

**From:** [Hamish Spencer](#)  
**To:** [SEMP](#)  
**Subject:** Proposed Marine Protection in the SE South Island, New Zealand  
**Date:** Sunday, 2 August 2020 4:09:11 PM  
**Attachments:** [Spencer DoC Otago MPA Submission.pdf](#)

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Please find attached a submission on the Proposed Marine Protection in the SE South Island, New Zealand.

Professor Hamish G. Spencer, FRSNZ

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2 August 2020

Department of Conservation & Fisheries NZ

By email to [southeast.marine@publicvoice.co.nz](mailto:southeast.marine@publicvoice.co.nz)

Re: Proposed Marine Protection in the SE South Island, New Zealand

To Whom it May Concern,

This letter is a submission concerning the proposed marine protection for southeastern South Island of New Zealand as recommended to the Minister of Conservation and the Minister of Fisheries in November 2018. I am professor of zoology at the University of Otago. I work as an evolutionary geneticist with a strong interest in New Zealand's biodiversity, especially that in the marine realm. I have described several new species of molluscs from Otago's marine intertidal. I was also part of the group of scientists that pointed out that the Otago Shag was a separate species from the Foveaux Shag, and they were not a single species, the Stewart Island Shag. I am an advisor to the Department of Conservation, in my capacity as a member of the Otago Scientific Advisory Group. This letter reflects my opinion as an internationally respected scientist and researcher, but it should not be taken as the view of the University of Otago.

I am writing to give my qualified support for the proposal, but I have a number of significant reservations.

1. Some protection is better than the current complete absence, which is a travesty. That there is no marine reserve in Otago in 2020, some 45 years after the establishment the Goat Island reserve, beggars belief. Hence, I am supportive of the proposal, in that it makes a start to rectifying the existing situation.
2. I do not believe however, that the claim that the proposed "option will create the best protection for important habitats found in the South Island's south-eastern coastal area including foraging areas for marine mammals, birds, fish and invertebrates." Indeed it is woefully inadequate, as my next few paragraphs explain.
3. There is no marine reserve on the Catlins coast (and only minimal protection of any kind). The Catlins coast is unique in its combination of geology and native forest reaching right to the coast. We understand today that conservation needs to go from the mountains to the sea, but DoC and MPI seem to have deliberately ignored this principle.
4. There is minimal protection of exposed rocky shore habitats, which have a unique ecology that is only now beginning to be fully understood. For example, I led the team describing a new species of snail, *Diloma durvillaea*, which we first encountered at Kaka Point. I am not aware of this species occurring in any of the reserves proposed.

**Sesquicentennial Distinguished Professor Hamish G. Spencer, FRSNZ**

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5. There is no protection for the areas adjacent to the breeding sites of the Otago Shag. Yet, we know that the numbers of this species have declined drastically since the arrival of humans and show little sign of any recovery. The Department of Conservation is well aware of this history, as I have told the Board on more than one occasion.
6. There is minimal protection of sheltered soft-shore habitats anywhere in the region, and yet such habitats are crucial to the health of our coasts. Again, I have described new species of limpets from these places; none is protected.
7. The process of consultation that has taken place has, to date, largely consisted of proposals for conservation areas being made and then scaled back to something small and inadequate. Genuine consultation would have involved some give and take, some gains and some losses from the original proposals. Almost all (possibly all) the changes have reduced and eliminated areas for conservation as the “consultation” has progressed.

In short, some progress is better than none, but the current proposal falls far short of satisfactory. It will fail to give effective protection to the incomparable biodiversity we have in the southeast South Island. Most especially, it will not “create the best protection for important habitats found in the South Island’s south-eastern coastal area including foraging areas for marine mammals, birds, fish and invertebrates.”

Please contact me if I can be of further use in this regard. I am happy to substantiate any of the points made above, but I am sure that you will have heard much the same from many other submitters.

Sincerely,

s9(2)(a)



Hamish G. Spencer FRSNZ

**From:** [Keith Heineman](#)  
**To:** [SEMP](#)  
**Subject:** Marine protection  
**Date:** Sunday, 2 August 2020 3:42:26 PM

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I object to the proposed marine protected areas because I feel that these are not necessary because the quota system is working well for most species in our area.

I do believe that this will be a financial burden that the country doesn't need at this time.

Sent from my iPad

**From:** [Michael Lawry](#)  
**To:** [SEMP](#)  
**Subject:** Sea Shepherd NZ: Submission to South East Marine Protected Areas  
**Date:** Sunday, 2 August 2020 2:43:41 PM  
**Attachments:** [SeaShepherdNZ\\_Submission to South East Marine Protected Areas\\_2020.pdf](#)  
[OLD\\_SeaShepherdNZ-SEMP-submission2016.pdf](#)

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Hi Southeast Marine,

Attached is our latest submission (2020). I believe we also sent a submission in 2016. What happened to that exactly? Thanks, this whole process has been a real eye-opener, lol. I have attached our 2016 submission for amusement. Hopefully something will actually happen this time.

Regards

Michael Lawry  
Managing Director  
Sea Shepherd New Zealand  
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## Sea Shepherd New Zealand Submission on Proposed Marine Protected Areas for New Zealand's South Island South-East Coast

Dear Forum members,

Thank you for the opportunity to make a submission.

### General comments:

Sea Shepherd NZ acknowledges the time taken, and dedication of the Forum members throughout this process to get to this stage.

Sea Shepherd NZ supports the full implementation of marine reserves and MPAs proposed by the South-East Marine Protection Forum, including all expansions. Sea Shepherd NZ also proposes additional type 2 MPAs to provide adequate protection, which are necessary to meet Governmental policy and international obligations. This is an important opportunity to provide adequate and successful protection for our special region.

Sea Shepherd NZ congratulates the Forum for incorporating, to some extent, the key principles of design from our founding father of marine reserves, Dr Bill Ballantine, *Representation, Replication, and Geographically widespread networks*. However, these proposals fall too short of the fourth, and most important principle: *Self-sustaining total area*. From page 305, Ballantine, 2014:

“The system must be sufficiently large in area to maintain itself through time, independently (as far as possible) of the surrounding seas.... For the maximum benefit to fisheries, the total area {of no-take marine reserves} should be at least 30%.”

The Forum has proposed a mere 5.3% of the marine reserve area to be no-take marine reserves. This needs to be improved. A greater, more area-rich network of marine reserves and MPAs is essential to allow fish and other marine species a chance to thrive. Such a network will provide species in the region with a much greater resilience from human impacts, and would noticeably benefit the region.

Under the principles of the Treaty of Waitangi, there needs to be 50/50 co-management and representation with Māori on MPAs. Sea Shepherd NZ fully supports Kāti Hūirapa and other hapu, that they keep their sovereignty over rohe moana, and continue to manage any marine reserves, and introduced ones, placed within their area, potentially with stakeholders, using the Taiāpure model. Hapu are not against Marine Reserves but need to be in full partnership and agreement with the Crown to establish exact locations of new Marine Reserves. With regards to customary fishing, Sea Shepherd NZ is against setnetting and trawling across the New Zealand EEZ, unless nets used are made of traditional materials, and used in type 2 MPAs.

The Forum has acknowledged Hector's dolphins as Endangered and mentions they inhabit areas around Otago Peninsula, Moeraki, Porpoise Bay, and the Nuggets.

The entire Forum area is important habitat for this species.

Since the 1970's, Hector's dolphins have declined to 27% of their former 1970 abundance due to bycatch (Slooten & Dawson, 2010) from setnetting and trawling which are both harmful, wasteful fishing methods. Nationally, New Zealand sea lions have declined by approximately 50% since 1998 and are vulnerable to bycatch in trawl and setnet fisheries (Robertson & Chilvers 2011).

There has been a substantial decline in dolphin numbers throughout the Forum area, especially off Brighton and Kaka Point, former areas of abundance. Sea Shepherd NZ questions why the harbours and coastal areas surrounding Blueskin and Porpoise Bays have been left out of the proposed MPAs, as they are well-known hotspots for the species. These areas are core parts of dolphin habitat for what is left of the Otago subpopulations. Setnetting and trawling should, at bare minimum, be banned out to the 12nm/ 100m depth contour in such important dolphin habitat, around Blueskin and Porpoise Bays.

This is a whakataukī from ancient Waitaha ancestress, Te Uri O Kotara:

*“Toi tū te Pāhu; toi tū te tai”*  
If Dolphin is well, so too will be our coasts.

Traditionally Hector's dolphins are *tohu*, environmental indicators. They are intrinsically linked as a reflection of health for the entire inshore ecosystem. If they are not doing well, then the rest of the ecosystem is not healthy either.

Protection from commercial setnetting and trawling needs to be implemented immediately throughout the entire Forum area for Hector's dolphins, other critically endangered taonga species and the inshore ecosystem, to perpetuate and recover from high levels of bycatch and damage due to unsustainable fishing methods. Governmental assistance should be given to fishers making the transition.

From Banks Peninsula, we know Hector's dolphins have high site fidelity with an average alongshore range of around 50km (Rayment et al, 2009). Recent research conducted off Otago revealed no photo-ID matches between Blueskin Bay and Moeraki, despite dolphin groups being in such close proximity (Turek, 2011). Another study off Kaikoura (Weir & Sagnol, 2015) also showed no photo-ID matches over very small distances (10 to 20 kilometres). A similar pattern emerges from: Hector's dolphins show numerous strong haplotype signatures, that are unique to different areas along the south-east coast (Hamner et al, 2012), showing a connected, but increasingly fragmented series of distinct subpopulations. These studies all point to a finer scale network of unique subpopulations, or Distinct Population Segments.

This is certainly the case for Hector's dolphins in the South-east: Timaru, St Andrews, Oamaru, Moeraki, Otago Peninsula, Brighton, Kaka Point, Porpoise Bay are all important subpopulations which need to be duly considered. Each requires adequate protection from such high levels of commercial fishing bycatch, for the species to recover and to prevent further fragmentation.

There are approximately 20 individuals around Otago Peninsula. Porpoise Bay has approximately 40 individuals. The rest are data deficient, but have clearly declined since the 1970's. Most, if not all South-east coast subpopulations are as Critically Endangered as Māui dolphins.

Hector's dolphins still face high levels of bycatch, with approximately 150 caught by setnets alone, every year by the commercial fishing industry. There has been some protection put in place since 2007, but this is inadequate, only covering a small portion of their habitat. This is very poorly monitored, with a worrying lack of enforcement. Setnetting is already banned out to 4nm throughout the Forum area. Trawling is also banned out to 2nm.

These existing regulations were mentioned in Volume 2. However, it was an unusual omission to not mention these existing bans in Volume 1 for people to ascertain any actual improvements to existing marine protection. Therefore, many of the proposed MPAs are not huge improvements when considered on top of these existing bans. It's alarming that in proposed areas A and B, Volume 1 states that there is still commercial mixed trawling and setnetting taking place respectively within these protected areas!

A recent report on New Zealand fisheries revealed the serious extent and common practice of dumping fish, high-grading and bycatch of many protected species (Simmons et al, 2016). You can see recent footage of several Hector's dolphins being caught off Timaru (in part of the Forum area) in setnets here: <https://www.youtube.com/watch?v=MKYRNfBRpcs>

Has the Forum adequately considered and responded to the revelations by Operation Achilles (MPI, 2013), Operation Hippocamp (MPI, 2012) and Simmons et al, (2016)?

- Operation Achilles was initiated after examination of video footage taken by cameras monitoring dolphin captures on-board six setnet commercial vessels operating on the east coast of the South Island.
- Operation Hippocamp gathered catch information to determine the level of dumping and high grading in the trawl and setnet fishery off the south and southeast coast of the South Island, with a focus on the gurnard and elephant fish fisheries.
- Simmons et al, (2016) concluded: In effect, the Ministry for Primary Industries (MPI) turned a blind eye to the mortality of endangered species (dolphins) and serious offences were allowed to escape prosecution. The research concludes that, "misreporting and dumping has been ignored for too long by officials".

Setnetting and trawling are harmful, wasteful fishing methods and should be banned throughout the entire Forum area, from Timaru to Waipapa Point, by way of a type 2 MPA out to 12 nm or the 100m depth contour. Depth contour is more practical for boat users, as they are constantly aware of the depth they are in from vessel equipment, much more so than distance from shore.

Transitioning away from these methods to more sustainable, selective ones, would near-eliminate protected species bycatch, protect nursery and spawning grounds and promote recovery of fish stocks to their former 1970's abundance. Less harmful methods include beach seines, dip nets, Danish seines, handlines, lamparas, lobster pots, ring nets and trolls. If this approach were to be adopted, we would see, in a short space of time, the life in our oceans rebound.

- Average fish sizes would increase.
- Fish caught in the south-east would be of the highest quality.



- It would also be the easiest to catch due to sheer abundance and health of target fish stocks.
- Habitats of Yellow-eyed penguins, Blue penguins, Hector's dolphins, New Zealand sea lions, and various species of Albatross, and their prey, would be protected from harmful, wasteful fishing.
- These taonga would all be increasing in abundance: beyond endangered, and critically endangered species status throughout the Forum area.
- The south-east coast would be the most abundant, healthiest fishery in all New Zealand, whilst still allowing for safe and selective commercial fishing.

Current regulations are already poorly monitored and enforced. With an increase in MPAs, does the Forum have any planned increases in budgets and staff to improve and effectively manage, monitor and enforce these new MPAs?

New Zealand Eel species are becoming very endangered. There should be a complete ban on any commercial harvesting of eels throughout the Forum area.

Marine farms, mining and seismic exploration need to be prohibited in all the MPAs.

### Specific comments

#### A

Sea Shepherd NZ supports the proposed MPA, however it needs to cover a larger area to be effective.

In area A, it states there is a voluntary trawling ban in place, whereas trawling is already banned out to 2nm. It is of serious concern that mixed trawling (not just trawling for flat fish which is permitted with low-headline nets) is occurring within this trawling restricted area. As stated in Volume 1, Hector's dolphins are often seen in this area, and outside the proposed MPA.

If the Forum wants to successfully protect school shark pupping, elephantfish egg deposits and Hector's dolphins, which all have important habitat throughout the entire Forum area, the destructive methods of commercial and setnetting should be banned out to 12 nm/ or 100m depth contour throughout the entire Forum area.

Sea Shepherd NZ advocates for the ultimate transition away from the damaging methods of setnetting and trawling to more selective, sustainable methods throughout the entire Forum area.

#### B

Sea Shepherd NZ supports the size for the proposed marine reserve and extension. This is another key area for dolphins and many other protected species. The area is also classified as an Important Bird Area (IBA).

Setnetting is already banned out to 4nm, so an extension out to 4.3nm is hardly an improvement. Sea Shepherd NZ therefore supports an extension out to 12nm/ 100m depth.

It is of serious concern that in Volume 1, under this proposal, it clearly states that setnetting for rig and school shark is still occurring within this setnet ban area, which would be illegal.

The shape with the extension would be very hard to enforce. It needs to be extended in to the shoreline, banning all commercial fishing off the rivermouth, but still allowing recreational beachcasting.

## C

Sea Shepherd NZ supports the proposed MPA and extension and supports a further extension out to 12nm/ 100m depth to provide better representation of habitats used by protected and endangered species. This is an important area for Hector's dolphins, Blue penguins, Yellow-eyed penguins and is also an internationally recognised IBA.

It is currently a strange shape, making it hard to enforce. The southern boundary needs to be extended to the shoreline. This would make the MPA more successful with greater ecosystem benefits. Allowing commercial fishing in this inshore portion will undo the good effects of the MPA.

