

1 December 2023

To: Emma Taylor

## **Proposed bottom fishing access zones in the Hauraki Gulf Marine Park - Fisheries New Zealand Discussion Paper No: 2023/19**

1. Seafood New Zealand welcomes the opportunity to provide comment on the proposed bottom fishing access zones in the Hauraki Gulf Marine Park (the proposals). Our comments are set out below, but we note that other representative organisations, companies and quota-holders and fishers have also made their own submissions on the proposals, and we support them.

### **Summary of position**

2. We recognise the national significance of the Hauraki Gulf/Tikapa Moana Marine Park (the Gulf) and the life-supporting capacity of the environment of the Gulf that provides for the social, economic, recreational, and cultural well-being of people and communities. The commercial fishing community of the Gulf is reliant on the healthy functioning of the ecosystem and therefore is dedicated to ensuring the ongoing health of the Gulf. We are supportive of approaches that integrate the management of the natural, historic, and physical resources of the Hauraki Gulf, its islands and catchments.
3. The proposals purport to address the adverse effects of bottom contact fishing in the Gulf. However, adverse effects have not been demonstrated. Whilst we acknowledge that the approach of closing the Gulf to trawling other than clearly defined areas has already been agreed in the Hauraki Gulf Fish Plan, we consider that approach is not evidence-based and undermines the framework of the Fisheries Act.
4. The current average overlap of trawl with suitable habitat for biogenic taxa is very low (4.3%)<sup>1</sup>. Proposing measures that restrict current fisheries operations in order to protect habitat appears to be unnecessary. Measures to avoid adverse effects can likely be achieved without significantly impacting fishing.
5. We consider the consultation and the supporting information provided is unlikely to meet the standard for a genuine consultation and therefore information generated from submissions may also be of insufficient quality to inform advice to Ministers. In addition to the lack of demonstration of any adverse effect as described above, the lack of information applies to the following areas:
  - a. The range of options provided is too narrow and only allows for consideration of options that have high levels of “protection” with unjustifiably significant impacts on fisheries. Overall, no rationale is provided for the proposed options, and we consider that further options should be developed using an evidence-based approach to address any adverse impacts of fishing on the benthic environment.
  - b. The impacts of the proposals on the Gulf’s fishers, quota owners, businesses and communities who rely on fishing in the Gulf for their kaimoana and livelihoods have not been adequately considered and accounted for. This reasonably should include impacts on associated employment, displacement outside of the Gulf and flow-on

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<sup>1</sup> Data provided by MPI 17 November 2023.

effects to stock monitoring. There is no adequate cost-benefit analysis providing an understanding of the full range of impacts of the proposals.

- c. Danish seine has not been adequately characterised in the development of the options. Seining has a different impact and footprint compared to trawl. The options have been developed based on information on the footprints of trawl and seine but applying the estimated impacts of trawl to both. This results in options that do not adequately provide for the needs of Danish seine fishers. Specific analysis and options need to be produced for managing Danish seining in the Gulf.
6. The concurrence of this consultation with the consideration of the Hauraki Gulf/Tīkapa Moana Protection Bill's proposed marine protected areas (MPAs) is problematic. The proposed bottom fishing access zones are designed assuming that the Bill will pass in an unchanged form. However, the areas proposed in the Bill are not based on the best available information and provide low conservation benefits. The assumption that those areas will be closed results in a suboptimal design of the bottom fishing access zones.
7. The BFAZ proposals are purported to be for the purpose of sustainability and therefore should be implemented by setting a sustainability measure under section 11 of the Fisheries Act 1996 (the Fisheries Act) before progressing to regulations under section 297 or 298 of the Act.
8. Overall, we consider that the lack of demonstrated adverse effects, adequate information and proper policy approach signals a rushed process and consequently poor outcomes. We urge proper time and consideration is taken given the importance of the decisions with its likely precedent effect.
9. We continue to support action taken to restore the mauri of the Gulf where it is evident that there are adverse effects to be managed and, after appropriate analysis, agreement on the best actions to address them. However, for the above reasons we do not support the current proposals and request adequate information and a wider range of options be provided in a supplementary consultation process.

#### **Who we are**

10. New Zealand's seafood industry generates \$5.2 billion annually in economic output and employs some 16,500 kiwis who provide New Zealand and the world with high quality, nutritious and great tasting seafood.
11. Seafood New Zealand is a professional organisation delivering industry-good services for the wider benefit of the seafood industry. This includes the development of responses on legislative and regulatory proposals affecting the industry. Our vision at Seafood New Zealand is that we are **leading a thriving seafood industry that creates value for all New Zealanders from a healthy marine environment.**
12. Seafood New Zealand works with other industry representative bodies, such as the New Zealand Rock Lobster Industry Council and the Paua Industry Council, and with other organisations engaged in the management of New Zealand's fisheries and oceans. These include, inter alia, Te Ohu Kai Moana, Fisheries New Zealand (FNZ), the Department of Conservation (DOC), the Ministry for the Environment, regional councils and environmental advocacy organisations.
13. Recently, Seafood New Zealand merged with Fisheries Inshore New Zealand and the Deepwater Group to form an umbrella lead agency for the commercial finfish sector while applying sector expertise through our Deepwater and Inshore Councils.

