achieve a representative and adaptable network of MPAs (objectives 1, 2, 5 and 6)?

The current legislative framework provides for the different forms of protection that are being proposed.

- Marine Reserves are set up under a dedicated Act – which we agree needs updating.
- Stocks and associated and dependent species are required to be sustainably managed under the Fisheries Act and a range of tools are provided to do this. This includes all the impacts of fishing on sharks, marine mammals, marine reptiles and seabirds. Example of a high level of protection would be black coral and toheroa. If there are any impediments to this then it should be the Fisheries Act that is amended to address them. Other legislative provisions may prove to be the cause of the lack of apparent legislation and could be revoked.
- Seabed habitat is able to be likewise protected – examples include the Separation Point bryozoan 'coral'. Other examples include the management of the Southern Scallop Fishery referencing ecologically significant habitats identified in the coastal plan (RMA) before authorising harvesting of its members – as required to do under the Fisheries Act. If there is a case for having further representative habitats protected from the effects of fishing, then the Fisheries Act can deliver on this. Involving extractive rights holders in this discussion would strengthen the ownership of such measures. Without that monitoring and enforcement will be challenging – even accepting new technology will assist.
- The idea of recreational fishing parks has merit. This could be addressed by strengthening the provisions around ss 310 and 313 of the Act so that recreational areas are able to be established without the need for a drawn out dispute. However where possible such areas or parks should be able to be negotiated directly between the sectors and that implies each party has equal standing prior to negotiation. The lack of a defined recreational right currently prevents such a negotiation from occurring. The proposal to consider these parks as part of an MPA network lacks supporting rationale. While recreational fishing has less of an impact on the substrate, this is due to a regulatory requirement (via the Fisheries Act) prohibiting the towing of nets. A dredge does not have a flotation device and hence is not a net so it can be used and inevitably disturbs the seabed – so it is hard to associate a recreational fishing park that has dredging within it with an MPA.

So in summary, at least three of the categories of marine protection are enabled under the current Fisheries Act to a greater or lesser degree. Our Fishing Future suggests that each of the enabling

mechanisms that currently exist be evaluated, and gaps addressed. One of those gaps relates to the lack of capacity across the recreational fishing sector to add value to fisheries management. However the case for pulling all of these categories into a legislative provision outside of the Fisheries Act has not been well made.

7. If the options outlined in table 1 were applied in an area of interest to you, what impact would that have on your existing or future activities?

Our Fishing Future considers that the greatest impact would occur if the recreational fishing park proposal proceeds under the banner of a MPA, rather than following a process that firstly specified the recreational right and subsequently provided for a mechanism to give effect to negotiated agreements under the Fisheries Act. The blunt instrument of a recreational fishing park as a form of MPA, may not be able to deliver the full value that fine scale management under a more enabling Fisheries Act would. Furthermore, in situations where a park had dredging within it we can conceive of pressure to ban this method. In the case of the Marlborough Sounds at least that would deny a lot of people access to a traditional scallop resource.

In the absence of a level playing field we envisage recreational fishing parks will become the battle ground of consultation, and once formed there will be limited ability to actively manage the parks in a way that addresses the impacts from an intensification of recreational fishing.

Irrespective of what enabling legislation is used, if recreational fishing parks were to be established the focus of attention would fall on the governance arrangements, and the ability to manage the inevitable growth in recreational fishing effort. Our preference is to have a recreational fishing body at the helm, with the capability to set fine scale management arrangements with the support of the sector. While enforcement of regulatory requirements should remain with the Crown, we see the real potential for buy in from the sector if they are actively involved in management decision making.

8. Does the approach take account of the way the fishing sector operates? Why/why not?

The approach outlined in the consultative document signals a rather arbitrary approach to marine protection. We understand its foundations to be drawn from what is being loosely termed as international best practice. However internationally fisheries management is not underpinned by a Quota Management System and a Treaty Settlement in the way New Zealand's is. Hence it is difficult to understand why the MPA approach should be coarsely applied to our situation. Our experience is that fisheries management is not arbitrary. It is highly sensitised to local conditions and works best when managed at a fine scale.