Setnetting and trawling is already banned out to 4nm and 2nm respectively. Extending this protection out to 5.9nm is hardly an improvement. Sea Shepherd NZ supports and congratulates other members of the Forum for wanting to extend protection out to 12nm. This would make a very effective MPA indeed, with noticeable benefits to recreational and customary fishing, and localised protected species recovery. It would also satisfy the key principles of establishing MPAs, particularly the most important - Self-sustaining total area.

## D

Sea Shepherd NZ supports Option 2 with the extension to include more deep subtidal reef habitat which is underrepresented in the proposal. This would increase protection for fish communities associated with kelp forests. This area is an internationally recognised IBA for Yellow-eyed penguins and Otago Shags.

Kāti Hūirapa needs to be instrumental in area definition. Sea Shepherd NZ supports complete management or co-management of MPAs by Kāti Hūirapa by way of taiapure.

## E, F, G, H

Sea Shepherd NZ supports Alternative 1. The type 2 MPA (E) is the ideal solution for the entire South-east coast area under consultation as it eliminates setnets and trawls but allows for pots and line fishing. This is much better for the entire inshore environment, protected species and target species, as they are safer, selective methods. There are no issues with high grading, dumping or protected species bycatch by comparison. The Otago Shelf Canyons are an exciting and unique environment, a hotspot for cetaceans, sea lions and seabirds. The area inshore of this is also very important for Hector's dolphins and other protected species.

The size is great, however this MPA should be reconfigured to extend in to the coast, including Hooper's Inlet and linking to Harakeke Point. This would cover a wider range of habitat, and improve the effectiveness of the MPA, especially for Sea lions and Hector's dolphins. This would also protect an underrepresented habitat in the proposed network, an example of an Otago Peninsula inlet. Hooper's Inlet is a nationally and locally significant

saltmarsh and nursery area for flat fish. The connection to Harakeke point would allow for the inclusion of the Chasm, a high current headland and biologically productive area. Such areas are currently underrepresented in the proposal.

I

Sea Shepherd NZ supports Option 2. However, this is a very small improvement, i.e. it only goes out to 1.7nm. Trawling is already banned out to 2nm. The offshore boundary should be taken out to at least 5nm to be an improvement on existing protection measures and fishing pressures, ideally out to 12nm/ or the 100m depth contour. As it is, I is far too small to be considered an effective no-take reserve. It's imperative marine reserves are big enough to provide a meaningful haven and maintain full ecosystem functions, otherwise what is the point?

This marine reserve would be most effective if the highly productive area of Tow Rock is included. If extended, this will be a significant marine reserve for education, research and public enjoyment, being close to a major city, and world class if connected to site F.

J

Sea Shepherd NZ supports J, but as above with I, the offshore boundary needs to be out to at least 5nm to be an improvement on existing measures. The lower recreational catch limits are a great idea. Commercial trawling needs to be banned in this area. Potting is considered quite a sustainable method by comparison, but it is not a big alongshore area to restrict potting.

K

It's imperative that this MPA extends to the shoreline. As it is, it's far too small to be effectual and will have very little, if any, benefits if not extended. No-take reserves need to be big enough to provide a meaningful haven and maintain full ecosystem functions. It will also be extremely difficult to enforce and monitor due to it currently being a very small square shape. There's great potential here for this area to be an effective MPA if extended to shore as this area has a high diversity of life and will be valuable for research, public enjoyment, and education.

It's great that I, J and K are adjacent to each other, however they all need to be extended offshore to at least 5nm. And beyond that, designated as type 2 MPAs out to 12nm/ 100m depth contour.

L

Sea Shepherd NZ supports the proposed MPA.

Eels are endangered and they are declining. Commercial take of eels should be banned throughout the entire Forum area. Estuaries are significant nursery areas for flat fish, and habitat for shore and sea birds. It would be highly strategic, with wonderful results, if we connected more of these vital estuarine MPAs with protected reserves on land, including catchments, safeguarding the future of our rivers, estuaries and fish nursery areas.

## M, N and O, P

Sea Shepherd NZ supports the proposed MPAs, however Sea Shepherd NZ supports extending the boundaries of N and P in to the shoreline, keeping M and O as designated no take areas, but allowing for type 2 MPAs, everywhere else.

This inshore areas off Akatore extending northwards to Brighton, and southwards to Kaka Point are hotspots for Hector's dolphins and areas of former dolphin abundance. Why these coastal areas have not been proposed as MPAs is surprising.

These areas all need to be protected from setnets and trawling out to 12nm/ or the 100m depth contour, from Blackhead to Nugget Point. All other commercial fishing methods should be permitted, along with customary and recreational fishing (provided no setnetting is used).

Having a gap in protection between inshore and offshore Akatore proposed MPAs doesn't make sense, neither do the gaps in between Long Point offshore and inshore (O and P). The shapes are near impossible to effectively monitor and enforce. The gaps would undo all the good work these MPAs would provide, and miss the opportunity to implement the most important aspect of creating MPAs – making them self-sustaining total areas. It's important to ensure that the offshore deep reef habitat is protected too.

Banning all commercial trawling and setnetting would transform these proposed MPAs into awesomeness. It would eliminate protected species bycatch and enhance the fisheries for commercial, recreational, and customary, simply by employing more selective, sustainable commercial fishing methods.

## Q

This would be an impossible shape to effectively manage and enforce. It needs to be bank to bank. A taiapure arrangement, managed by hapu, would work much better here. No-take reserves need to be big enough to provide a meaningful haven and maintain full ecosystem functions. This is the only representation of an estuary in the southern area and needs to represent all the habitats associated with the mouth of the estuary, Sea Shepherd NZ recommends that it also extends to join with Long Point.

## R, S

Sea Shepherd NZ supports the proposed MPAs, however the type 2 MPAs should be extended much further offshore (12nm/ 100m depth), and joined up to cover a greater area, where commercial setnetting and trawling are banned in such important Hector's dolphin habitat. It's unbelievable the areas off Porpoise Bay and Haldane estuary haven't been considered as type 2 MPAs.

## T

Sea Shepherd NZ supports the proposed protection of kelp forests, which are so important for the inshore ecosystem. The decline is very concerning and harvesting methods and quotas are clearly unsustainable. More research is urgently required. There should at least be a moratorium on commercial take until more research has been accomplished.

The Forum has an important opportunity to implement truly effective MPAs. The bigger the better. The south-east could be the envy and inspiration for the rest of the country if it were to introduce widespread type 2 MPAs, where destructive commercial fishing methods are removed for good. The beneficial ecosystem-wide changes would be quickly noticeable and lasting. Whilst still allowing safer, selective commercial fishing methods, it will be so much easier for all of us to catch fish. It would be a thriving coast we will all be proud of.

*When Hector's dolphins are thriving, our inshore ecosystem will be thriving too.*

Thank you for considering Sea Shepherd NZ's submission in regards to the plight of our treasured species, Hector's dolphins; other protected species, and our very special taonga: our inshore ecosystem.

Please feel free to contact me if you would like further information, references or copies of the scientific literature.

Kind regards,

Michael Lawry  
Managing Director  
Sea Shepherd New Zealand

#### References:

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Hi SEMP,

Below is our 2020 submission for South East Marine Protected Areas. We also submitted in 2016 which I have reattached. So what happened to that one? Or do we just have to keep on submitting every few years?

### **Submission to South East Marine Protected Areas - 2020 version**

#### **Sea Shepherd New Zealand**

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Sea Shepherd New Zealand (SSNZ) wishes to see the proposed reserves and protection measures in the MPA's implemented in **full**.

Our submission is on the establishment of the **full network**.

We would like to make a submission on the following sites:

#### **Marine Reserves**

Waitaki Marine Reserve (B1)

Te Umu Koau Marine Reserve (D1)

Papanui Marine Reserve (H1)

Ōrau Marine Reserve (I1)

Okaihae Marine Reserve (K1)

Hākinikini Marine Reserve (M1)

#### **Type 2 marine protected areas**

Tuhawaiki (A1)

Moko-tere-a-torehu (C1)

Kaimata (E1)  
Whakatorea (L1)  
Tahakopa (Q1)

### **Kelp protection area**

Arai Te Uru bladder kelp protection area (T1)

Sea Shepherd NZ has agreed with the status quo assessment of costs/impacts & benefits and supported the network in **full**.

#### **Why?**

Loss of international reputation and failure to meet our international agreements and MPA and Biodiversity Policy. To avoid international legal action where the NZ Govt/Fishing Industry has not fulfilled their required obligations.

We support the network in full. Otago has no marine reserves and representative reserves will increase the resilience of our marine biodiversity to withstand climate change.

### **Six Individual Marine Reserves**

For all the marine reserve sites SSNZ agree with the costs & benefits & fully support the proposal.

The benefits for public interest and science will outweigh the costs.

We would also like to see commercial fishing completely removed from the entire region out to the 12nm limit.

#### **Waitaki – B1 - Fully Support**

SSNZ recommend that the reserve be extended north beyond the river mouth to better represent exposed shallow and deep gravel & moderate shallow sand, capture the effects of the Waitaki River mouth and include more foraging habitat for little penguins & Pahu/Hectors dolphins.

#### **Te Umu Koau D1 Marine reserve- Fully Support**

This is the only reserve in the network that protects deep reef. SSNZ recommend removal of all commercial fishing from the area. Government could consider a transition package.

#### **Papanui Marine Reserve H1- Fully Support**

Canyons and bryozoan beds contain a rich diversity of habitats important for protecting and maintaining many of Otago's iconic species.

#### **Ōrau Marine Reserve I1– (City) - Fully Support**

The reserve would be improved with the addition of Tow Rock.

#### **Okaihae Marine Reserve K1 Green Island - Fully Support**

This reserve will protect important rocky reefs home to a diverse array of seaweeds.

#### **Hākinikini Marine Reserve M1- Fully Support**

Note this reserve is unique in the network for representing schist wave cut platforms and rock pools.



### **Five Marine Protected Areas**

SSNZ once again support the full range of proposed prohibitions as we did in **2016**. We would like to see commercial fishing completely removed from the entire region out to the 12nm limit.

#### **Tuhawaiki A1– Fully support**

Prohibiting all forms of commercial fishing will help maintain and restore the natural species communities and life stages.

#### **Moko-tere-a-torehu C1– Fully support**

Prohibiting all forms of commercial fishing will help maintain and restore the natural species communities and life stages.

#### **Kaimata E1– Fully support**

Prohibiting all forms of commercial fishing will help maintain and restore the natural species communities and life stages.

#### **Whakatorea L1 (Akatore Estuary)– Fully support**

Prohibiting all forms of commercial fishing will help maintain and restore the natural species communities and life stages.

#### **Tahakopa Q1– Fully support**

Prohibiting all forms of commercial fishing will help maintain and restore the natural species communities and life stages.

### **Kelp protection area**

#### **Bladder kelp area -Arai Te Uru T1– Fully support**

Prohibit harvesting of the kelp. Prohibiting all forms of commercial fishing will help maintain and restore the natural species communities and life stages.

### **Comments**

Thanks for simplifying the 2020 submission process in comparison to what was the most shameful dysfunctional marine forum ever witnessed in this country (2016). Those involved in the original forum should be held to account for wasting taxpayer's money and the public's time. It was a cynical exercise by the NZ commercial fishing industry to distract and delay any effective conservation of our precious marine wildlife and habitats.

**From:** [Rachel Hickcox](#)  
**To:** [SEMP](#)  
**Cc:** s9(2)  
**Subject:** Submission on the proposed south-east marine protection network  
**Date:** Sunday, 2 August 2020 2:37:04 PM  
**Attachments:** [SEMPA submission.docx](#)

---

Kia ora,

Attached please find a submission in support of the proposed south-east marine protection network. Thank you for allowing us to comment on the proposed network and for considering our feedback.

Ngā mihi,

Rachel P. Hickcox

Melanie J. Young



Miss Rachel Hickcox  
PhD Candidate

Zoology  
University of Otago | Te Whare Wānanga o Otāgo  
Tel/Wāea: s9(2)(a)  
New Zealand | Aotearoa

Email/Imera: s9(2)(a)  
Website/Pae tukutuku: [www.rphickcox.com](http://www.rphickcox.com)

## Submission: South-East Marine Protected Area Proposal

Rachel Hickcox, PhD candidate, University of Otago; s9(2)(a)

Melanie J. Young, PhD candidate, University of Otago; s9(2)(a)

We thank the Department of Conservation (DOC) and Fisheries New Zealand (FNZ) for the opportunity to make a submission on the proposed South-East Marine Protected Area (MPA) network. **We support the full implementation of the network of marine reserves and protected areas as proposed.** We agree that MPAs are a conservation tool that, when implemented and managed appropriately, can protect and restore species and ecosystems while also supporting fisheries, tourism, and recreation. Marine protected areas are needed in the South Island. However, **the proposed areas will fail to adequately protect endangered species such as the yellow-eyed penguin/hoiho, so we urge that additional areas be included in the network to ensure their effectiveness.** We suggest the following:

- 1. Implement all of the proposed marine reserves and marine protected areas now;**
- 2. Expand the proposed MPAs (in particular the Papanui, Ōrau, and Ōkaihae, and Te Umu Koau Marine Reserves and the Kaimata Type 2 MPA);**
- 3. Create an MPA off the coast of Moeraki and Kātiki Point, which is the largest mainland colony of yellow-eyed penguins/hoiho;**
- 4. Create an MPA off the coast of Nugget Point/Tokatā and/or Long Point/Irihuka, which have been the largest breeding colonies of hoiho in the Catlins;**
- 5. Expand the South-East Marine Protected Area forum region to include the exclusive economic zone (EEZ).**

We have focused our expert comments on the proposed MPAs to the spatial distribution of yellow-eyed penguins/hoiho, an endangered and endemic seabird. The map below illustrates the entire foraging range of adult hoiho year-round from tracking data collected from February 2017 to May 2020 (R.P. Hickcox, unpubl. data). Of the 75 adults that were tracked, only 25 individuals foraged within a proposed MPA (including Te Umu Koau, Papanui, Waitaki, and Ōrau marine reserves and the Kaimata Type 2 MPAs). The majority of foraging tracks recorded for hoiho occurred outside of the proposed MPAs. Furthermore, hotspots of hoiho foraging activity off the Catlins coast (e.g., Nugget Point/Tokatā to Long Point/Irihuka) and Otago Peninsula/North Otago (e.g., Kātiki Point, Bobby's Head, Boulder Beach) all lie outside of the proposed MPAs (R.P. Hickcox, unpubl. data).