*Deepwater Council*

14. The Seafood New Zealand Deepwater Council represents quota owners of New Zealand deepwater fisheries. This includes hake, hoki, jack mackerel, ling, orange roughy, oreo, scampi, southern blue whiting, and squid. Shareholders of the Deepwater Council collectively own 92% of all deepwater quota in New Zealand.

*Inshore Council*

15. The Inshore Council of Seafood NZ represents more than 80% by value and volume of the commercial inshore finfish, pelagic and tuna fishing in New Zealand. The Inshore Council addresses issues on behalf of the sector both nationally and regionally and works directly with, and on behalf of, our members on fisheries management related risks and opportunities.
16. Our key outputs are the development of, and agreement to, appropriate policy frameworks, processes and tools to:
  - a. assist the sector to manage inshore, pelagic and tuna fishstocks more effectively;
  - b. minimise the sector's interactions with protected species and associated ecosystems; and
  - c. work positively with other fishers and users of marine space where we carry out our harvesting activities.
17. The Inshore Council provides management services through regional committees to the quota owners, fishers and Licensed Fish Receivers (LFRs), of fish stocks, primarily in the North Island. The Inshore Council also has a committee for highly migratory species fisheries, and a close relationship with Southern Inshore Fisheries Management Company Limited that provides management services to the quota owners of stocks in the South Island.
18. Our sector is diverse and consists of over 400 small vessels — trawlers, set-netters, long-liners and Danish seiners - operated by fishers - most with a long history in fishing. Fishing businesses range from one person owner-operated vessels to larger companies with multiple vessels and employees. These are largely inter-generational family-run businesses that serve our coastal communities throughout New Zealand.
19. Fishing mostly in the Territorial Sea,<sup>2</sup> we catch around 95,000 tonnes per annum of species such as snapper, gurnard, tarakihi, blue cod, kahawai, elephant fish, and trevally — to name but a few of the 70 plus species utilised by the sector.
20. New Zealand's inshore fisheries provide livelihoods for around 4,100 fishers and seafood processing associated employees spread across New Zealand. The total annual output of fishing and seafood processing is valued at \$1.27b and generates a GDP contribution of \$533m.<sup>3</sup> Roughly half of these earnings and employment are Auckland-based.
21. Inshore fisheries provide the fish on the table in Kiwi homes and in our fish and chip shops — 75% of the inshore catch is consumed domestically with over 72% of Kiwis eating seafood at least once a month<sup>4</sup> (but less than 10% of us catch fish recreationally at least once a year).<sup>5</sup> Our commercial fishing is the only means by which the vast majority of New Zealanders can access and enjoy the healthy protein of New Zealand's

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<sup>2</sup> The territorial sea extends 12 nautical miles from the coast around New Zealand

<sup>3</sup> Berl Report: The Economic Contribution of Commercial Fishing 2022

<sup>4</sup> New Zealand Seafood Consumer Preferences, Ministry for Primary Industries Economic Intelligence Unit 2019

<sup>5</sup> National Panel Survey of Marine Recreational Fishers 2017-18, Fisheries New Zealand July 2019

fisheries resources. We therefore represent the interests of all New Zealanders who purchase fish.

22. To continue to provide Kiwis with locally caught seafood, the fishing industry is wholly dependent on a healthy and sustainable marine environment. We therefore strongly support the need for a more integrated approach to maintaining the health of our oceans, both within the coastal marine area and across the terrestrial/marine boundary.

### **Recognition of the importance of the Gulf**

23. The Gulf's marine ecosystem is highly productive but has had significant increases in pressure on it as Auckland and the wider Waikato/ Coromandel communities have developed. There has been extensive commentary that the Gulf is unhealthy due to multiple pressures including: population growth, development, and intensification of land use, aging and more extensive infrastructure, increasing ship and boat numbers, commercial and recreational fishing, marine pests and land-use practices that result in significant sediment loads, nutrients, pathogens, marine debris and other contaminants. There is no doubt that it is not in the state that our ancestors found it when they arrived, nor is it in the state that we want to leave to our mokopuna.
24. The pressure on fisheries in the Gulf and many other inshore fisheries was recognised and, and consequently, the Quota Management System (QMS) was introduced for all major inshore finfish fisheries in 1986. The QMS limits commercial catch and also creates incentives for fishers to take a long-term view of the health of the resource.
25. In recognition of the national significance of the Gulf for its biological, cultural, economic and recreational characteristics, the Hauraki Gulf Marine Park Act 2000 was passed. This recognised that *“The Gulf must be managed in a manner that crosses territorial jurisdictions, crosses land and water boundaries, and crosses cultures and that respects both conservation and development needs.”*<sup>6</sup>
26. The Gulf supports a diverse fishing community, including the commercial sector who rely on the health of the Gulf for their livelihoods and to provide seafood to local markets. It is inherent that we in turn support the health of the Gulf so that it can provide for current and future fishers and consumers.