We consider that the recent SNA 1 decision by the Minister of Fisheries is starting to show the way the Fisheries Act should be applied in shared fisheries. The Minister has set the relative shares for when the fishery rebuilds and once we reach that state, it sets up a basis for the sectors to collectively consider and agree on how to manage 'beyond sustainability'. That discussion becomes focussed on protecting key fishery habitats and building catch rates up to optimum levels. In our assessment the fishery will 'win' every time once we move past the allocation debate and build capacity across all sectors.

If the SNA 1 approach is progressively applied to other high profile shared fisheries, then we think the full power of the Fisheries Act 1996 will start to be unleashed. The recreational sector wants to be part of that future and hence the existence of Our Fishing Future. Rather than moving away from the Fisheries Act as the primary legislation, we think it should be strengthened to enable shared management, and to hold the sectors accountable for delivering on the full requirements of the Fisheries Act. As previously noted, this includes recognition of biodiversity, including habitat, interdependent stocks and associated and dependent species. It would also provide a forum that would put pressure on those responsible for implementing the RMA to meet the requirements of the Coastal Policy Statement.

9. Does the approach take account of the way the oil, gas and minerals sector operates? Why/why not?

Our assessment of the protection of the oil, gas and minerals sector is that it is hard to understand why those industries, and others like marine farming, are immune to the proposals whereas fishing is not. All parties are making investment decisions at any given time, and equally need assurances that the rules will not arbitrarily change. Otherwise we stand to dilute the stewardship ethic that sits within the Fisheries Act.

10. Are there other economic interests that haven't been covered?

Marine Farming interests would be significant beneficiaries from the establishment of Recreational Fishing parks, a proposed form of MPA.

Given the requirement of the Minister of Fisheries to ensure sustainability, it is understandable that decisions made to give effect to that are protected from compensation. However establishing the proposed MPA network seems to be going beyond what is needed to ensure sustainability and therefore it is difficult to understand why all decisions around tiers 1-3 should be protected from compensation.

11. Is the new MPA Act likely to have the intended effect that decisions about environmental protection and economic growth are made in a planned and integrated way (objective 2)? Why/why not?

The history of fisheries management in New Zealand is that a centralised planning approach implemented under the provisions of the Fisheries Act 1983 failed to address the decline of inshore fisheries, and to some extent accelerated it by taking managements the eye off the ball at that critical time. There is reason to suggest that a centrally planned approach coming over the top of a sector driven approach, that has to date been successful in arresting a dramatic decline, will be problematic to both implement and manage.

In our view integration will be better achieved by completing the specification and allocation of rights and enabling negotiation between the parties, potentially in the context of national standards (that allow for regional variations). This would better set the scene for the fine scale management that is required.

Protecting habitat of significance and species for biodiversity reasons is fundamental to modern day fisheries management. All environments are unique to some degree and hence a representative network will only ever represent a particular view of what is needed. In our view each fishery complex should be required to demonstrate how spatial management is occurring and the mechanism for this already resides in the Fisheries Act via fisheries plans. This option should be exercised by those interests who are actively involved in the fishery and be subject to an auditing requirement to ensure they are effective, both conceptually and in practice.

Section 4: How it will work: a new process for establishing marine protected areas

12. What do you think would be the best process for initiating MPA proposals in areas where multiple categories of protection may be needed?

Our suggestion follows on from question 11. Representatives of a complex of fisheries should be given an opportunity to develop a fisheries plan setting out how environmental impacts are to be addressed. If the plan was deemed to meet requirements then the focus would be on implementation, with or without regulatory backing (depending on the circumstances). If the plan was deemed deficient then an opportunity to revise it could be provided prior to more directive intervention as a final option.

We appreciate the use of the fisheries plan provision is an entirely different approach to the proposed MPA framework. It also requires the recreational sector to develop the capacity to participate and on equal terms. This is where we think the initial effort should go.

It may take longer, but we think over time a stronger MPA ethic will develop.

13. Are the proposed MPA decision-making processes (collaborative process and board of inquiry process) the best way of achieving our objectives (2, 3, 4 and 5)? Why/why not?

There is value in separating out a collaborative process from one that has external decision makers. However the participants in a collaborative process would need to be carefully chosen or agreed to. There is a tendency across New Zealand for collaboration to operate under many banners. The least enduring examples involve proponents who either do not fully represent the real community of interest, or who fail to connect with that community.