During the breeding season, adult hoiho from the Otago Peninsula tend to forage 5-16 km offshore in waters 40-80 m deep, while in the Catlins they tend to forage 6-30 km in waters 80-150 m deep (Ellenberg & Mattern, 2012; M.J. Young, unpubl. data). During the pre-moult and winter seasons, they can range up to 70 km from their breeding areas (M.J. Young, unpubl. data). As benthic foragers, hoiho pursue prey such as blue cod, red cod, opalfish, sprat, āhuru, silverside, and squid on the seafloor over the continental shelf. They are restricted to foraging in areas no deeper than their maximum dive depth (< 150m). As an indicator species, hoiho are highly sensitive to changes in their marine environment, because they are highly selective with both where they forage and what they eat, rather than being

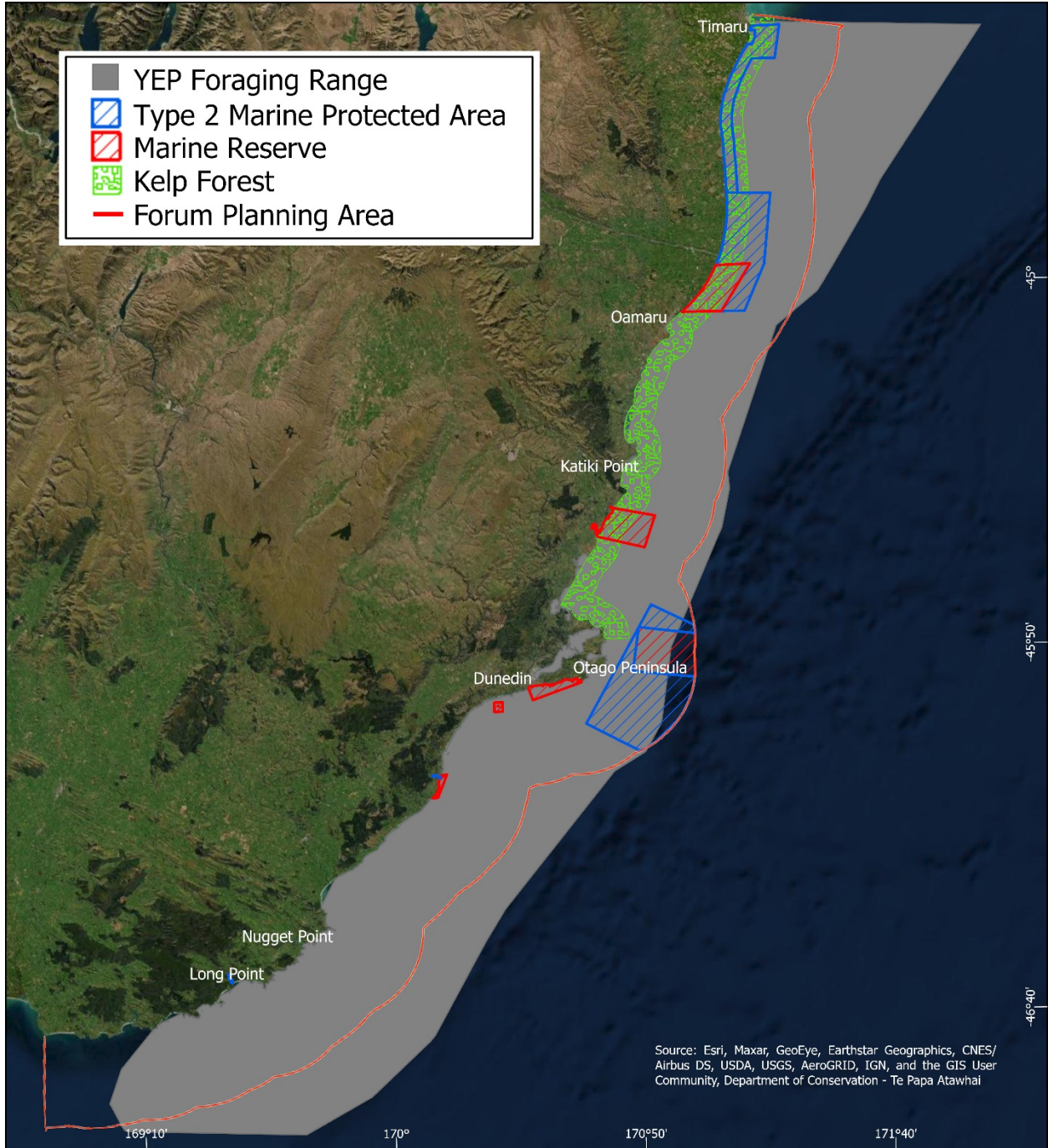
generalists. Factors in the marine environment, including seafloor disturbances due to dredging and bottom trawling, food scarcity, accidental bycatch in fishing nets, and climate change, are the main drivers of hoiho population instability. On land, hoiho are also threatened by disturbance from unregulated tourism, predation by introduced mammal pests, and disease exacerbated by nutritional stress. The compounding effect of marine and terrestrial threats on hoiho and their inability to cope with or adapt to the continual pressures means they may become functionally extinct on the mainland of New Zealand by 2060 (Mattern et al., 2017).

While terrestrial threats to hoiho have been reduced or continue to be managed, **nothing has been done to protect them at sea**. If implemented, the proposed South-East Marine Protected Areas will contribute to ongoing conservation management of hoiho. However, the fact that the proposed MPAs do not include any of the Catlins coast is a significant flaw of the network. The largest colonies of hoiho in the Catlins, Nugget Point/Tokatā and Long Point/Irihuka both had more than 50 hoiho nests in the 1980s (Ellenberg and Mattern, 2012), but now have less than 5 nests. With no marine protection, it is likely that hoiho will disappear altogether from these sites within the next 10-20 years.

**The extent of the proposed MPAs does not adequately include key areas in which hoiho forage.** Hoiho, although often considered as inshore foragers, travel beyond the forum boundary and into areas that are not being considered for marine protection. In addition, the highest proportion of seabird observations by fishing vessels occurs outside of the planning boundary (Richard et al., 2011). Although the *Marine Reserves Act 1971* restricts the creation of MPAs outside of New Zealand's territorial limits, the EEZ, which extends beyond this 12 nautical mile limit, should be considered in future legislation and MPA creation.

The forum noted that “significant population(s) of hoiho/yellow-eyed penguins are limited to inshore regions resulting in the extreme underprotection of foraging ranges of hoiho” (Department of Conservation & Fisheries New Zealand (2020b)). **However, the creation of the MPA network as it has been proposed will result in the continued underprotection of hoiho.** Based on current tracking data and the overlap of these data with the proposed MPA network, the majority of the foraging range of mainland hoiho will not be protected. Therefore, we predict that the MPAs will have little effect on the hoiho population, in relation to reducing bycatch risk and benthic habitat degradation. While the MPAs can be beneficial for fishery recovery and habitat protection along the coast, the disjointed proposed network risks being overshadowed by the continual negative impacts in areas bordering the proposed MPAs. Based on our expert opinion, this network is a starting point, but will not achieve long-lasting conservation goals.

Yellow-eyed penguin/hoiho (YEP) breeding/pre-moult/winter foraging range (grey; R.P. Hickcox, unpubl. data) overlap with proposed marine reserves (red hatched), type 2 marine protected areas (blue hatched), and kelp protected area (green) sourced from Department of Conservation & Fisheries New Zealand (2020a). The forum planning area is denoted by the red line polygon. Map projected in New Zealand Transverse Mercator 2000.



## References:

- Department of Conservation & Fisheries New Zealand. (2020a). *SeaSketch: South-East Marine Protection forum- rōpu manāki ki te toka*.  
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**From:** [Rachel Hickcox](#)  
**To:** [SEMP](#)  
**Cc:** s9(2)  
**Subject:** Submission on the proposed south-east marine protection network  
**Date:** Sunday, 2 August 2020 2:37:04 PM  
**Attachments:** [SEMPA submission.docx](#)

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Ngā mihi,

Rachel P. Hickcox

Melanie J. Young



Miss Rachel Hickcox  
PhD Candidate

Zoology  
University of Otago | Te Whare Wānanga o Otāgo  
Tel/Wāea s9(2)(a)  
New Zealand | Aotearoa

Email/Imera s9(2)(a)  
Website/Pae tukutuku [www.rphickcox.com](http://www.rphickcox.com)

## Submission: South-East Marine Protected Area Proposal

Rachel Hickcox, PhD candidate, University of Otago; s9(2)(a)

Melanie J. Young, PhD candidate, University of Otago; s9(2)(a)

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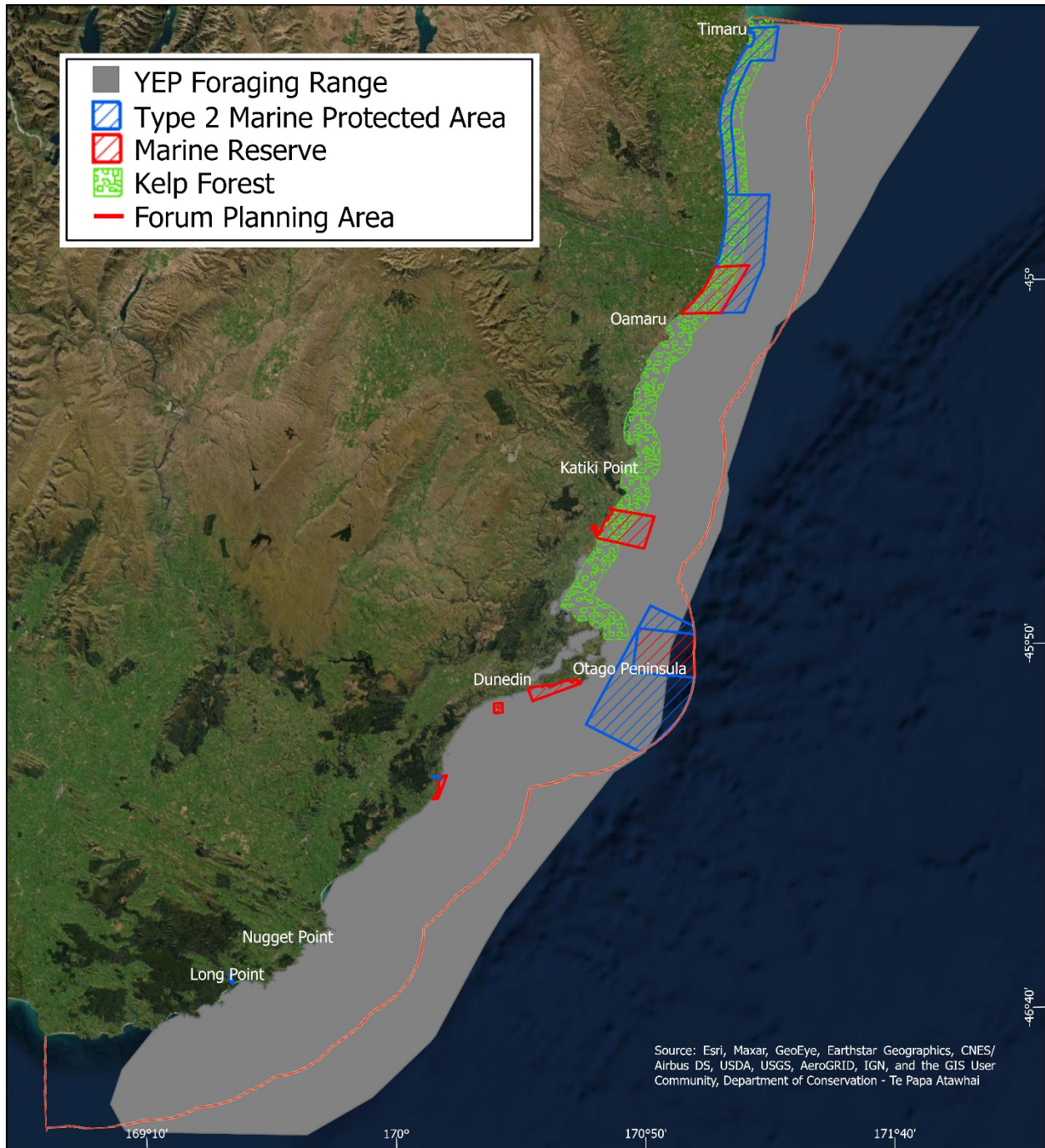
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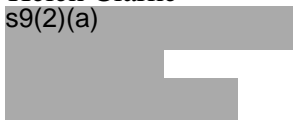
**From:** [Helen Clarke](#)  
**To:** [SEMP](#)  
**Subject:** re current Marine protected areas proposal  
**Date:** Sunday, 2 August 2020 1:13:32 PM

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Yes I agree these areas must be protected at the very least.  
Helen Clarke

--

Helen Clarke  
s9(2)(a)

A large grey rectangular redaction box covers the contact information of Helen Clarke, including her email address and phone number.

**From:** [SEMP](#)  
**To:** [SEMP](#)  
**Subject:** RE: submission not signed  
**Date:** Monday, 3 August 2020 11:40:13 AM  
**Attachments:** s9(2)(a) [.submission signed.pdf](#)

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OCR version

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**From:** s9(2)(a)  
**Sent:** Sunday, 2 August 2020 2:28 pm  
**To:** SEMP <southeast.marine@publicvoice.co.nz>  
**Subject:** submission not signed

Hi

I Realized i hadn't signed my submission and unsure if you received my corrected one  
Kind regards s9(2)(a)

**SUBMISSION ON THE PROPOSED SOUTH-EASTERN SOUTH ISLAND MARINE PROTECTED AREAS SUBMITTER DETAILS**

<b>Name of submitter:</b>	s9(2)(a) [REDACTED]
<b>Postal address:</b>	s9(2)(a) [REDACTED] [REDACTED]
<b>Email:</b>	s9(2)(a) [REDACTED]
<b>Telephone number:</b>	s9(2)(a) [REDACTED]
<b>Signature:</b>	s9(2)(a) [REDACTED]

I **do not** wish for my name and address to be released under the Official Information Act 1982.

I **do not** wish the commercially sensitive information that I have provided, to be released under the Official Information Act 1982

**My connection to the CRAMAC7 (CRA7) fishery:**

I fished in the CRA7 fishery for more than 30 years, when I started fishing with my father at the age of 18 years.

My company Nugget Bay Fishing Limited holds quota shares in CRAMAC7 and I lease ACE to Fiordland Lobster Company Limited. I live at Kaka Point, South Otago.

I have been on the Executive Committee of the Otago Rock Lobster Industry Association Incorporated. I support the submissions made by ORLIA.

**I oppose the south-east marine protection areas proposal because I can foresee negative effects of the proposed marine reserve areas:**

I started crayfishing in 1979 on the deck of my father's boat off the beach at the Nuggets' fishing camp (near Kaka Point) along with 5 other families. During my time being connected to the CRA7 fishery, I have seen many changes in it. When I first started fishing there were more family lifestyle operations. Now there are more professional fishing operations with better practices.

In the early 1980s the CRA7 fishery had little chance of becoming sustainable because the fishers were practically strip mining the resource. With the introduction of the Quota Management System in the mid 1980s, the situation improved greatly as it led to more control of what fishers could take and incentivised them not to take more than they were allowed. For example, if a fisher catches more than his annual catch entitlement, he may be charged a 'deemed value' on the extra catch. The increase complexity of the QMS and costs involved caused the number of boats to gradually reduce to a more acceptable level.

I worry that if the proposed marine reserves are put in place, the number of boats working on the fewer productive grounds will pressure the current fishers to return to the old ways. I have seen the fishing grounds filled with that many pots you could literally walk on them. There was a pot on just about every rock from a fleet at its peak of 27 boats, and every year the pots per boat increased from approximately 50-60 pots to in excess of 100 pots so the fishing operations could stay viable. The losses of pots through vessel propellers were huge due to there being such a large concentrations of pots. These kind of things cause health and safety problems which is so much more of a business compliance issue now. The number of vessels, and where the fishers fish, these days is nicely balanced so these problems don't happen anymore.

The CRA7 fishery has never been a big fishery because it takes a pretty hardy type of person to fish here. Fishing off the CRA7 coast has always had its challenges due to its intense weather and river mouths. For example, there are two river mouths running into the Nugget Bay. After a flood or a big sea, our reefs get filled with what could best be described as 'snot weed'. When pots get like that, you cannot see through them - you have to use a scrubbing brush to clean them. Also the Southerly storms that frequent our coast in the Winter dump sand in our pots and up our reefs due to the huge swells to our exposed coast. These conditions are a natural barrier to many people fishing for a living here.