### **Commercial Fishing in the Gulf**

27. There are many natural characteristics of the Gulf that make it an important area for fisheries. The Gulf is one of our most productive inshore marine areas and produces approximately 8,500 tonnes of commercially caught seafood annually. The inner parts of the Gulf are sheltered from harsh weather conditions and a space for small vessels to operate safely.
28. Industry estimates that at least 50% of fish commercially caught in the Gulf is sold to Auckland region consumers – in restaurants, fish shops, take-away shops. We are the sector that meets those needs – we provide fish to those who do not have the time or resources and cannot catch it for themselves – the majority of Aucklanders – or for those who, while they have the resources, cannot catch fish for their table all year round. This includes the provision of fish to local communities as part of the commercial contribution to the Kai Ika Project, in which fish parts are collected from various LFRs and redistributed to needy families and community groups all over Auckland.

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<sup>6</sup> Hauraki Gulf Marine Park Act 2000, Preamble (7)

29. 90% of that fish comes from mobile bottom contact fishing – bottom trawling and Danish seining. Trawl and Danish seine represent the most cost-effective forms of harvesting of fisheries resources so that we can supply fish throughout the year. Catching fish on hooks results in high quality fish but the harvesting costs are some three times the cost of bottom trawling. In addition, lining is effective for some species but many of those desired by consumers – trevally, kahawai, john dory, gurnard, and tarakihi (all fish that are predominantly eaten by Kiwis) – are not caught by lining in economically viable quantities.
30. The diversity within and between fishing operations is not random – in order to harvest certain species for market, fishers use different fishing methods in specific areas at distinct times of year harvest specific species. The varied areas they use is also a way of reducing spatial overlap with other vessels (including recreational areas). This way, each vessel has its own niche within the Gulf.

*Current state of fisheries in the Gulf*

31. Overall, the main commercial finfish stocks that are present within the Gulf have been assessed and are above the limit where Fisheries New Zealand deems a stock to be overfished. For fishstocks of known status: gemfish, gurnard, John dory, kahawai, kingfish, school shark, snapper and trevally have been assessed to be at or above the population management target level. Only the tarakihi stock (entire east coast of North and South Island) has recently been assessed as being significantly below target and consequently has been subject to a formal management plan to rebuild the stock since 2018.
32. Since 2000, bottom contact commercial fishing effort in the Gulf has reduced. The number of bottom trawls over the most recent three-year period was 27% lower than in the previous three-year period; there was a 21% decrease in Danish seining events over the same time period. Alongside the reduction in effort, the commercial fishing community of the Gulf still caught a similar tonnage of fish.

*Current closures and measures in place*

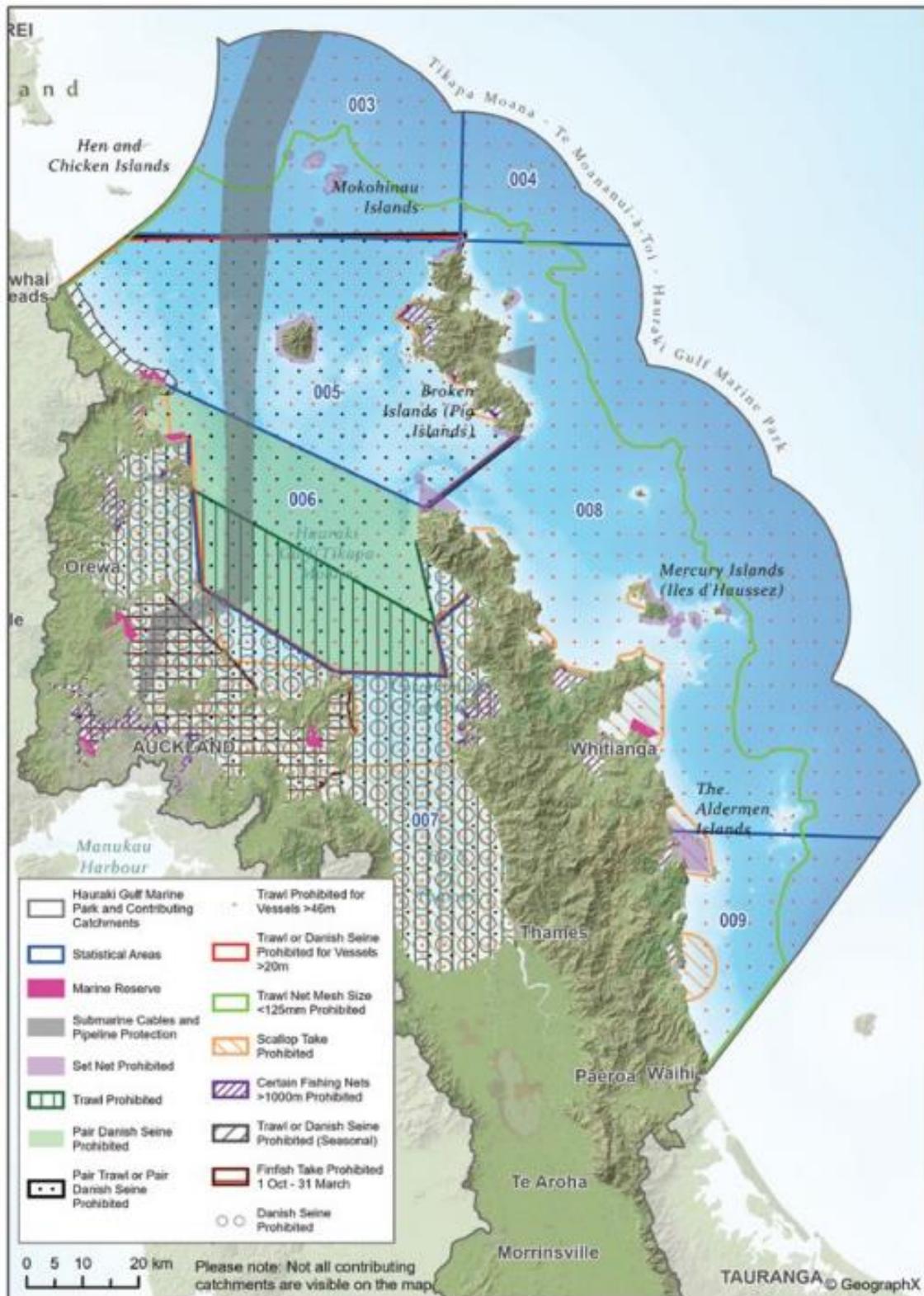
33. Commercial fisheries in the Gulf are highly regulated.<sup>7</sup> Two key restrictions are that bottom trawling and Danish seining are entirely prohibited in 27% of the Gulf and there is a temporal finfish prohibition that restricts catching of finfish by any method within the Inner Hauraki Gulf for six months over summer.<sup>8</sup>