On balance it seems to us that in the absence of clear accountabilities, the default mechanism will be the Board of Inquiry. The first challenge there will be getting the right level of expertise on the BOI, and secondly avoiding translating an RMA structure directly across to the marine environment without adapting it to fit the circumstances.

14. What are the advantages and disadvantages of having two different decision-making processes? Is one of the processes preferable to the other or are there alternative decision-making processes that would better achieve the desired outcomes (objectives 2, 4 and 5)?

People feel very passionate about the marine environment. The concept of having some habitats undisturbed is not a hard sell, especially when those habitats serve as nursery grounds for stocks that can be sustainably harvested once they recruit to the fishery. However it is not an easy task to identify the right areas given the multi stock nature of fisheries and the spatial separation of pre-recruits from adult stock. Hence we end up with a 'representative network' of MPAs being sought rather than seek habitats that would be better fitted to an active fisheries management regime.

The most productive way we can think of getting buy in to an MPA concept, and convert it into action, is through having those with a direct interest in the fishery come together on equal terms, and discuss how they may collectively benefit from being smarter about the way the fishery is managed. This will also involve those who are not directly interested in harvesting gaining a better understanding of how their industry, be it forestry or mining, impacts on fisheries habitat. Inevitably that will involve identifying some areas that should be left undisturbed and some activities that need to cease or be better managed. There is no difficulty getting people to such a table, the challenge is getting the people who have an active interest and skills that allow them to see other points of view and reach compromises.

The collaborative pathway could potentially provide for this approach, but the inherent risk is that the first people who rush to the table will typically be those with a less active interest in the fishery and who already have a fixed position. Invariably processes that start that way end with a lobby group heading off to Government to get support for their viewpoint. That leaves the active interests on the side line and commonly branded as extractive users who are resisting status quo.

Our Fishing Future reiterates our support for a collaborative process that has the right people at the table, and accepts there could to be a back up process where Government wants more than the collaborative group are prepared to support. However we do not support a process that goes under the guise of collaboration but in reality only has the backing of people who are not familiar with the fishery and therefore are not interested in considering the trade-offs that need to be made to build a stable consensus.

15. Do you agree with the proposed review arrangements? Why/why not? Are there any additional approaches that should be considered for reviewing MPAs?

We agree that there ought to be a periodic review of MPAs to ensure they are meeting objectives. Ideally this would be in the context of an overriding fisheries plan.

16. Are the proposed decision-making processes sufficient to ensure customary interests, rights and values and appropriately taken into account, Treaty of Waitangi principles are met, and decisions are consistent with the Crown's historical Treaty settlement obligations (objectives 3 and 4)? If not, what are your concerns?

We support an approach to MPAs that places as much emphasis on a truly collaborative approach as possible, involving at a minimum those persons who represent all classes of extractive rights that pertain to the area.

Given the concept does not have much of a track record in the marine context, it is difficult to assess how appropriate a Board of Inquiry process might be for situations where there is a lack of stakeholder agreement. Provision may need to be made for reviewing and possibly adapting a Board of Inquiry process once established.

Section 5: Recreational fishing parks

Please be clear as to whether your responses apply to the Hauraki Gulf, Marlborough Sounds or both proposed areas.

17. Do you support the proposal for recreational fishing parks in the Hauraki Gulf and Marlborough Sounds?

As noted at the outset, Our Fishing Future considers that the recreational bodies that are best positioned to provide a perspective on a particular fishery are those who are involved in it. On that basis we refrain from either endorsing or critiquing the specific proposal for the Marlborough Sounds. We note the emergence of the Marlborough Marine futures forum and the participation of recreational fishers within that. However we also understand that commercial interests are not yet endorsing that forum.

We do note the long history of controls on the trawling for finfish that dates back to the second world war. As a result trawling in Queen Charlotte Sound has been banned since then, while trawling was initially banned from the Outer Pelorus Sound and tightly controlled within Inner Pelorus. The latter situation was reversed in the 1990s.

18. What do you think should be the boundary lines for the recreational fishing parks? In the Hauraki Gulf, could we use the Statistical Area 7 of Fishing Management Area 1 (see map 1)? In the Marlborough Sounds, could we use the Blue Cod Management Area (see map 2)? Are these boundary lines easily recognisable, that is, would prominent landmarks help with identifying the boundaries of the park when you are on a boat?

These are questions for local interests.