The difference between fishing now and 30 years ago is huge, along with increased costs of levies and running costs, there are also market demands to consider - such as what size of crays to catch and when the overseas markets want them. This has only got more complicated and stressful now with the ups and downs of the market since Covid 19. You cannot farm and enhance a resource if any amount of it is locked up, especially in CRA7 where certain reefs have certain size lobsters at different times of the year, making it

important to be able to fish right across the fishery so you can make your fishing business viable.

CRA7 is and always will be a migratory fishery and no amount of marine reserves will encourage more lobster to stay there. I believe they may have the opposite effect as fishers will not be able to be selectively harvest the lobsters that may migrate sooner.

As I have said many times, to many people - a fisherman is the last person that wants, the ocean to be empty and not healthy. To be a fisherman requires a huge financial input and a lot of borrowing from the bank. Having seen the current abundant health of the fishery and how that level of abundance has been obtained, the CRA7 fishermen should be commended and supported, not punished by putting the marine reserves in place. We need them to help rebuild the New Zealand economy after the downturn caused by Covid 19 which is not over yet.

I hope this honest and factual submission helps the right decision to be made – that is to keep the status quo so fishermen can keep the momentum going now and into the future.



**From:** [Gavin Heineman](#)  
**To:** [SEMP](#)  
**Subject:** Submission against Southeast Marine Protection  
**Date:** Sunday, 2 August 2020 12:51:22 PM

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NAME OF SUBMITTER: Gavin Heineman

ADDRESS: s9(2)(a)  
[Redacted]  
[Redacted]  
[Redacted]

EMAIL: s9(2)(a) [Redacted]

PHONE: s9(2)(a) [Redacted]

To whom it may concern

My name is Gavin Heineman and I am second generation fisherman (ace holder client number s9(2)(a) ).

I along with my wife Tania Heineman own the fishing company Danera Holdings limited (ace holder client number s9(2)(a) )

and I oppose the proposed Southeast Marine Protection Areas for Otago.

I started going fishing on commercial and recreational boats from early pre-school days. Right from an early age when asked what I wanted to be when I grew up my reply would be fisherman. I also sport dive and recreational fish and take friends and family fishing.

Along with my wife we own the fishing company Danera holdings limited which owns the fishing vessel "ECHO" involved in crayfishing trawling and codpoting on the southeast coast of New Zealand which employs three full time staff along with some casual labour as this is a primary industry the follow on employment opportunities in the rest of the community is considerable .I also have 2 children who have a strong connection with the boat and its operation as this is our way of life.

I believe the area is already protected by a world renowned Quota Management system with bans on catching many protected species. There are also Trawl headline height restrictions setnet bans and other closed areas already in place (e.g. Mahtiatais Taipouris etc) all of which already restrict fishing operations in our waters. As we life in the "roaring forties" this also stops a lot of fishing effort and often limits where people can fish, all of the area particulary south of the Otago peninsula is very exposed thus providing limited opportunities for tourism. I hear a lot of talk of how penguins are struggling but obviously seals and sea lions are thriving with increasing numbers so while they don't eat exactly the same food it indicates food is not the problem but perhaps shore base issues, predator problems or that they are just out of their preferred habitat.

I generally oppose the process of these marine protected areas because it does not address the effects of displacing the fishing effort from the closed areas into other areas thus pushing more and more fishers into smaller and smaller areas creating unsafe practices less productivity and the very real possibility of unsustainable impacts on these remaining areas. It is obvious from the Fiordland fishery that if quotas are set at appropriate levels and effort is spread rather than concentrated as this process does that fisheries at least improve. The closing down of areas will increase impacts on the remaining areas. I have major concerns about the inaccuracy of the habitat mapping provided, while this may be officially the "best information" it has many errors and uses broad "brushstrokes" and cannot accurately reflect impact. This is not good enough

when dealing with peoples livelihoods and lifestyles similarly the commercial fishing information has many errors particularly for potting which has been derived from total catch data divvied up by incorrect supposedly "suitable habitat" the new electronic reporting data only now becoming available will provide a far more accurate fine scale data set and will prove that most potting is done in a very small percentage of the "suitable habitat".

I believe that most fish stocks in the area are in a much better state than at the start of the quota system and catch rates have improved over the last decade but the financial burden has also increased. While this is not necessarily an indicator of the whole biogenetic system. The reduction of about 1/3 of the vessel numbers has removed a lot of pressure from the system. Most fisherman of today are a lot more conscious of impacts on other parts of the environment with many putting a lot of effort and expense into better mitigation of seabirds and other bycatch

Yours Faithfully Gavin Heineman

**From:** [Toni Smith](#)  
**To:** [SEMP](#)  
**Subject:** Submission on Proposed South East Marine Protection Area  
**Date:** Sunday, 2 August 2020 11:44:01 AM  
**Attachments:** [image001.png](#)

---

Ant Smith

s9(2)(a)

I have 30 years, experience fishing Otago waters.

Currently an owner operator with CRA7 quota interests and employing three crew supporting 4 families and a major client of the related marine industries within the local community.

I am a Ngai Tahu descendent affiliated to Huirapa Runaka submitting as a Commercial Fisherman.

**I do NOT support the SEMPA Proposal.**

I fully support the concept of marine reserves to protect marine bio-diversity and enable the general public access to a pristine marine environment.

I believe the reserves can be set with less financial impact on the commercial fisheries and associated communities and industries.

Particularly marine reserve D1 Te Umu Koau. This reserve should be scaled back to D2 (inshore). The displaced fishing effort to the remaining CRA7 areas will negatively impact the whole CRA7 area.

It is too simplistic to assume the CRA7 TACC can be caught elsewhere as here is little reef area in the Otago Cray management area.

signature\_560166169



**Email:** s9(2)(a)

s9(2)(a)

**Ant's Mobile:** s9(2)(a)

**Toni's Mobile:** s9(2)(a)

**From:** [Anne Russell](#)  
**To:** [SEMP](#)  
**Subject:** Submission on South-East Marine Protected Areas Rōpu Manāki Ki Te Toka  
**Date:** Sunday, 2 August 2020 11:09:06 AM

---

I support establishing the proposed South East Marine Protected Areas network in full (six marine reserves, five Type 2 marine protected areas, and one kelp protection area, covering a total of 1267 km<sup>2</sup> from Timaru in South Canterbury to Waipapa Point in Southland, as well as the additional 'other tools')

In addition, I would suggest improving the proposed network:

- Increase protection for dolphins, penguins, and unrepresented habitats by extending Waitaki B1 Marine Reserve and Moko-tere-atorehu C1 southwards and offshore to 12nm.
- Include Tow Rock in the Harakeke Point to White Island – Site I1 Marine Reserve.
- Create an additional marine reserve encompassing The Brothers Point and The Sisters, or Long Point, or the Nuggets, in the Catlins area, preferably extending to the 12nm limit.
- Prohibit all destructive sea floor activities over and above bottom trawling, Danish seining, and dredge fishing in Type 2 MPAs – e.g. dredge spoil dumping; mining; and oil and gas prospecting, exploration and extraction.
- Prohibit all non-selective bulk fishing methods in the Type 2 MPAs.
- Prohibit marine farms in the Type 2 MPAs.
- Work with local authorities to eliminate the impact, and any future impacts, of wastewater and stormwater discharges into the marine environment particularly those that discharge into the proposed marine reserves.
- Ensure that any generational review evaluates the 'network' to ensure that the suite of marine protection tools are meeting the goals of a network and the goals of the tools protecting marine species, habitats and ecosystems have been reached.

Best regards

Anne Russell

**From:** [Christine Rose](#)  
**To:** [SEMP](#)  
**Subject:** Submission to South East Marine Protected Areas  
**Date:** Saturday, 1 August 2020 8:43:33 PM  
**Attachments:** [South East Coast Marine Protection MHDD.docx](#)

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Hi there,  
Please find attached, a submission from Māui and Hector's Dolphin Defenders NZ Inc, to the South East Marine Protected Areas process.  
Thanks  
Christine

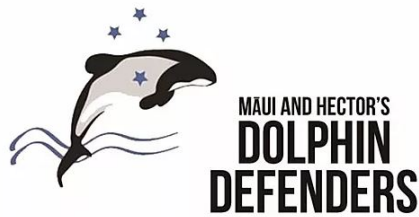
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find me on:

s9(2)(a)

s9(2)(a)



355 Foster Rd, RD1, Kumeu

1 August 2020

Proposed south-east marine protection network  
Department of Conservation  
Conservation House  
PO Box 10420  
Wellington 6143

[southeast.marine@publicvoice.co.nz](mailto:southeast.marine@publicvoice.co.nz)

To whom it may concern,

**Re: Proposed south-east marine protection network**

Thank you for the opportunity to submit to the proposals for Marine Reserves, Marine Protected Areas and the Kelp Protected Area on Otago's South East Coast.

We support the proposals in their entirety and encourage appropriate monitoring and enforcement when the reserves (*inter alia*) are Gazetted to ensure they can achieve their stated purposes.

We support the notified protections in the interests of Hector's dolphins who live in the coastal waters partly covered by these reserves (*inter alia* and henceforth). The individual welfare of the dolphins living on this coast is important but so is the small, genetically distinct and biologically important sub-population per se.

These proposals are fragmented and dis-contiguous so don't offer adequate protection for Hector's dolphins in the area but will still bring more benefits than costs.

The network of protection proposed is especially valuable because there are no other marine reserves along the coast, the ecosystems and their elements are so far unsecured against damage and destruction. The ecosystems support rich and rare marine lives, and in association with the geology of the areas, are both globally and locally valuable in their component parts (species) in their collectives (ecosystems), as well as across the network of proposed reserves (places).

Because of spillover benefits from each marine protected area, across the proposed network, the value and benefits of protection is multiplied. However, the multiple rules, regulations and boundaries of the different reserves could be confusing to those fishing nearby and will therefore require extra effort to ensure compliance.

Indeed, enforcement investment will be a necessary cost –but compliance will bring benefits to the reserves and their habitats. Because of extra pressure on reserve boundaries as fishers 'fish the line', break the rules (inadvertently or deliberately), and as Hector's dolphins can and do get killed in nets

on the boundaries of marine protected areas, enforcement and compliance will ensure the reserve objectives will be achieved.

These protected areas will also complement the recently announced decisions for Hector's dolphins in the Threat Management Plan, which unfortunately did not offer any additional protection in this area even though it's known as a habitat where dolphins are under pressure from fishing. Deficiencies in the TMP make the protections proposed here even more important. The protected areas may also be important to preserve dolphin prey species food stock from fishing pressure, even in part and therefore benefit the dolphins.

Because of the rarity, uniqueness, cultural importance, economic value, intrinsic and legacy value of Hector's dolphins, their habitats – and therefore the dolphins, warrant the relevant proposed protection.

We would like to see the protection much better integrated and more extensive along the coast and out to sea, but understand the problems with this idea and appreciate that it has even got this far.

Thank you,

Yours sincerely

Christine Rose

Chair

Māui and Hector's Dolphin Defenders NZ Inc

**From:** [Nicole Miller](#)  
**To:** [SEMP](#)  
**Subject:** Submission on South-East Marine Protected Areas  
**Date:** Saturday, 1 August 2020 6:48:05 PM  
**Attachments:** [image.png](#)  
[SE MPA submission FoTMR July 2020 final.pdf](#)

---

Thank you for the opportunity to make a submission on marine protection for south eastern South Island. Our submission is attached to this email.

Kind regards,

Nicole Miller

Chair, Friend of Taputeranga Marine Reserve Trust

--

**Dive virtually into our local [Taputeranga marine reserve](#)**  
Celebrating 10 years - 2008 to 2018



--

Nicole Miller

Chair, Friends of Taputeranga Marine Reserve Trust

Mobile: s9(2)(a)





[www.taputeranga.org.nz](http://www.taputeranga.org.nz)

Nicole Miller, Chair  
C/- 20 Prospect Terrace  
Johnsonville  
Wellington  
**New Zealand**

Email: [enquiries@taputeranga.org.nz](mailto:enquiries@taputeranga.org.nz)

### **Submission on South-East Marine Protected Areas Rōpu Manāki Ki Te Toka**

The Friends of Taputeranga Marine Reserve Trust (the Trust) was formed in October 2009 to help ensure that the full range of the Marine Reserve's potential benefits could be realised, and to communicate the benefits of marine protection. Trustees represent marine science, local community, commercial and recreational diving, central and local government, and conservation and marine users. We consider that our collective expertise gives us credibility to continue to take part in the present consultation on marine protection for south eastern South Island. Our previous submission on the South-East Marine Protection Forum Marine Protected Area proposals was made 13 December 2016.

The Trust acknowledges the extensive work the South-East Marine Protection Forum (the Forum) had put in to analyse and develop marine protection proposals, although it was disappointing that yet again a planning forum was unable to unite and reach consensus, and instead put forward split recommendations to Ministers. Neither 'network' proposed represented the full range of habitats in the Forum region. Paavo (2017) stated that since the net real result is less than the national MPA policy statement, biodiversity strategy, and international best practices and obligations, then those MPA proposals were inadequate and would not likely to be effective even if all are enacted as proposed. However, the Trust agrees that the final configuration of Network 1 that has been put forward most closely aligns with the NZ MPA Policy, even though this proposed 'network' includes significant concessions to commercial and recreational fishing that still leads to some habitats being under represented or not represented at all.

This process is another example that demonstrates the current practices being used for implementing effective marine protection is less than optimal and does not efficiently support New Zealand achieving its marine biodiversity protection objectives. It is a sharp reminder that a science and an evidence-based approach that conserves biodiversity must be prioritised for planning, design and implementation of MPAs.

The effectiveness of MPAs is contingent on their design and management (Halpern et al 2009; Claudet 2011; Edgar et al 2014; Gill et al 2017; IUCN WCPA 2018, Marshall et al 2019). Marine reserves are a critical part of the solution. Research confirms no take marine reserves are the most effective mechanism to restore and preserve biodiversity (Sala et al 2018, Sala & Giakoumi 2018). There is clear evidence showing that effectively conserving marine biodiversity will require substantial increases in area-based conservation efforts (Klein et al 2015, O'Leary et al 2016). Some research shows that at least 26%–41% of the ocean needs to be conserved (Jones et al 2020).

At the World Conservation Congress in 2016, the IUCN agreed to scale up full and effective marine protection from 10% to 30% by 2020. The UK Environment Minister Rebecca Pow called for governments around the world to join the UK-led 30by30 initiative to protect at least 30% of the planet's ocean by 2030. Healthy marine ecosystems provide a wide range of resources and services that support life on Earth and contribute to human wellbeing UNEP (2006). Despite the progressive knowledge of the essential interdependence between the human and the ocean system progress in implementing and meeting spatial protection targets is slow. Climate change-related impacts add further urgency to implementing appropriate management measures.

Notwithstanding the above concerns, the Trust **SUPPORTS establishing the proposed South East Marine Protected Areas network in full** (six marine reserves, five Type 2 marine protected areas, and one kelp protection area, covering a total of 1267 km<sup>2</sup> from Timaru in South Canterbury to Waipapa Point in Southland), as well as the additional 'other tools' management for marine life in Otago.