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<sup>7</sup> Fisheries (Auckland and Kermadec Areas Commercial Fishing) Regulations 1986

<sup>8</sup> There are exceptions to allow for setnet capture of mullet and flatfish, and purse seine catch of pilchard, anchovy, garfish or piper <https://legislation.govt.nz/regulation/public/1986/0216/latest/DLM105653.html>

Figure 1. Map of the Hauraki Gulf Marine Park depicting commercial fishing spatial restrictions. Source: Revitalising the Gulf, Government action on the Sea Change Plan June 2021



## Seafood New Zealand position

### Adverse effects have not been demonstrated

34. All decisions under the Fisheries Act must advance the purpose of the Fisheries Act which is to provide for the utilisation of fisheries resources while ensuring sustainability. Ensuring sustainability is defined to include avoiding remedying, or mitigating any adverse effects of fishing on the aquatic environment. Measures implemented to constrain fishing and affect utilisation of fisheries resources must be deemed necessary to ensure the sustainability limb of the purpose of the Act, i.e. must be necessary to avoid, remedy or mitigate adverse effects of fishing.
35. The purported intent of the Bottom Fishing Access Zone (BFAZ) proposals is to “*protect marine benthic habitats from the adverse effects of bottom contact fishing*”<sup>9</sup>, however, such adverse effects have not been demonstrated. While mobile bottom fishing methods can have adverse effects on benthic environments, an assessment of such effects in the Gulf has not been undertaken and the understanding of the extent of impacts has not been provided in the consultation.
36. Therefore, the proposals do not appear to be based on any analysis of the extent of current bottom fishing and its associated effects on benthic biogenic habitat. Rather it appears that a predetermined ambition to remove bottom contact fishing from most of the Gulf has been the defining criteria for developing the options. While we appreciate the decision to take the approach of restricting access to specific zones is in the approved Hauraki Gulf Fish Plan, we expected that there would have been an assessment of adverse effects before any such zones were proposed. We consider that the approach that restricts access to small fraction of the Gulf irrespective of impacts undermines the Fisheries Act as it has circumvented the considerations relating to addressing adverse effects. We support the analysis provided on this point in the joint submission by Sanford, Moana and Leigh Fish.
37. The consultation document states that bottom fishing occurs in 39% of the open area shallower than 200m, but this does not provide enough context to participants to understand the overlap of that fishing with suitable habitat for biogenic taxa. It is crucial to provide an analysis of current effects to establish a baseline for further regulatory measures.
38. Fisheries New Zealand engaged with us to provide this information which indicates that the current<sup>10</sup> trawl and Danish Seine footprint in the Gulf overlaps an average 4.3% and 5.8% of the modelled suitable habitat for biogenic taxa respectively<sup>11</sup>. This is important information that should be made available to all consultation participants. It suggests that it should be possible to achieve high protection levels with significantly less (or no) impact on fishers. However, the portrayal of information and proposals in the consultation document does not include information of current bottom fishing overlap with biogenic taxa and assumes that current bottom fishing is having adverse effects that need to be managed.
39. We support initiatives to respond to and appropriately manage adverse effects from activities on fisheries and their supporting ecosystems. However, the consultation document has not demonstrated the adverse effects of bottom fishing in the Gulf. Therefore, participants in the consultation cannot determine whether the proposals

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<sup>9</sup> Hauraki Gulf Fisheries Plan – Minister’s foreword August 2023

<sup>10</sup> Averaged from the last three years

<sup>11</sup> The combined footprint of both methods is 9.4%

appropriately balance habitat protection and fishing. We consider that the options reflect the Sea Change Plan's ideology to remove bottom fishing, rather than demonstrating effective management of adverse effects.