19. Do you think commercial fishing should be allowed to continue for some species within recreational fishing parks? If so, what species would you allow and why?

We consider the concept of recreational fishing parks should go hand in hand with fine scale management. On that basis it is difficult to argue that there should be a blanket ban on commercial fishing.

20. What do you think about the proposed compensation scheme for commercial fishing affected by the creation of recreational fishing parks?

Under a fully negotiated outcome of discussions between the recreational and commercial sector it is possible that compensation from the Crown would be an issue. If the recreational sector is able to grow capacity and have clearly defined rights then it ought to be able to negotiate directly.

However, if Recreational Fishing parks were to be introduced as proposed we fully support compensation to quota owners based on a test that evaluates the impact of the closure on their ability to harvest their share of the TACC.

21. What do you think about who should manage the recreational fishing parks? How could the park management work together with existing groups?

Ideally recreational fishing parks ought to be managed by the sector for whom they were created. We would support a mixed model of appointments based on fisheries management knowledge and elected by fishers who reside in the zone and are subject to a registration system. We would support the Management body having bylaw making powers subject to due process.

22. How should benefits and changes created through the proposed parks be monitored? How could this work?

If a recreational fishing park is to be established, we suggest consideration be given to implementing a free registration system for participants. This may come with an option or perhaps obligation to report high level catch and effort information.

In addition, independent surveys of fish abundance should be carried out over time. The information should be freely available to the public and used by the management entity. An entity like Fishserve could be contracted to collate information.

Section 6: Implementation

23. Do you agree with the proposed arrangements for transitioning existing MPAs? If not, what are your concerns?

If an MPA network is to be formalised into statute, the transition arrangements for marine reserves would be relatively straight forward, as would the species-specific sanctuaries.

Our Fishing Future is not convinced that the so called Benthic Protection Areas should be translated into Seabed Reserves. We would prefer to see the value of these areas described in the context of a fisheries plan, and have their fit to achieving objectives independently assessed, before forming a view on their utility. Further, these areas will be typically outside the TTS and therefore outside the scope of this proposed reform.

24. Do you agree that customary management areas should be able to be used alongside the proposed MPA Act to create integrated management packages? If not, what are your concerns?

Our Fishing Future fully endorses the use of customary management areas as part of a fine scale fisheries management regime. If MPAs are to be linked to fisheries management then customary tools are a key part of the framework. However if MPAs are developed quite independent to fisheries management regimes (as the proposal suggests) then it is difficult to see where customary tools come into the framework.

25. What would be required to ensure the integrity of current protected areas is maintained while achieving the objectives of the new MPA Act? (section 3.1)?

This is difficult to answer given the MPA Act is presented as a proposal rather than a given.

26. Are the proposed approaches sufficient to ensure communities are involved in managing MPAs? Are there alternative approaches that would better ensure community involvement in managing MPAs?

Our Fishing Future considers that it will always be a challenge to define who the community of interest is. The history of fisheries management in New Zealand has typically been around non extractive interests

proposing and promoting marine reserves, and extractive interests promoting spatial measures that reduce the impact of fishing on the habitat without totally banning extraction. The proposed MPA Act seeks to bring these groups together on the one hand, but does not provide an obvious mechanism for doing that.

Our Fishing Future considers that the two approaches, marine reserves v management of adverse effects need to treated separately in a legislative context. This does not mean that any entity looking to develop an integrated approach across an area of interest is denied from doing so.

27. What role can iwi/Maori play in managing MPAs? Are the proposed approaches sufficient to ensure iwi/Maori are involved in managing MPAs?

We consider iwi/Maori have a potentially huge role to play in managing MPAs if they are incorporated into the fisheries management regime. However it is difficult to see how this could occur if they are adopted as a separate strategy outside of the fisheries management framework.

28. Do you agree with managing commercial tourism activities in MPAs in a similar way to how they are managed on public conservation land? Why/why not?

We agree there is a huge potential for tourism activities above and below the TTS. Examples of this already occur around marine mammal interactions and diving operations within marine reserves. It is also apparent that the level of activity needs to be controlled and a proportion of the revenue gained put back into management/restoration. It would seem that a model similar to the one used on public conservation land would work. We also think there is value in considering an approach along the lines Ngai Tahu has adopted in providing commercial access to Te Waihora.