In addition, **we recommend the proposed MPAs be improved by:**

- Increasing protection for dolphins, penguins, and unrepresented habitats by extending Waitaki B1 Marine Reserve and Moko-tere-atorehu C1 southwards and offshore to 12nm to encompass the foraging range of these animals (known to be larger than the reserve) and improve protection across heterogeneous benthic habitats with high primary productivity.
- Including Tow Rock in the Harakeke Point to White Island – Site I1 Marine Reserve.
- Ensuring better representation and reducing connectivity gaps between the northern and southern parts of the region by creating an additional marine reserve encompassing The Brothers Point and The Sisters, or Long Point, or the Nuggets, in the Catlins area, preferably extending to the 12nm limit.
- Working with regional and territorial authorities to eliminate and/or reduce and monitor the impact, and any future impacts, of wastewater and stormwater discharges into the marine environment particularly those that discharge into the proposed marine reserves.
- Ensuring that any generational review evaluates the 'network' to ensure that the suite of marine protection tools are meeting the goals of a network and the goals of the tools protecting marine species, habitats and ecosystems. If following monitoring and analysis of the protection zones performance, allowed activities and customary use within these zones are found not to be consistent with the maintenance and recovery of biodiversity then adjustments and or additional protection measures can be made so that the goal of protecting marine species, habitats and ecosystems can be reached.
- Prohibiting all destructive sea floor activities over and above bottom trawling, Danish seining, and dredge fishing in Type 2 MPAs – e.g. dredge spoil dumping; mining; and oil and gas prospecting, exploration and extraction.
- Prohibiting all non-selective bulk fishing methods in Type 2 MPAs.
- Prohibiting marine farms in Type 2 MPAs.

The coronavirus (COVID-19) pandemic is a stark reminder of how our and societies, economies, the well-being of humans, other living beings, and healthy ecosystems are interdependent and deeply connected. We urge the Government to make the bold and necessary steps now to safeguard the natural world and rebuild a healthy and equitable planet. Urgent action regionally, nationally and globally is required to protect marine ecosystems so that the trends that have exacerbated biodiversity loss will stabilise in the next 10 years (by 2030) and allow for the recovery and restoration of natural ecosystems.

To this end, the Trust does not believe that sufficient marine protection has been achieved in the Otago region. We will continue to promote the benefits of marine reserves, encourage increasing marine protection, and seek amendments to the network around the Otago and Southland regions.

Thank you for the opportunity to make a submission on marine protection for south eastern South Island.

Nicole Miller  
Chair, Friends of Taputeranga Marine Reserve Trust

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**From:** [Dave Cooper](#)  
**To:** [SEMP](#)  
**Subject:** Fwd: Re: SUBMISSION ON THE PROPOSED SOUTH-EASTERN SOUTH ISLAND MARINE PROTECTED AREAS  
**Date:** Saturday, 1 August 2020 6:06:14 PM

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----- Forwarded Message -----

**Subject:** Re: SUBMISSION ON THE PROPOSED SOUTH-EASTERN SOUTH ISLAND MARINE PROTECTED AREAS

**Date:** Fri, 31 Jul 2020 22:20:32 +1200

**From:** Kate Hesson s9(2)(a)

**To:** Dave Cooper s9(2)(a)

Looks good Dave. You need to email it to : [southeast.marine@publicvoice.co.nz](mailto:southeast.marine@publicvoice.co.nz).

It is your submission so I can't send it for you - Kate

## SUBMISSION ON THE PROPOSED SOUTH-EASTERN SOUTH ISLAND MARINE PROTECTED AREAS

### SUBMITTER DETAILS

<b>Name of submitter:</b> David Cooper	
<b>Postal address</b> s9(2)(a)	
<b>Email:</b> s9(2)(a)	
<b>Telephone number:</b> s9(2)(a)	

I **do not** wish for my name and address to be released under the Official Information Act 1982.

I **do not** wish the commercially sensitive information that I have provided, to be released under the Official Information Act 1982

**My connection to the CRAMAC7 (CRA7) fishery:**

**Retired Fisherman and Quota owner**

**I am involved with the proposed marine protected areas because:**

For reasons stated above

**I oppose the south-east marine protection areas proposal because: D1Area**

**Its a traditional fishing area that goes back 80 or 90 years**

**Up to 35 to 40% of annual catch comes off D1**

**Off shore reefs of D1 are of great importance because during months of August thru too November the valuable bigger runfish gather in numbers before migrating south.**

**How will the proposed marine reserve area affect you and your family personally?**

s9(2)(a) [REDACTED] have invested upwards of more than a million dollars upgrading boats and gear and purchasing quota .If area closed it will make fishing locally untenable and could very well lead too foreclosure.

I myself have a bit of extra income from lease fees to help me by in my latter years

**Can you foresee any positive effects of the proposed marine**

**reserve areas?**

**Not a bit**

**Can you foresee any negative effects of the proposed marine reserve areas?**

Plenty of negatives. Fishers would have to travel far further e.g. Nuggets and Catlins, away for days on end burn lots more fuel, greater risk as no all weather anchorages exist and on top of that you bring home an inferior product. Doesnt make sense.

Politicians, academics and bureaucrats have no idea about crayfish habitat they think you can catch fish anywhere. Otago is one of the smallest fisheries in N.Z take a huge chunk out of it and there are very limited options

Not only anxiety, depression and associated worries being an issue, whole communities are effected. In the current situation you might be tempted to think that the export dollar might be of help to the economy.

In closing i would like to point out that our Jacinda has been advocating love, understanding and help to all New Zealanders. There's been scant of that for Commercial Fishers. Should have started a bungy business.

**What parts of the south-east marine protection area are most concerning for you (please tick)?**

*Marine reserves*

*Waitaki Marine Reserve (B1)*

*Te Umu Koau Marine Reserve (D1)*

*Papanui Marine Reserve (H1)*

*Ōrau Marine Reserve (I1)*

*Okaihae Marine Reserve (K1)*

*Hākinikini Marine Reserve (M1)*

*Type 2 marine protected areas*

<!--[if !supportLists]-->o <!--[endif]-->*Tuhawaiki (A1)*

<!--[if !supportLists]-->o <!--[endif]-->*Moko-tere-a-torehu  
(C1)*

<!--[if !supportLists]-->o <!--[endif]-->*Kaimata (E1)*

<!--[if !supportLists]-->o <!--[endif]-->*Whakatorea (L1)*

<!--[if !supportLists]-->o <!--[endif]-->*Tahakopa (Q1)*

*Kelp protection area*

<!--[if !supportLists]-->x <!--[endif]-->*Arai Te Uru bladder  
kelp protection area (T1)*

**Why are these areas most concerning to you?**

Kelp very important ,a lot of species of fish sporn and grow in kelp. Commercial Fishers have always made their views known on the importance of kelp.



**From:** [Kevin Braid](#)  
**To:** [SEMP](#)  
**Subject:** Re: Southeast marine protected areas.  
**Date:** Saturday, 1 August 2020 4:09:49 PM

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On Fri, 31 Jul 2020 at 1:35 PM, Kevin Braid [s9\(2\)\(a\)](#) wrote:  
I strongly object to the proposed protected areas in southeast areas as a third generation fisherman . I am now a recreational fisher. Kevin Braid [s9\(2\)\(a\)](#)

**From:** [James Bryant](#)  
**To:** [SEMP](#)  
**Date:** Saturday, 1 August 2020 3:47:44 PM

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Now I don't think a marine reserve is the best option at this time please i hope yous take note in all the people who could use this spot and its not going to change anything at all still plenty of sea around wee need close reserves for the public worry about the bigger things out there like whalers and all that carry on.

**From:** [sally.weatherley](#)  
**To:** [SEMP](#)  
**Subject:** Submission on South-East Marine Protected Areas Rōpu Manāki Ki Te Toka  
**Date:** Friday, 31 July 2020 8:46:19 PM

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## Submission on South-East Marine Protected Areas Rōpu Manāki Ki Te Toka

I support establishing the proposed South East Marine Protected Areas network in full (six marine reserves, five Type 2 marine protected areas, and one kelp protection area, covering a total of 1267 km<sup>2</sup> from Timaru in South Canterbury to Waipapa Point in Southland, as well as the additional 'other tools')

In addition, I would suggest improving the proposed network:

- Increase protection for dolphins, penguins, and unrepresented habitats by extending Waitaki B1 Marine Reserve and Moko-tere-atorehu C1 southwards and offshore to 12nm.
- Include Tow Rock in the Harakeke Point to White Island – Site I1 Marine Reserve.
- Create an additional marine reserve encompassing The Brothers Point and The Sisters, or Long Point, or the Nuggets, in the Catlins area, preferably extending to the 12nm limit.
- Prohibit all destructive sea floor activities over and above bottom trawling, Danish seining, and dredge fishing in Type 2 MPAs – e.g. dredge spoil dumping; mining; and oil and gas prospecting, exploration and extraction.
- Prohibit all non-selective bulk fishing methods in the Type 2 MPAs.
- Prohibit marine farms in the Type 2 MPAs.
- Work with local authorities to eliminate the impact, and any future impacts, of wastewater and stormwater discharges into the marine environment particularly those that discharge into the proposed marine reserves.
- Ensure that any generational review evaluates the 'network' to ensure that the suite of marine protection tools are meeting the goals of a network and the goals of the tools protecting marine species, habitats and ecosystems have been reached.

Thank you for the opportunity to make a submission on marine protection for south eastern South Island.

Yours

Sally Weatherley

**From:** [Ines Stager](#)  
**To:** [SEMP](#)  
**Subject:** Sempa submission  
**Date:** Friday, 31 July 2020 6:41:04 PM  
**Attachments:** [SEMPA submission 2020.pdf](#)

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Attached please find our submission.

Ines Stäger & Peter Keller, s9(2)(a) [REDACTED] New Zealand

Ines Stäger & Peter Keller

s9(2)(a)

telephone s9(2)(a)

s9(2)(a) 31 July 2020

## **South East Marine Protected Areas SEMPA**

**This submission is in support of six Marine Reserves and five Marine Protected areas.**

We see it as an urgent matter to fully implement the protection of the proposed reserves and apply the respective protection measures in the MPA's.

It appears the proposed network is very small, less than 5% of habitats protected in marine reserves, and no reserves in the Catlins, the jewels of the proposed network, Te Umu Koau, Papanui and Ōrau have the potential to become outstanding marine reserves. The five lesser protected areas known as Type II marine protected areas cover around 10% and are proposed to ban all forms of trawling, set netting Danish and purse seining.

All these areas need urgent protection now. We have so few protected areas in the ocean and yet healthy ecosystems are vital for everyone. Many of these ecosystems are unique and support a unique assemblage of flora and fauna.

### **We support the following six individual Marine Reserves**

It is important to protect entire ecosystems for scientific reasons and also the benefits for the public interest. Many of the species in these ecosystems occur naturally nowhere else in the world, they have evolved over a very long period, hundreds of thousands of years. These ecosystems have thrived until they have been "plundered".

#### **Waitaki – B1**

We fully support the proposed MR and we ask, as has been suggested, that the reserve be extended north beyond the river mouth to better represent exposed shallow and deep gravel & moderate shallow sand, capture the effects of the Waitaki River mouth and include more foraging habitat for little penguins & Hector's dolphins.

#### **Te Umu Koau D1 Marine reserve**

We support this proposed MR. This is the only reserve that will protect any deep reef. This reserve contains two different estuarine types which makes it unique. Concessions will undermine the biodiversity values of this site. Only few fishers will be affected by this proposal, it is a small price to pay, seeing the longterm benefit of protecting ecosystems that support a wide range of species.

#### **Papanui Marine Reserve H1**

We support the protection of canyons and bryozoan beds containing a rich diversity of habitats which are important for protecting and maintaining many of Otago's iconic species.

#### **Ōrau Marine Reserve I1– (City)**

We fully support this MR. It appears to be the most accessible of the marine reserve proposals, and provides for snorkelling around Lawyers Head and Bird Island. It is important that people have easy access to MR in order to appreciate the values and experience changes over time. We understand that the reserve would be improved by adding Tow Rock.

#### **Okaihāe Marine Reserve K1 Green Island**

We support this MR, which is home to various species of seaweed and the MR will protect the important rocky home reefs present.

### **Hākinikini Marine Reserve M1**

We are in full support to protect this unique network, representing schist wave cut platforms and rock pools.

### **We support the following five Marine Protected Areas**

We support that these areas will be protected by various prohibitions on fishing methods under the Fisheries Act. We support the full range of proposed prohibitions.

### **Tuhawaiki A1**

We fully support the protection of this important nursery area for school sharks and spawning area for elephant fish as well as habitat for penguins. Prohibiting all forms of trawling, set netting, long lining and Danish seining will help maintain and restore the natural species communities and life stages, thus protect important ecosystems for future generations to experience.

### **Moko-tere-a-torehu C1**

We support this area to be protected. It contains foraging habitats for penguins and dolphins, and habitats for juvenile fish. Prohibiting all forms of trawling, set netting, long lining and Danish seining will help maintain and restore the natural species communities and life stages.

### **Kaimata E1**

We support the protection of this large MPA. In protection it, the area has the potential to restore the more natural balance of fish, seabird and marine mammal communities along with apex predators provided set nets, all forms of trawling, long lining and Danish seining are prohibited as proposed.

### **Whakatorea L1 (Akatore Estuary)**

We fully support the protection of this area. The proposed prohibitions will enable the maintenance and restoration of the natural communities including flat fish, eels and white bait.

### **Tahakopa Q1**

We fully support the proposed prohibitions , which will enable the maintenance and restoration of the natural communities including flat fish eels and white bait.

### **Bladder kelp area -Arai Te Uru T1**

We fully support the prohibition of harvesting kelp from this area. It appears to be the most effective way of managing this habitat which is critical habitat for cray fish, blue cod, and butterflyfish and is one of the most productive habitats in the world.

**From:** [Will Rayment](#)  
**To:** [SEMP](#)  
**Subject:** Submission on south eastern South Island marine protected areas  
**Date:** Friday, 31 July 2020 4:31:52 PM  
**Attachments:** [Will Rayment submission on SEMPA 2020.pdf](#)

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Kia ora

Please see attached for my submission on the proposed south eastern South Island marine protected areas.

Naku, n

Will Rayment

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Will Rayment, PhD  
Senior Lecturer  
Marine Science Department  
Te Tari Putaiao Taimoana  
University of Otago  
PO Box 56  
New Zealand

phone: +s9(2)(a) (w) s9(2)(a)  
<http://www.nz/mal1rayment.html>

## Submission on proposed southeast marine protected areas

**Will Rayment; MSc (Conservation), PhD (Marine Science)**

s9(2)(a)

Phone s9(2)(a) email s9(2)(a)

I congratulate the New Zealand government on proposing marine protected areas for the southeast region, recognising that there are currently no MPAs between Banks Peninsula and Stewart Island. I also note that of the two options presented by the Southeast Marine Protection Forum, the government has decided to consult on Network 1. I agree that Network 1 is the better option for meeting goals for marine protection in New Zealand.

I support the designation of all six marine reserves, five type 2 MPAs, and the kelp protection area, for the reasons outlined below. However, I also note, and detail below, that the proposal falls short of meeting IUCN goals of protecting 30% of each marine habitat from extractive activities by 2030, and barely meets established design principles for an effective network of MPAs. I therefore recommend that the proposal is considered to be the absolute minimum for marine protection required in the southeast region, and that opportunities to increase the number of MPAs, or size of proposed MPAs, be considered favourably.