### **Consultation information insufficient**

40. We consider that the information provided in the consultation document and the subsequent associated supplementary information is unlikely to meet the standard required for genuine consultation. On October 16 we provided a letter of our view that further information was required to enable well-considered and useful submissions from all interested parties. While we appreciate that FNZ engaged with us to provide some of this information, we still hold the view that all participants would have benefitted from further information to assist in developing their positions on the proposals. In addition to the lack of information on adverse effects described above, we have elaborated below on some of the crucial limitations on the information provided.

#### *The range of options is narrow and unjustified*

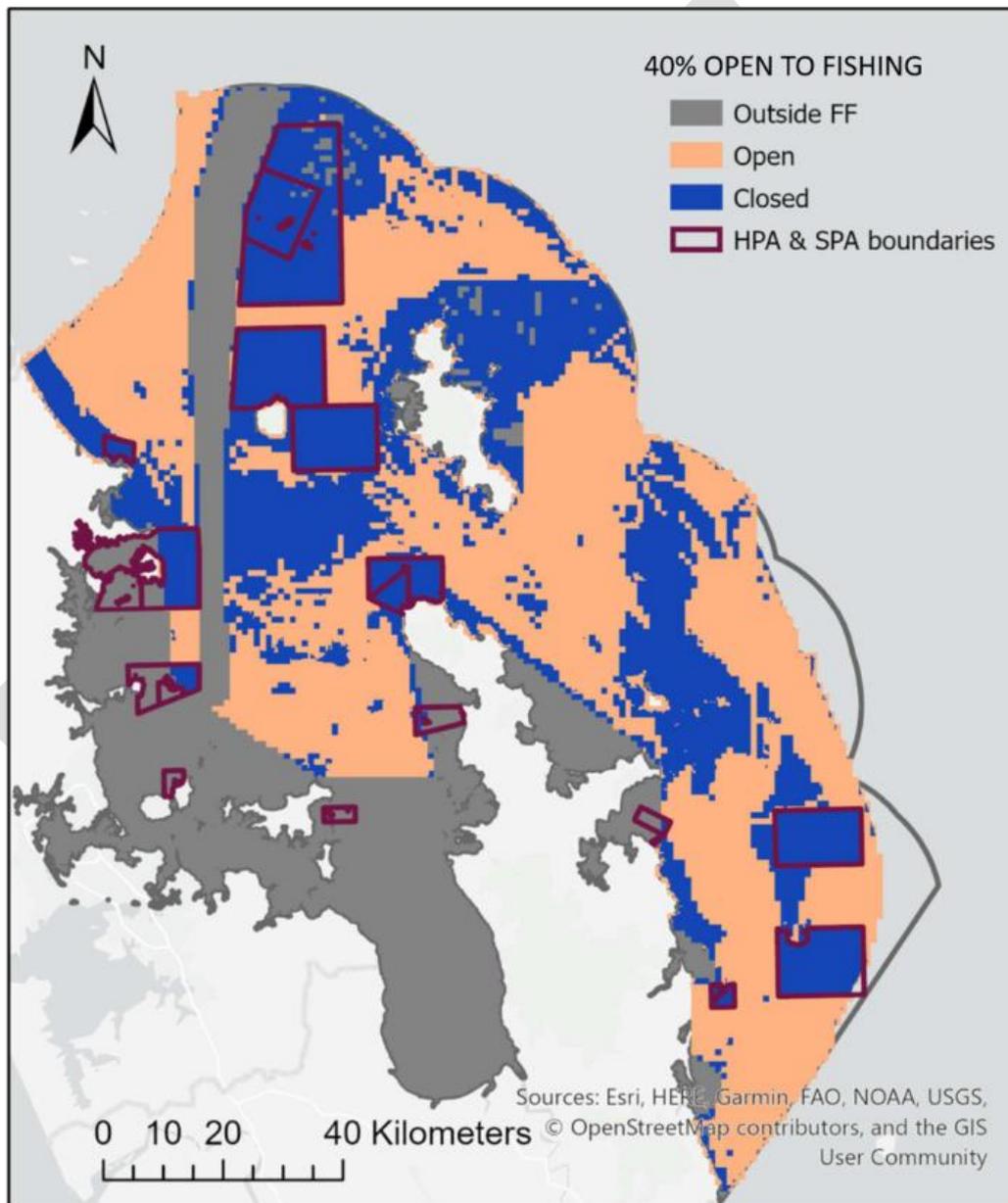
41. The range of options provided is narrow and only allows for very high levels of protection of biogenic habitats by significant restriction of current fishing areas. The consultation document provides four options with biodiversity outcomes ranging from 90-97% protection of suitable habitat and an associated 37-60% decrease or displacement of annual catch.
42. No justification or rationale for this range of options is provided. We recognise that efforts have been made to generate options for BFAZ that represent the main trawl fishing grounds, however, we note the limited overlap of fishing effort with biogenic habitat, this is demonstrated by:
- a. The current trawl overlap with 4.3% of suitable habitat for biogenic taxa
  - b. The least extreme option provides 90% protection of suitable habitat for biogenic taxa; and
  - c. The least extreme option reduces current trawl catch by approximately 23%
43. Based on the above, it is clear that optimal areas for protection and optimal areas for fishing have not been provided in the options. Due to the limited overlap, it should be possible to protect a high proportion of biogenic habitat with little (or no) impact on fisheries.
44. The Marine Stewardship Council (MSC) provides standards of practice for commercial fishing that are consistent with best practice codes and guidelines provided by the UN Food and Agriculture Organization, ISEAL and the Global Sustainable Seafood Initiative. These standards are developed alongside academics, NGOs, governments and industry. The MSC has nominated the 80% level as a reasonable point at which to expect most of the habitat's structure and function (including abundance and biological diversity) to have been restored, taking into consideration the likely logistic population growth of habitat-forming organisms<sup>12</sup>. The MSC standard is an example of an informed basis to generate a proposal for biogenic habitat protection.