### General comments

- New Zealand's MPA policy objective is to "protect marine biodiversity by establishing a network of MPAs that is comprehensive and representative of New Zealand's marine habitats and ecosystems" (Marine Protected Areas Policy & Implementation Plan, paragraph 13). There are currently no MPAs between Banks Peninsula and Stewart Island. To meet the policy objective, the outcome of the SEMPA process must be multiple new MPAs in the southeast region.
- New Zealand's Biodiversity Strategy includes an action (3.6b) to achieve a target of protecting 10% of New Zealand's marine environment by 2010. These targets have yet to be updated. In 2016, the IUCN's World Conservation Congress encouraged IUCN State and Government Agency Members to designate and implement at least 30% of each marine habitat in a network of highly protected MPAs, with the ultimate aim of creating a fully sustainable ocean at least 30% of which has no extractive activities (motion 53). The proposed MPAs for the south east region include, at most, only 4.6% of the area in non-extractive marine reserves, with an additional 11.7% of the area in type 2 MPAs which allow some form of extractive activity. Therefore, even if all the proposals were accepted, the IUCN recommendation would not be met. The SEMPA process should therefore consider proposals that add to the proposed network, or enlarge existing proposed sites.
- New Zealand's MPA policy states that "a marine reserve will be established to protect at least one sample of each habitat or ecosystem type in the network" (Marine Protected Areas Policy & Implementation Plan, paragraph 93). The network of marine reserves that is designated as a result of the SEMPA process must meet this goal. Decision makers should bear this in mind when considering opposition to the proposed marine reserves. If there is no replication of a



particular habitat within the proposed network, then each proposed reserve must be accepted.

- It is now accepted that marine reserves can result in recovery of previously exploited species (see reviews by Halpern 2003; Willis 2013). However, the effect of marine reserves is largely site-specific and species-specific and dependent on appropriate design.
- The conservation benefits of marine reserves generally increase with size (Halpern 2003; Edgar et al. 2014). Moderately sized reserves that are several to tens of kilometres in alongshore length and extend offshore to encompass depth related movements should be suitable to contain adult movement for much of the diversity of nearshore species (Gaines et al. 2010). A recent review of literature concluded that conservation benefits were greatest for marine reserves larger than 100 km<sup>2</sup> (Edgar et al. 2014). Only the proposed Waitaki and Papanui reserves exceed this threshold. The decision makers should heed these design guidelines when considering proposed modifications to the existing proposals.
- For very wide-ranging species, such as many top predators, MPAs need to be much larger to be effective. Nonetheless, sufficiently large coastal MPAs can still be beneficial for seabirds and cetaceans, either through enhancing prey availability (e.g. Pichegru et al. 2010), or reducing fisheries related mortality (e.g. Gormley et al. 2012).
- The spacing of reserves in a network is also an important consideration. Inter reserve distances from tens to about 100 km can enhance both conservation and fishery benefits, because they approach without exceeding the mean larval dispersal distances estimated for many fished coastal marine species (Gaines et al. 2010). The proposed network meets these guidelines, provided that all the coastal marine reserves are designated.
- There are no proposals for marine reserves south of Hākinikini, meaning that approximately 130km of the southeast region's coastline would have no type 1 protection. Considering additional marine reserves in the south of the region, such as the reserve originally proposed at Long Point, would enhance the representativeness and connectedness of the network.
- The southeast region is home to some of New Zealand's most endangered endemic marine species, including yellow-eyed penguins (Darby & Dawson 2000), Hector's dolphin (MacKenzie & Clement 2014) and New Zealand sea lion (Auge et al. 2010). Yellow-eyed penguins have declined on the mainland from an estimated 580 nesting pairs in 2008 to 168 pairs in 2019. It is likely that marine impacts, including depletion of food resources and bycatch in setnets and trawl fisheries, are factors in their decline. Hector's dolphins have declined to an estimated 27% of their abundance in 1970, principally due to fisheries mortality (Slooten & Dawson 2010). Nationally, New Zealand sea lions have declined by approximately 50% since 1998 and are vulnerable to bycatch in trawl and setnet fisheries (Robertson & Chilvers 2011). Exclusion of the least selective forms of fishing, i.e. setnetting and trawling, from large areas of the region should therefore be a priority.

## Comments on proposed marine reserves

### Waitaki Marine Reserve

Support.

- The marine reserve would protect the biodiversity associated with shallow gravel habitats, the only reserve in the proposal to do so.
- The area is likely an important region for primary productivity, due to the riverine input and habitat type.
- The area is known foraging habitat for protected species including Hector's dolphins, yellow-eyed penguins, little blue penguins and Otago shags. Bycatch of yellow-eyed penguins in setnets is known to have occurred in this area. A large marine reserve would protect these species from fisheries impacts.
- The estimated value of displaced commercial fisheries catch is relatively low, therefore protecting the maximum area possible is sensible.

### Te Umu Koau Marine Reserve

Support.

- The reserve would protect multiple habitat types, including the only deep reef site within the proposed network, and a nationally significant area of *Macrocystis* kelp forest.
- The area includes an important bird area at Bobby's Head, a known breeding site for yellow-eyed penguins.
- It is an important area for scientific research, particularly by staff and students from Otago University. Protection would facilitate valuable comparisons with similar but unprotected areas.

### Papanui Marine Reserve

Support.

- Submarine canyon habitats are hotspots of marine biodiversity. The Otago Canyons are known to be important habitats for benthic invertebrates and demersal fish. The region is one of only two places in the southeast region where canyon habitats are present within the territorial sea.
- Recent research by University of Otago scientists has revealed that the Otago Canyons are year round habitat for sperm whales, and home to a diverse array of other cetacean species.
- The proposal would also protect bryozoan thicket habitat, the only reserve in the network to do so. Bryozoan thickets are important biogenic habitats that support a diverse community of invertebrates and fish.

### Ōrau Marine Reserve

Support.

- The proposed area includes excellent examples of exposed rocky reef and beach habitats, home to a range of macroalgae, reef fish and invertebrates. It would protect the nearshore habitat of endangered, endemic species such as New Zealand sea lions.

- The proposal includes Boulder Beach, which has the largest yellow-eyed penguin colony on the Otago Peninsula.
- The proximity to Dunedin city means that the marine reserve would be accessible to a large number of people, and therefore has the potential to play an important educational and advocacy role.
- Although some recreational and commercial fishing will be displaced, similar coastal sites will still be accessible to the east and west of the proposed reserve.

### **Okaihau Marine Reserve**

Support, with the recommendation that the reserve be enlarged.

- The proposed area contains valuable rocky reef habitats and the island itself is an important nesting site for seabirds, including yellow-eyed penguins.
- Together with the Ōrau reserve, the site will allow for valuable scientific research into the effects of protection on a stretch of urban coastline.
- At 5km<sup>2</sup>, the proposed area is very small. I recommend that the proposed reserve area be increased to improve the likelihood that benefits will accrue. To avoid impinging on the wahi tapu of Kai Tahu, the reserve should be extended westwards and offshore.

### **Hākinikini Marine Reserve**

Support, with the recommendation that the reserve is extended offshore.

- The coastline within the proposed reserve is a rare example of schist rock, which provides excellent habitat for rock lobster.
- A reserve at this location would provide an important connection with vulnerable reef habitats further to the south.
- Although the proposed reserve contains a reasonable length of coastline, the fact that it only extends 1km offshore means its area is very small (5.9km<sup>2</sup>), and its effectiveness will potentially be compromised by significant edge effects. I recommend the reserve should be extended offshore, at least to the 50m isobath.

### **Comments on proposed type 2 MPAs**

#### **Tuhawaiki**

Support.

- The proposed area contains a range of sediment types and is a known nursery area for coastal elasmobranchs.
- It is an important foraging area for protected species including Hector's dolphins and yellow-eyed penguins.
- I am pleased to note that the proposed MPA is significantly larger than the original proposal in the 2016 consultation document. The larger area of this proposal means that benefits of protection are more likely to accrue.

## **Moko-tere-a-torehu**

Support.

- Along with the Waitaki marine reserve, the proposal would provide additional protection for the biodiversity associated with shallow gravel habitats.
- The area is likely an important region for primary productivity, due to the riverine input and habitat type.
- The area is known foraging habitat for protected species including Hector's dolphins, yellow-eyed penguins, little blue penguins and Otago shags. Bycatch of yellow-eyed penguins in setnets is known to have occurred in this area. A large MPA would protect these species from fisheries impacts.

## **Kaimata**

Support.

- Along with the Papanui marine reserve, this proposal would confer protection for important bryozoan thickets. The thickets are an important feature themselves, as well as being a biogenic habitat potentially important as a nursery area for several fish species.
- The area also provides foraging opportunities for yellow-eyed penguins and New Zealand sea lions.
- The importance of this habitat, and the rarity within NZ's territorial limits warrants the large protected area offered by the Papanui and Kaimata proposals. This Kaimata MPA also confers some protection for the head of Saunder's Canyon, which would complement the marine reserve proposal for Papanui Canyon.

## **Whakatorea**

Support.

- The proposed area incorporates important estuarine habitat including a significant area of saltmarsh.
- The protection of habitat surrounding the estuary means it is less likely to be impacted than other estuaries, and offers a good opportunity to link terrestrial and marine management.
- The proposal to also protect coastal and offshore habitat adjacent to the estuary means that benefits will be more likely to accrue.

## **Tahakopa**

Support.

- The proposed area contains valuable saltmarsh habitat and is important for wading birds and estuarine fish.
- I am pleased to note that the proposed MPA is larger than the area originally proposed in the 2016 document. Incorporating the whole estuary will make compliance and enforcement easier, and mean that benefits will be more likely to accrue.

## **Arai Te Uru**

Support.

- Kelp forests are very important primary producers in the coastal zone and provide habitat for a diverse range of species.
- Kelp forests are threatened by sedimentation, rising sea temperatures, the indirect effects of fishing and commercial harvesting. Globally and nationally they are declining.
- I am pleased to note that the proposal states that all commercial kelp harvesting will be prohibited.

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Willis T. 2013. Scientific and biodiversity values of marine reserves: a review. *DOC Research and Development Series* 340.

**From:** s9(2)(a)  
**To:** [SEMP](#)  
**Subject:** No to marine reserve  
**Date:** Friday, 31 July 2020 2:40:16 PM

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Hi just viewing my thoughts on the proposed marine reserves I wouldn't want this to happen . Not being able to gather kai moana in areas that will b marine reserve will hugely affect myself friends and my family I do agree there needs to b change to protect but not to completely stop recreational divers or fisherman from accessing these areas . Cheers  
Sent from my iPhone

**From:** [Janis Freegard](#)  
**To:** [SEMP](#)  
**Subject:** Submission on South-East Marine Protected Areas Rōpu Manāki Ki Te Toka  
**Date:** Friday, 31 July 2020 2:29:21 PM

---

Kia ora

I support establishing the proposed South East Marine Protected Areas network in full (six marine reserves, five Type 2 marine protected areas, and one kelp protection area, covering a total of 1267 km<sup>2</sup> from Timaru in South Canterbury to Waipapa Point in Southland, as well as the additional 'other tools')

In addition, I would suggest the following improvement to the proposed network:

- Increase protection for dolphins, penguins, and unrepresented habitats by extending Waitaki B1 Marine Reserve and Moko-tere-atorehu C1 southwards and offshore to 12nm.
- Include Tow Rock in the Harakeke Point to White Island – Site I1 Marine Reserve.
- Create an additional marine reserve encompassing The Brothers Point and The Sisters, or Long Point, or the Nuggets, in the Catlins area, preferably extending to the 12nm limit.
- Prohibit all destructive sea floor activities over and above bottom trawling, Danish seining, and dredge fishing in Type 2 MPAs – e.g. dredge spoil dumping; mining; and oil and gas prospecting, exploration and extraction.
- Prohibit all non-selective bulk fishing methods in the Type 2 MPAs.
- Prohibit marine farms in the Type 2 MPAs.
- Work with local authorities to eliminate the impact, and any future impacts, of wastewater and stormwater discharges into the marine environment particularly those that discharge into the proposed marine reserves.
- Ensure that any generational review evaluates the 'network' to ensure that the suite of marine protection tools are meeting the goals of a network and the goals of the tools protecting marine species, habitats and ecosystems have been reached.

Thank you for the opportunity to make a submission on marine protection for south eastern South Island.

Noho ora mai  
Janis Freegard

**From:** [Phillip Grubb](#)  
**To:** [SEMP](#)  
**Cc:** s9(2)(a)  
**Subject:** Fiordland Lobster Company - South East Marine Protection Area Proposal - Submission  
**Date:** Friday, 31 July 2020 2:25:30 PM  
**Attachments:** [image28277d.PNG](#)  
[image37867.PNG](#)  
[image6e3039.PNG](#)  
[FLC - SEMPA Submission - FINAL.pdf](#)

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Hi there

Please find attached a submission from Fiordland Lobster Company regarding the South East Marine Protection Area Proposal

Regards

**Phillip Grubb** | [Fiordland Lobster Company](#) | **Chief Financial Officer**

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31 July 2020

Lou Sanson  
Director-General of Conservation  
Department of Conservation  
Conservation House  
PO Box 10420  
Wellington 6143

s9(2)(a)

### **Submission on proposed South-East South Island Marine Protected Areas**

Fiordland Lobster Company Ltd (FLC) appreciates the opportunity to submit on the current proposal to establish a network of marine reserves in the South-East South Island.

#### **Summary of FLC's position**

FLC has been following both the Forum process and the current process and has a number of concerns that are discussed in more detail below. If implemented, the proposal would impact the CRA7 fishery and FLC owns approximately s9(2) of the quota shares in that fishery. The proposal would also impact the productivity of FLC's processing business.

FLC respectfully requests that the current process is stopped and if appropriate, a new process such as that undertaken by the Fiordland Marine Guardians is put in place to heal the relationships and progress biodiversity protection in a manner that is both inclusive and enduring.

#### **Overview of challenges in responding to the Director-General's application for Order in Council to progress Network 1**

On 11 May 2019, the Ministers of Conservation and Fisheries announced their support to progress a marine protection network, the size of Auckland, off the south-east coast of the South Island. The proposal was one of two put forward for consideration by the South-East Marine Protection Forum but fundamentally differs from an earlier proposal that was the subject of public consultation as part of the Forum process. Consequently, the marine protection network currently being considered and known as Network 1, has not been the subject of public consultation until now.

On 17 July 2019, Fiordland Lobster Company Limited (FLC) wrote to the Minister of Fisheries, raising a number of issues that have not been discussed in the current consultation document, let alone progressed or resolved and are further discussed in this submission. This letter is **attached**.

The Forum process was based on the decision making framework under the Marine Protected Areas: Policy and Implementation Plan (MPA Policy). This decision making framework is different from that required for regulation under the Fisheries Act for Type 2 MPAs and the Marine Reserves Act 1971 for marine reserves. Unfortunately the current process conflates the separate processes, including the Forum process, confusing the issues and subsequent analysis, making it difficult for stakeholders to make meaningful and effective submissions.

For example, for the proposed Te Umu Koau marine reserve, the consultation document does not adequately set out and step through the statutory framework under the Marine Reserves Act. Instead the consultation document undertakes a cursory cost benefit analysis and asks a series of general questions.

For crayfish, the impact is assessed as follows:

Based on 2017 values, Fisheries New Zealand estimates the export value of potentially displaced commercial catches from the site to be approximately s9(2)(b)(ii) per year. Of this, s9(2)(b)(ii) is attributed to the displacement of koura/rock lobster (*Jasus edwardsii*; s9(2)(b)(ii) with Fisheries New Zealand estimating that s9(2) of the catch in CRA7 (the quota management area within which this site falls) occurs in this area.

The consultation document asks the following questions:

Do you agree with the costs and benefits identified for this site? If not, why not? Please provide evidence to support your answer.

Are there other benefits or impacts that have not been described here?

Please consider the stated costs and benefits described above. What changes to the site or activity restrictions would you like to see? Why? Please provide evidence to support your answer.

Given that a decision to impose regulation to give effect to the proposed marine reserve impacts property rights of quota owners and the fundamentals of other businesses that rely on the fishery, FLC would have expected the consultation document to work through the relevant statutory considerations for each and every marine reserve. More specifically:

- an explanation of the scientific benefit identified and an assessment of what size the marine reserve would need to be to achieve that benefit and the length of the study
- a full assessment, including economic modelling, of the impact on commercial fishing
- an analysis of whether that impact constitutes undue interference given the scientific benefit identified
- an explanation of other factors that might be considered otherwise contrary to the public interest
- an analysis that brings together all statutory considerations and shows how the decision maker will likely balance them

In essence, given the nature and impact of the regulatory decision being proposed, we would have expected Ministers and the Director-General to consult on a draft decision, as is usual in other regulatory processes that essentially assess the public benefit.

A robust consultation document/draft decision is also important when the area subject to the Director-General's application is extensive and has multiple components (i.e. six marine reserves, five type 2 marine protected areas and one kelp protection area). Under the Marine Reserves Act, persons wishing to object to the making of the Order must send their objections, in writing, specifying the grounds thereof, to the Director-General within two months from the date of the first publication of the notice. FLC notes that it is difficult to effectively respond within two months at the best of times but when the application and consultation document fail to undertake the analysis required in relation to multiple marine protected areas, it is particularly challenging.

A robust consultation document/draft decision is even more important where the marine reserve process is initiated by the Director-General. FLC notes there is a conflict of interest where the Director-General applies for a marine reserve and Department of Conservation staff are taking a lead role in the analysis that is then presented to Ministers and Cabinet.

In the absence of this information, FLC's submission attempts to work through the relevant issues under the Marine Reserves Act.

### **Background on FLC**

FLC is a company headquartered in Te Anau but operating regionally throughout New Zealand and Australia. It was founded in 1989 by a group of fishermen who saw the potential to decrease lobster catch to rebuild the lobster fishery, while at the same time increasing earnings through live export to Japan. These values of maximising value in lobster fisheries, while managing the fishery to abundance, remain core to our operations.

A number of the directors of FLC were heavily involved in developing and implementing the Quota Management System. FLC continues to utilise and expand on their foresight and experience to ensure the fisheries are managed sustainably and in high abundance. FLC directors have been at the forefront of the rebuild of the CRA8 fishery which is now recognised as a leader in lobster fisheries management throughout Australasia. Our directors also lead the development of the Fiordland Marine Guardians strategy that subsequently formed the basis and underlying principles of the Fiordland Marine Management Act 2005. The first two Marine Reserves in Fiordland (Milford and Doubtful Sound) were instigated and proposed by Directors of FLC. FLC's environmental stewardship covers both land and sea, including island restorations, marine protected areas, fisheries management plans and native bird relocations. Over time, FLC has grown into a major exporter, with Group Revenue of approximately s9(2)(b)(ii) per annum.

Since its founding FLC has sought to expand its shareholder base by developing relationships with fishing families and other locals. We have also developed a close relationship with Ngāti Kahungunu, who is a shareholder.

We believe FLC is a New Zealand success story. However, like others in the industry we rely on robust decision making processes that appropriately canvas and consider the impact on all stakeholders and allow them to submit on a properly informed basis, before a decision is made.

### **Decision making framework under the Marine Reserves Act 1971**

The Marine Reserves Act provides for the setting up and management of areas of the sea and foreshore as marine reserves for the purpose of preserving them in their natural state as the habitat of marine life for scientific study. The purpose of a marine reserve is to create an area free from alterations to marine habitats and life, providing a useful comparison for scientists to study.

The statutory process for establishing a marine reserve requires a formal application to be made to the Director-General of Conservation for an Order in Council to declare a marine reserve. The Marine Reserves Act also provides for the Director General to initiate an application. The applicant or Director-General then notifies the public of the application. The public can object to the proposed marine reserve in writing to the Director-General, which the applicant can respond to. The grounds of objection include that the proposed marine reserve will "interfere unduly with commercial fishing" and that it will "otherwise be contrary to the public interest".

The Director-General then presents the application, objections, and any responses to objections to the Minister of Conservation, and that Minister decides whether any objection should be upheld. In making that decision, the Minister of Conservation must recognise that the objection process is more than simply a preliminary exercise on the way to a substantive decision. The Minister must resolve, in this stage, the competing claims, rights and interests of existing occupiers and users on the one hand, against the procedural expectations and substantive claims of the applicant on the other.

The legislative history to the Marine Reserves Act is also relevant. The then Minister of Marine and Fisheries, Hon. Allan McCready, made it clear in his parliamentary speeches on the Marine Reserves Bill that the legislative intention was not that marine reserves would take over vast areas, but that they would be limited to only the area that was necessary to undertake the scientific study they were established for. In other words, the boundaries of a marine reserve should be carefully drawn to ensure that the marine reserve extends no further than is necessary to promote the purposes of the Marine Reserves Act.

In that context, the extent to which a proposed marine reserve will unduly interfere with commercial fishing can be assessed in fishing participant/industry, scientific, and economic terms. It can also be assessed in terms of alternative tools available to effectively address the problem at hand with less impact on existing user rights.

### **Background to the current process**

The current process was initiated by the Director-General of Conservation, following the Forum process, which had a focus on preserving biodiversity in accordance with the MPA Policy and some of New Zealand's international commitments, specifically the UN Convention on Biological Diversity. As an aside, FLC has reviewed the UN Convention on Biological Diversity and is of the view that its significance to the current process is overstated as it gives States considerable flexibility to implement balanced arrangements that recognise both existing property rights and the rights of indigenous people. The UN Convention on Biological Diversity also sits alongside other international commitments of New Zealand that recognise and provide for commercial fishing rights, one example being the UN Convention on the Law of the Sea.

As indicated in our letter of 17 July 2019, the Forum process was fundamentally flawed. Our understanding is that the Forum was unable to reach agreement on the area to be put forward for a reserve and with time and money running out, the Chair separated the group so that two options could be presented to Ministers. Representatives of the crayfishing industry were not in the room when the boundaries of the marine reserve, identified as Site D1 or Te Umu Koau, were altered from that originally proposed and publicly consulted on by the Forum. This meant that Forum members, including iwi representatives, did not have the benefit of the expertise and knowledge of the industry representatives to understand the effect on CRA 7 and its economic impact.

Since the Forum's final report was delivered to Ministers, there has been no further public consultation nor was any further investigation done into the points raised in the Forum report that needed further clarification. The effect of this is that the commercial fishing industry and the crayfish industry have not had the opportunity to submit on and help correct the flaws in the Forum's report.

Tracing the background to the decision to commence the regulatory process under the Marine Reserves Act, it appears that following the presentation of the Forum's final report to Ministers in February 2018, the following took place:

- 19 October 2018 - Officials jointly brief Ministers ahead of a joint meeting
- 24 October 2018 – DOC officials brief the Minister of Conservation
- 26 October 2018 - Fisheries New Zealand officials brief the Minister of Fisheries
- 4 December 2018 - DOC officials brief the Minister of Conservation
- 11 December 2018 - Ministers meet and decide to progress Network 1
- 14 March 2019 - Cabinet Environment, Energy and Climate Committee notes that the Ministers intend to consult on progressing Network 1
- 11 May 2019 - Joint Ministerial announcement to progress Network 1
- 17 July 2019 – FLC writes to the Minister of Fisheries
- 17 February 2020 – Notice is given of intention to declare a marine reserve (placed in Otago Daily Times and other papers)
- 17 February 2020 – Cabinet Environment, Energy and Climate Committee meet but the Cabinet paper and minute have not been made public
- 9 April 2020 – Consultation is withdrawn due to New Zealand's COVID-19 Alert Level 4 restrictions, which limited people's ability to participate meaningfully
- 3 June 2020 – Consultation recommences and a further round of Notices are placed in the newspapers
- 7 July 2020 – Email notification from DOC to 'Undisclosed recipients' reminding people that consultation closes on 3 August, referencing new aerial images of the proposed network with boundaries overlaid that would be added to DOC's website and discussing bryozoans and their prevalence in the Papanui (H1) and Kaimata (E1) proposed marine reserves
- 20 July 2020 – Email notification from DOC to 'SEMP' reminding people that there is 2 weeks left until the end of the public consultation and outlining points that could be made to support the Okaihae (K1) proposed marine reserve

In FLC's view, a further round of public consultation was necessary to effectively inform the Ministerial and Cabinet decisions to progress Network 1. However, this did not happen and the flaws have been exacerbated as expectations that are set out in the Cabinet Manual appear not to have been followed. More specifically, relevant Government departments were not consulted on those decisions, Ministers were not provided with a regulatory impact analysis to support those decisions and formal notification of the process appears to have happened prior to Cabinet approval.

## Tests under the Marine Reserves Act

- **Purpose of scientific study**

As set out above, under the Marine Reserves Act, the Minister of Conservation has the power to create marine reserves for the purpose of scientific study. Based on the consultation document, the purpose of the Director-General's application is to give effect to the Forum's recommendation:

In this case, the DG has made an application for the establishment of the six marine reserves that were proposed as part of network 1 by the Forum. The application is provided in Appendix 1.<sup>1</sup>

The Director-General's application contains the following statements about scientific study:

It is considered that the six proposed marine reserves would provide some new opportunities for scientific research.

[...]

A wide variety of scientific studies **could** be undertaken in the proposed reserve areas. Possible topics of interest include:

- studying population dynamics and community structures over a wide range of habitats in relatively undisturbed marine environments – this represents a significant opportunity, as other mainland New Zealand marine reserves do not include such a wide range of habitats throughout an entire biogeographic region
- surveying and monitoring marine environments and biological processes – this would expand on previous studies in the southeast region and could include assessments of intertidal larval settlement and patch dynamics, inshore fishery trawl surveys, and biological inventories.
- using the proposed reserves as control areas against which changes elsewhere could be measured and assessed.

[...]

Although the purpose of the Act is specific to scientific study rather than biodiversity protection, **it is considered that biodiversity protection is a valid consideration** in terms of the benefit to the public. The proposed marine reserves would contribute to New Zealand's international commitment to protecting biodiversity and would enhance its reputation. While it is acknowledged that certain impacts would occur, particularly in terms of extractive uses, the Forum accounted for existing users as far as practicable. In keeping with the NZBS and MPA policy, and in consideration of the Act, the areas that are included in this application have been selected to minimise the adverse effects on users while maintaining the integrity of the network and its value to scientific study.

FLC recognises that the scientific study **could** be undertaken in the proposed marine reserve areas. However, the application has not been made with a view to actual scientific study being undertaken.

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<sup>1</sup> Department of Conservation, Fisheries New Zealand, *Proposed southeast marine protected areas* - Consultation document, June 2020, p 9.

If actual scientific study were to be undertaken, then we would expect the area proposed to be no more than is necessary for the purposes of the study, especially given the impact on other users.

There is nothing in the legislative history to the Marine Reserves Act that justifies the statement that **biodiversity protection is a valid consideration**. If biodiversity protection was a valid consideration then further checks and balances would likely have been included in the Act to ensure that other rights, particularly property rights and rights under the Treaty of Waitangi, were appropriately protected.

FLC supports the submissions of the New Zealand Rock Lobster Industry Association (NZRLIC) and the Otago Rock Lobster Industry Association (ORLIA) and their experts in relation to points made about the scientific appraisal of the proposed marine reserve.

- **Interfere unduly with commercial fishing**

Table 1 of the Consultation document states that the impact on rock lobster fishing is s9(2)(b)(ii) annually.

The Director General's application in the appendix to the consultation document states:

It is considered that the Forum used the best available information from Fisheries New Zealand and other sources to formulate the recommendations on which this application is substantially based.<sup>2</sup>

However, the Forum report noted:

The commercial fishing information that is included in this recommendations report is based on information provided by MPI. When considering this information, it is important to note that there is uncertainty about the actual impacts (positive or negative) that the proposed MPAs will have on commercial fishing. Although the information presented is based on the best estimates available, the spatial extent over which the catches of many species are reported means that we cannot be sure how much catch is taken in a specific area or the extent of displacement of fishing effort.

[...]

Due to these limitations, the Forum is including the commercial fishing information in this recommendations report only as an indicator of the relative potential impacts of the proposed sites and networks. The information is not intended to show the absolute impacts.<sup>3</sup>

When we wrote to Minister Nash on 17 July 2019, we estimated that the impact would be s9(2)(b)(ii) decrease in the value of CRA 7 quota and a decrease in sales income of between s9(2)(b)(ii). We are therefore surprised that further work has not been put into quantifying the impact.

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<sup>2</sup> Department of Conservation, Fisheries New Zealand, *Proposed southeast marine protected areas – Appendices to Consultation document (including marine reserve applications)*, June 2020, p 72.

<sup>3</sup> South-East Marine Protection Forum, *Recommendations to the Minister of Conservation and the Minister of Fisheries*, February 2018, p 104-105.

We note that a regulatory impact analysis should have been undertaken as part of the Cabinet process leading to the statutory notification. Documents released under the Official Information Act show that in September 2019, Treasury officials contacted DOC officials offering to assist them in undertaking the analysis required and noting that there was risk in the current approach. Officials seem to have proceeded with the approach used by the Forum regardless but unlike the Forum, which was transparent that the numbers should be treated with caution as they do not represent the full economic impact, this caveat is not in the consultation document.

Furthermore, there is no reasoning within the consultation document that assists FLC and others in the commercial fishing industry to understand what Ministers and officials consider to be undue interference and how this would be balanced against other interests.

FLC is a crayfish processor and relies on volume through its supply chain to operate efficiently. Efficient operations mean that quota owners and fishers receive premium prices for their fish. Less fish, means less productivity and consequently has impacts on the viability of parts of the supply chains like factories. FLC has a factory in Dunedin and a serious decrease in the volume of fish being processed would likely impact staffing levels.

FLC has reviewed the submissions from the NZRLIC and the ORLIA and their experts on the impact on industry and supports those submissions.

- ***Otherwise be contrary to the public interest***

FLC notes that only cursory analysis has been paid to the impact on Māori as Treaty partners. FLC does not speak for either Ngāi Tahu as mana whenua or for Ngāti Kahungunu, who have invested some of the proceeds from their Treaty settlement in FLC; however, FLC has been recognised by NZTE as a Māori company because over 50% of its shareholders are of Māori descent and it makes these submissions on this basis.

FLC understands that a large proportion of the quota owners in CRA 7 are of Māori descent. This should not be surprising as Māori have a strong relationship with the sea, particularly as a food source and now as a source of commerce. This means that when considering the impact on commercial fishing, consideration needs to be given to the impact this has on the commercial interests of all Māori, not just Ngāi Tahu.

On 17 March 2019, the Hon Chris Finlayson spoke at Victoria University, Wellington, on the threats to the durability of Treaty settlements. In summary, he made three key points that are relevant to the current consultation:

Settlements will endure and be successful if the Crown recognises the following three key points:

- a. Agreements must be honoured
- b. Property rights must be honoured
- c. Due process must be observed

They will fail if these basic principles are not observed.

Please find his speech **attached**.



The current consultation under the Marine Reserves Act is flawed in respect of all three of these points. Firstly, it overrides the quota management system, which was agreed to by iwi in return for the extinguishment of their rights under the Treaty. Secondly, it puts large areas of the coast into marine reserves, which effects the value of quota – a property right. Thirdly, the process has been so flawed that it is now impossible to rectify and claim that due process has been observed.

### **Further amendments to the boundaries set out in the Director-General’s application**

The March 2019 Cabinet paper provides that:

15. Amendments to the network may be made in future, based on the outcomes of statutory public consultation and assessments against the relevant statutory requirements.

[...]

17. Our decision to progress Network 1 will be implemented using the Fisheries Act 1996 and the Marine Reserves Act 1971, therefore no new legislation will be required.