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<sup>12</sup> [https://www.msc.org/docs/default-source/default-document-library/for-business/program-documents/fisheries-program-documents/msc-fisheries-standard-v3-0.pdf?sfvrsn=53623a3\\_21](https://www.msc.org/docs/default-source/default-document-library/for-business/program-documents/fisheries-program-documents/msc-fisheries-standard-v3-0.pdf?sfvrsn=53623a3_21)

45. As another example, scientific guidance on the protection of vulnerable marine ecosystems provided by Fisheries and Oceans Canada recommended that, where 100% protection cannot be done, protection of 70% of the total extent of each ecosystem in each bioregion is expected to be enough to maintain ecosystem functionality<sup>13</sup>.
46. As an example, the figure below shows the extent of bottom fishing restriction that would result in a protection of suitable habitat to a level of 82%. This provides a high level of protection while allowing significantly more access to fishing grounds. We note that implementing BFAZ on this basis would not result in all the area in the map to be open as areas need to be “rounded” for implementation.

Figure 2. Map of the Hauraki Gulf Marine Park depicting 40% open area to bottom fishing



<sup>13</sup> Guidance on the level of protection of significant areas of coldwater corals and sponge-dominated communities in Newfoundland and Labrador waters. Canadian Science Advisory Secretariat. Science Response 2017/030.

47. The proposals to restrict bottom fishing in the Gulf evolved from the Sea Change Plan which proposed complete removal of bottom contact fishing within the Gulf. The Sea Change Plan was developed by an independent Stakeholder Working Group. There was no formal consultation on the Sea Change Plan. In response to this proposal, *Revitalising the Gulf: Government Action on the Sea Change Plan* (Revitalising the Gulf) states that FNZ will use an evidence-based approach to explore options for balancing habitat protection and fishing in the Gulf.<sup>14</sup>
48. Based on the unjustified and narrow range of options it appears that the consultation reflects the intentions of the Sea Change Plan rather than a balanced and evidence-based approach to manage adverse effects under the Fisheries Act. We do not consider the current proposals should proceed. If, after proper consideration of adverse effects of the fishing activity on the biogenic taxa, additional restrictions are considered necessary we consider a supplementary consultation with a wider range of options is required.
49. We would like to offer our time and support to work with officials to develop further options for a supplementary consultation.

#### *Impacts on the Gulf's seafood community*

50. The impacts of the proposals on the people of the Gulf's seafood industry and associated communities have not been adequately considered and accounted for. Measures proposed in the Gulf to restrict bottom fishing will impact the livelihoods of people in the seafood community. It is important to note that the impacts will fall disproportionately on different operators depending on where they fish and the nature of their operation.
51. The consultation document states there are 28 trawl and Danish seine vessels operating in the proposed BFAZ and 21 operating in the areas proposed for closure. The consultation provides some information on how many operators will be impacted to varying degrees under different options; for example, under Option 3, four operators would have their catch reduced by more than 30% unless they move their operations to a BFAZ. However, this information is inconsistent with our analysis that indicates the impacts will be far greater. For example, for Option 3, we have identified 6 fishers that will lose greater than 30% of their catch, 3 of whom will lose in excess of 80%. It is also not possible for some operators to move their operations as asserted because they require certain areas to operate, for example smaller vessels who need the shelter of the inner areas of the Gulf or Danish seiners who require fishing grounds with no benthic obstructions.
52. Reductions in revenue as per the analysis in the consultation document of greater than 30% are significant and will potentially result in the closing of businesses – especially for smaller operators who are already under significant pressure from rising operating costs and regulatory change.

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<sup>14</sup> <https://www.mpi.govt.nz/dmsdocument/45550-Revitalising-the-Gulf-Government-action-on-the-Sea-Change-Plan>

53. Closing areas to certain methods does not always mean that the fishing effort will be moved elsewhere; for some operations, this means that they will not be able to access the resource at all. This has flow-on effects to local markets and consumers access to seafood. The distribution of fishing effort in the Gulf is influenced by a range of factors including:
- An extensive suite of fisheries regulations that spatially restrict the use of certain fishing methods throughout the Gulf;
  - The necessary spatial separation of different commercial methods to avoid operational interference between bottom longlining, trawl and Danish seine operations;
  - Prevailing sea and weather conditions suitable for the fishing vessel and method;
  - Avoidance of spatial conflict with recreational fishers by fishing in areas further away from population centres;
  - The productivity of an area with consistent or seasonal abundance of target species;
  - The proximity to ports, seafood processing facilities, markets and distribution infrastructure; and
  - Balance of the operational costs of running their businesses and maintaining profitability, particularly at a time with significantly increased fuel costs and inflation.
54. In addition, in the cases where fishers are able to move and catch their fish elsewhere, and for fishers that operate outside the Gulf but in FMA1, there is a lack of information on how the proposals may impact fishing effort and catch of key stocks in the open areas and across the rest of FMA1. There is also no information on the subsequent flow-on effects to the monitoring and scientific assessments of fish stocks.
55. The proposals would have significant impacts on current fishing operations and therefore the people who earn their livelihood from it. We consider that a 37% reduction in catch to “achieve 90% protection” is not an equitable trade-off when the current trawl footprint impacts on only 4.3% of the suitable habitat.
56. Further, despite assertions of integrated management, the cumulative impacts of the proposals with the intended MPAs under the draft Hauraki Gulf/Tikapa Moana Marine Protection Bill have not been acknowledged. The consultation document states that the options proposed have taken into consideration the other initiatives including the MPAs. However, no information has been provided to demonstrate the cumulative impact of all proposals. This is vital information considering the interdependence of the decisions.

*Danish seine specific information needed*

57. Danish seine fishing and its potential impacts on the benthic habitat have not been characterised separately to bottom trawl. Seining is fundamentally different from trawl - the fishing gear and how it is used - the wide flat featureless sandy seafloor areas required for fishing and minimal gear contact with the seafloor are significant differences that need to be explicitly considered.
58. Danish seine fishing occurs in discrete areas of the Gulf determined by locations of aggregations of target fishstocks, sheltered waters that are less affected by sea swells that lift the lightweight gear, and areas that are free from underwater features that would damage or snag the gear preventing its closure. It is not feasible for Danish seine fishers to use all areas that are proposed to be open to fishing.
59. While the proposal for Zone A within the inner gulf recognises the importance of that area for Danish seine fishing, further work is required to identify and include other key

Danish seine fishing grounds. Specific analysis and options need to be produced for managing the adverse effects of Danish seine in the Gulf.

*Limited ground truthing on species distribution*

60. Habitat suitability models provide estimated predictions of suitable habitat for biogenic taxa throughout the Gulf. While the modelling is a big step forward, as with all models, they are dependent on the quantity and quality of input data. In our submission to the Draft Hauraki Gulf Fisheries Plan, we noted the sparse amount of information that is available on benthic habitats and their distribution. We continue to endorse further data collection, model improvements and monitoring to improve the available information on benthic habitats and their distribution, including biogenic habitats before any long-term spatial measures are determined.
61. We are concerned that the consultation document provides no information on the uncertainties in the model outputs. Under the Fisheries Act, uncertainties in available information need to be described and considered when making decisions.

**Measures are needed to address all impacts**

62. Despite the demonstrable improvements in fish stock health and fisheries management since the first Hauraki Forum State of Our Gulf report in 2004, we note that these reports have had a continued narrow focus on measures to manage fisheries as the primary impact on the health of the Gulf. This is a notable contrast to the lack of demonstrable management on land-based impacts which are arguably having a more significant impact. While land-based impacts are more complicated to manage, for the health of the Gulf, it is vital that these are addressed.
63. We have ample research and evidence that identifies the importance of coastal environments to the productivity of our inshore fisheries and the negative impacts land-based effects have on these sensitive ecosystems and fisheries resources. These areas have been protected from the negative impacts of fishing activities yet continue to be subject to increasing cumulative impacts from land-based activities.
64. Experience has shown us that once habitats are lost or altered, recovery back to a former state is unlikely to occur. The Gulf has a legacy of impact from land-based effects that is set to increase unless central and local government commitment, resources and actions are strengthened. The consultation document does not provide information on land-based effects and environmentally driven processes in the closed areas and how this could impact on passive restoration of the areas. This is specifically important in the Gulf where large areas have been closed to trawl and Danish seine for a long time – it is unclear whether these areas have benefitted in terms of “passive restoration“.
65. Managing the effects of commercial fishing in isolation will not be enough to manage the cumulative impacts on the health of fish stocks and ecosystems in the Gulf. Following an ecosystem-based approach actions would look to integrate actions from the tops of catchments to the limits of the Territorial Sea – Ki uta, ki tai.

### **Hauraki Gulf/Tikapa Moana Marine Protection Bill (the Bill) proposals impact optimal BFAZ development**

66. The Bill's proposed High Protection Areas (HPAs) and Seafloor Protection Areas (SPAs) have been developed using different habitat information than FNZ has used to develop the BFAZ. In our submission to the Select Committee on the Bill we raised that the information basis for the HPAs and SPAs did not reflect best available information. Further, we submitted that the SPAs should not be implemented under special legislation and would be redundant in the context of FNZ's BFAZ proposals.
67. FNZ has developed the BFAZ proposals with a principle that "BFAZ will not be placed in areas currently proposed for protection". Because the areas proposed for protection used different (and inferior) information, this has the effect of generating suboptimal BFAZ. Excluding the HPAs and SPAs from the development phase means those areas are not considered when identifying areas of highest biodiversity or fishing value.
68. The concurrence of the Bill consultation with the proposed Bottom Fishing Access Zones in the Gulf inhibits the ability for submitters to provide feedback on the separate proposals when their relative outcomes are interdependent. Essentially, consulting on both sets of measures at the same time is confusing as the position on one submission may be influenced by the outcome of the other.

### **Legislative context**

69. The consultation document proposes to implement decision through section 297 of the Fisheries Act 1996 (the Fisheries Act) "General Regulations"; however, the proposals are portrayed as measures for sustainability and therefore should be implemented by setting a sustainability measure under section 11 of the Fisheries Act before progressing to section 297 or section 298. We note that the consultation document does not reference section 11 in its legislative context section - we consider this remiss.
70. Section 11(1) provides for the Minister to set or vary sustainability measures for stocks or areas after taking several considerations into account.<sup>15</sup> The Minister must also have regard to various documents or matters that are relevant and applicable, including resource management plans, conservation strategies, and subsections 7 and 8 of the Hauraki Gulf Marine Park Act.<sup>16</sup>
71. Section 11(4)(b) says that the Minister may implement a sustainability measure by Gazette notice or by recommending the making of regulations under section 298 which pertains to making regulations for "implementing any sustainability measure". We consider that section 11(4)(b) indicates that regulations implementing a sustainability measure should be made under section 298 rather than section 297. Ensuring sustainability as per the purpose of the Act (s8(2)(a)) refers to adverse effects as per the problem definition. In order to avoid, remedy or mitigate an adverse effect, a proven adverse effect needs to have been demonstrated.
72. We consider that the Minister ought to set a sustainability measure under section 11 regarding bottom trawling and Danish seining in the Hauraki Gulf before recommending the making of regulations under section 298 or section 297 to implement it. Not doing so would circumvent the statutory provisions about what must be considered when setting sustainability measures.

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<sup>15</sup> Fisheries Act 1996, s 11(3)(c) and (d).

<sup>16</sup> Fisheries Act 1996, s 11(2).

### **Concluding statements**

73. We recognise the national significance of the Hauraki Gulf/Tīkapa Moana (the Gulf).
74. The commercial fishing community of the Gulf is reliant on the healthy functioning of the ecosystem and therefore is dedicated to ensuring the ongoing sustainability of the Gulf. We need the Gulf to be healthy.
75. The proposals have been developed in the absence of evidence of the adverse effects of bottom fishing in the Gulf. Rather, they appear to have been progressed to reach a predetermined goal of restricting bottom fishing. This undermines the Fisheries Act framework.
76. We consider that the consultation is inadequate as it has failed to:
  - a. Assess the level of current adverse effects of bottom fishing
  - b. Provide sufficient information to enable adequate feedback
  - c. Provide a reasonable and justified range of options
  - d. Differentiate between the effects of bottom trawl and Danish seine methods and provide options accordingly
  - e. Take adequate accounts of the impact of the proposed measures on fishers and the wider community
  - f. Appropriately consider the effect of displacement within the Gulf and in adjacent areas.
77. The current low overlap of bottom fishing and suitable habitat means that the proposals to restrict fisheries to the extent in the consultation document are unnecessary to address adverse effects on suitable habitat for biogenic taxa. Protection can be likely achieved without significantly restricting fisheries.
78. We do not support the proposed marine protected areas (MPAs) under the Hauraki Gulf/Tīkapa Moana Protection Bill as they are based on poor information and provide low conservation benefit. Proposing BFAZ on the basis that these areas will be closed generates a suboptimal balance of protection and fishing.
79. Section 11 of the Fisheries Act is the more appropriate mechanism for proposals relating to the methods which can be used in areas to fish.
80. Overall, we consider that the lack of demonstrated effects, inadequate information and absence of a robust policy approach signals a rushed process and has resulted in poor proposals that will have negative outcomes on fishers and consumers without significantly altering the long-term protection in the Gulf. Given there is no immediate threat to the benthic environment in the Gulf from fishing, and the importance of the decisions, we urge that proper time and consideration is taken to develop proposals that will result in enduring and effective measures. We are dedicated to this process and would be happy to work alongside officials to explore potential options.
81. We continue to support action taken to restore the mauri of the Gulf where it is evident that there are adverse effects to be managed and, after appropriate analysis, agreement on the best balance of protection and sustainable fishing. However, for the above reasons we do not support the proposals and request a supplementary consultation process.