In our view, following the Forum’s report to Ministers, there should have been a further consultation process that occurred outside the Marine Reserves Act as that Act contains a specific regulatory process that is primarily designed for small scientific studies. It is not clear that it allows the Minister of Conservation to change the boundaries of the marine reserve(s) that have been the subject of consultation under the Act, especially not in circumstances where the application is initiated by the Director-General of Conservation.

As set out above, the Consultation document did not contain the analysis required under the Act and as a result, industry has had to spend considerable time and effort responding to the current proposal, which is a series of marine reserves, each requiring detailed consideration and modelling of the impact. Given the scale and complexity of the current consultation process, FLC is of the view that in these circumstances the boundaries should not be changed without a further consultation. To do so would further undermine due process.

### **Compensation to affected parties**

FLC’s 17 July 2019 letter noted that quota, like land, was a property right. This is not to say that the government cannot and should not impose regulation to support environmental outcomes. However, where there are alternatives that could achieve the outcome without impacting the fishery, this would be preferable. FLC also noted that any decision that would give rise to a significant devaluation of the quota, would be akin to an expropriation of property, which should give rise to claims for compensation.

Compensation to affected parties is not discussed in the consultation document. We understand that this may be because officials consider that compensation is not payable where the Government is introducing regulation for biodiversity reasons. We understand that they see the current regulatory intervention as being similar to that under the Fisheries Act, whereby the Total Allowable Commercial Catch (TACC) can be adjusted to ensure the sustainability of the relevant fishery. As confidence in the fishery changes, quota shares either increase or decrease in value as a result. In usual circumstances, compensation would not be payable as a result of a change in the TACC.

The difference here is that introducing a marine reserve is like a compulsory acquisition of land under the Public Works Act. It sits outside the Fisheries Act and is an expropriation of the property right in quota shares.

The Marine Reserves Act is silent on the issue of compensation and as discussed above, this is likely because it was never envisaged that the Act would be used to turn such large areas into marine reserve networks.

### Conclusion

Like others in the crayfish industry, FLC was among the first to be affected by Covid. The impact has been substantial. This combined with the impact of the marine reserves proposed, would likely result in an industry contraction at a time when food exports are one of New Zealand's lifelines. Given that there are likely to be other levers that would more effectively achieve the biodiversity objectives, FLC is of the view that these should be explored before taking away valuable fishing grounds. While Ministers may be exalting the opportunity to create a network of marine reserves the size of Auckland, the quid pro quo is the effect on valuable export income and with it jobs.

FLC has reviewed and supports the objections made by NZRLIC and ORLIA and for all of the reasons set out above, also objects to the procedural irregularities to date.

FLC respectfully requests that the current process is stopped and if appropriate, a new process such as that undertaken by the Fiordland Marine Guardians is put in place to heal the relationships and progress biodiversity protection in a manner that is both inclusive and enduring.

Thank you for the opportunity to make this submission. Please contact Alan Buckner s9(2)(a) ) if you have any questions about this submission.

Yours faithfully,

Fiordland Lobster Company Limited  
s9(2)(a)

Per

Bryan Henderson  
Chair

cc Dan Bolger, Deputy Director-General, Fisheries New Zealand  
s9(2)(a)

[southeast.marine@publicvoice.co.nz](mailto:southeast.marine@publicvoice.co.nz)

17 July 2019

Hon Stuart Nash  
Minister of Fisheries  
The Beehive  
Wellington 6160

by email s9(2)(a)

Dear Mr Nash,

### **Marine Protection Area – South East South Island**

Fiordland Lobster Co Limited (**FLC**) is writing to you about the proposed marine protection for the South East South Island announced on 11 May 2019. There are a number of issues that I wish to bring to your attention but before I do, I would like to provide you with a bit of background on FLC.

FLC is a company headquartered in Te Anau but operating regionally throughout New Zealand and Australia. It was founded in 1989 by a group of fisherman who saw the potential to decrease lobster catch to rebuild the lobster fishery, while increasing earnings from the decreased catch through live export to Japan. These values of maximising value in lobster fisheries, while managing the fishery to abundance, remain core to our operations.

A number of the directors of FLC were heavily involved in developing and implementing the Quota Management System. FLC continues to utilise and expand on their foresight and experience to ensure that the fisheries are managed sustainably. FLC's environmental stewardship covers both land and sea, including island restorations, marine protected areas, fisheries management plans and native bird relocations. Over time, FLC has grown into a major exporter, exporting approximately s9(2)(b)(ii) in product to China annually. This year FLC became the supreme winner in the HSBC New Zealand China Trade Association Awards.

Since its founding FLC has sought to expand its shareholder base by developing relationships with fishing families and other locals. We have also developed a close relationship with Ngati Kahungunu, who is both a shareholder and a landlord, in that the iwi owns the processing facilities that we lease in Auckland.

We believe FLC is a New Zealand success story. However, like others in the industry, we rely on robust decision making processes that appropriately canvas and consider the impact on all stakeholders before a decision is made. Unfortunately the process that gave rise to the options put forward by the South-East Marine Protection Forum was fundamentally flawed and did not put relevant information in front of members of the Forum, let alone officials and Ministers.

Our understanding is that the Forum was unable to reach agreement on the area to be put forward for a reserve and with time and money running out, the Chair separated the group so that two options could be presented to Ministers - Network 1 and Network 2. Your announcement with the Minister of Conservation on 11 May 2019, suggested that you had decided to progress Network 1. Unfortunately representatives from the crayfishing industry were not in the room when the boundaries of the marine reserve identified as Site D1, were altered from that originally proposed at the Forum. This also meant that Forum members, including iwi representatives, did not have the benefit of the expertise and knowledge of the industry representatives to understand the effect on CRA 7 and its financial impact.

Essentially if Network 1 is reserved in its current form, including the expanded area of proposed protection – Site D1, it places into protection an area that officials have advised accounts for approximately s9(2) of the current commercial catch

in CRA 7. This figure was based on the percentage of habitat lost, not on the percentage of actual catch lost and its effect on Catch per Unit Effort (CPUE) a measure of efficiency.

Unfortunately, the impact on the fishery would be much more significant due to the specific nature of the habitat in CRA 7. Network 1 contains a reef system known as the Church and the Outer Reef. This is the point where fish accumulate to feed and step out to migrate, walking on a sandy bottom. Once they migrate, they are almost impossible to track or pot. So while fish are migratory, it is not the case that they can be caught outside the reef system. This seems to have been misunderstood by officials and members of the Forum.

The other point that is important is the effect on the sustainability of the CRA 7 fishery. If the Church and the Outer Reef are placed under marine protection, it limits the habitat that can be fished. This means that the total effort required to catch the TACC will dramatically increase, leading to a decrease in the fishable lobster biomass from overfishing and consequently a decrease in the CPUE that drives the management process under the QMS. This would cause a permanent decrease in the TACC that could exceed 40%.

With less fish being caught, there would be a significant decrease in the value of the quota and reduced earnings from catching, processing and marketing of fish. In terms of the decrease in quota value, the industry estimates that a 40% drop in the TACC would result in s9(2)(b)(ii) decrease in the value of CRA 7 quota. Using current export prices, there would also be a decrease in sales income, from approximately s9(2)(b)(ii) to s9(2)(b) annually.

As I am sure you are aware, like land, quota is a property right. This is not to say that the government cannot and should not impose regulation to support environmental outcomes. However, where there are alternatives that could achieve the outcome without impacting the fishery, this would be preferable. Any decision that would give rise to a significant devaluation of the quota, which is akin to an expropriation of property, would likely give rise to claims for compensation on the basis of the economic loss incurred.

We have been in contact with the Otago Rock Lobster Industry Association and understand that they have written to your officials. We support their concerns. We hope that in raising these with you before regulations are drafted and public comment is sought, you are able to rectify the flaws in the process to date and work towards a solution that takes into account the impact on all stakeholders, but specifically the crayfish industry.

In the meantime, if you would find it helpful, we would welcome the opportunity to discuss this further with you and your officials.

Yours faithfully,

Fiordland Lobster Company Limited

s9(2)(a)

per

Bryan Henderson  
Chair

cc Dan Bolger, Head of Fisheries New Zealand

s9(2)(a)

Address by Hon Christopher Finlayson at the Law Faculty, Victoria University, Wellington on  
Wednesday 17 April, 2019.

The Post Settlement World: threats to the durability of Treaty Settlements.

### Introduction

1. Thank you for giving me the opportunity to speak tonight in my old law faculty. I became the Attorney-General and Minister for Treaty of Waitangi Negotiations in early November 2008 and ceased to be a Minister on 23 October 2017. During my 9 years as Minister for Treaty of Waitangi Negotiations I signed or initialled over 60 deeds of settlement. In most instances the signing ceremonies were joyful occasions but, so far as I was concerned, always tinged with apprehension that the grand promises made on the Marae by the Crown would be honoured in the future.
2. I was always haunted by what had happened to Ngai Tuhoe. It could be summarised as - promises made, legislation passed and then betrayal by the Crown. In 1896 then Premier Dick Seddon met Tuhoe, first at Lake Waikaremoana then in Wellington. Following those meetings, agreements were made about the governance of Te Urewera. Legislation was passed recognising the special role of Ngai Tuhoe in their homeland. A commission was set up comprising a majority of Tuhoe. This commission was to make decisions about future utilisation of land. The legislation was passed and yet within 25 years had been undermined by the Crown and was repealed in the 1920's. Thereafter Tuhoe were locked out of any say in the running of Te Urewera. To add insult to injury the Crown in 1954 declared Te Urewera to be a national park. There was no consultation with Ngai Tuhoe. Little wonder then that there was such ill feeling between Ngai Tuhoe and the Crown, exacerbated in recent years by the monumentally stupid decision in 2007 to raid Ruatoki and charge people under the Terrorism Suppression Act. To this day I have never been able to ascertain who gave that dreadful advice to the Crown. All I know is that Annette King, then Minister of Police, suffered for the faults of officials.
3. I say all this to remind the audience that this sort of calamity is not an atypical occurrence in our country's history. It happened so often and I, as Minister for Treaty of Waitangi Negotiations, acknowledged many of these actions, apologised for them, and promised a new relationship between the Crown and Maori. Toward the end of my term, I was conscious that at least 7,000 commitments had been entered into by the Crown in various deeds of settlement and it was important to establish a central register of commitments so that all parts of the Crown, and local and regional government, could know what those undertakings were. Treaty settlements are made on behalf of the Crown and undertakings for relationships between the settling iwi and particular government departments are obligations on the Crown even if the departmental structure alters over time. Work progressed on the central register and the Post Settlement Commitments Unit was established. The new Government formalised those arrangements by establishing Te Arawhiti and Kelvin Davis is the Minister responsible for the Crown Maori relationship. I applaud those moves which follow on inevitably from the work I did between 2014-2017.

4. So far so good. The appropriate structures have been put in place, a Minister appointed but have departmental attitudes changed? In my time as Minister there were a number of troubling developments and I outline a few of them now. So that you know where I am coming from, let me summarise the essential theme of this speech right now: Settlements will endure and be successful if the Crown recognises the following three key points:
  - a. Agreements must be honoured.
  - b. Property rights must be honoured.
  - c. Due process must be observed.

They will fail if these basic principles are not observed.

Let me illustrate some recent examples of things going wrong.

### Ngati Apa

5. Ngati Apa in the North Island is an iwi based in Bulls. When Michael Cullen was Minister for Treaty of Waitangi Negotiations, Ngati Apa representatives expressed an interest in purchasing the farm known as Flock House. OTS made inquiries of Ag Research which owned the farm and were told it was unavailable because it was “a strategic asset”. This was conveyed to Ngati Apa who accepted the position. A deed of settlement was signed, legislation enacted, and Ngati Apa got on with post-settlement business. A few years later the so-called ‘strategic asset’ was put on the market. Ngati Apa were appalled and approached me. I was disgusted that they had been misled by a Crown agency and complained to the then Deputy Prime Minister Bill English who was furious and said that this was the kind of behaviour which seriously harms the honour of the Crown.
6. It was made very clear to Ag Research that they needed to sort this matter but, even though Ministers were anxious to see the matter resolved satisfactorily, Ag Research representatives screwed the scrum on questions relating to the valuation of the property. They only started to behave properly when it was made very clear to them by Steven Joyce, then their Minister, that they needed to sort the matter out fast otherwise there would be a land occupation.
7. In the end the result was satisfactory. Ngati Apa purchased the property and are developing it with a well-known Rangitikei farming family. I looked at the land about 18 months ago. What had been a run-down underperforming farm, hardly a strategic asset, was being turned into a very impressive agribusiness operation. One of the Ngati Apa people expressed his thanks to me that Ministers English, Joyce and I had managed to resolve the matter but said that this sort of thing should never have happened in the first place. He was right. There had been a failure on the part of a Crown agency to act honourably at the time of the Ngati Apa negotiations and to follow due process. As a consequence, the honour of the Crown was imperilled.

## The Fisheries Settlements

8. The second case study I want to examine is the Kermadecs issue which blew up big time in 2016. But first some background. A useful starting point is the Fisheries Amendment Act 1986, which substantially amended the Fisheries Act 1983 to bring into operation the Quota Management (“QMS”) system. I understand the 1986 Act was a reaction against the former regime of open slather and government subsidy, which had led to a massive expansion of the fishing industry. At the same time the inshore fishery dramatically declined as a result of overfishing.
9. The 1986 amendment moved away from the older regulated system which contained no conservation incentives toward the creation of valuable and transferrable property rights in the resource.
10. The legislation is based around the concept of a quota, a fraction of a particular “total allowable commercial catch” for a particular fish stock defined by a reference to species and particular quota management areas, these latter being divisions of the New Zealand territorial sea and the Exclusive Economic Zone. Quota is allocated in perpetuity, and the holders acquire a harvesting right, measured as a specific tonnage for a specific quota management area for a fixed time (1 year). Quota can be thought of as a slice of variable pie – the shape and relative size of one’s slice stays the same, depending on the quota one has accumulated, but the pie itself expands or contracts year to year depending on the size of the total annual commercial catch, fixed by the Ministry each October. Quota give rise to an “annual catch entitlement” in accordance with specific formulae set out in the Fisheries Act 1996.
11. The QMS was introduced on 1 October 1986. In response, Maori obtained an injunction against the Government to prevent further fishstocks being introduced into the QMS until the issue of ownership had been resolved.
12. As a result of the action taken by Maori, the courts confirmed that Maori customary fishing rights were controlled by “hapu and tribes” and that those customary rights contained both commercial and non-commercial elements.
13. To resolve claims and litigation involving fisheries, an interim settlement of fishing claims acknowledging the full spectrum of Maori interests in fisheries was entered into between Maori and the Crown in 1989 and provided 10% of all fisheries then in the QMS – along with some funding for administration. The Fisheries Deed of Settlement, implemented through the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, was the final settlement of all Maori claims to customary fishing rights. Under the settlement, the Crown additionally:
  - gave Maori funds to buy a 50% ownership stake in Sealords Products Ltd;
  - undertook to provide Maori with 20% of the quota for all new species brought within the QMS after that time;
  - gave Maori positions on statutory fisheries management bodies;

- restructured the then Maori Fisheries Commission into the Treaty of Waitangi Fisheries Commission (TOWFC) to enhance its accountability to Maori; and
  - agreed to make regulations to allow self-management of Maori fishing for subsistence and cultural purposes.
14. In return, Maori agreed:
- that the settlement settled all Maori commercial fishing rights and interests;
  - to accept regulations for customary non-commercial fishing;
  - to stop litigation (including any Tribunal claims) relating to Maori commercial fisheries;
  - to support legislation to give effect to the settlement; and
  - to endorse the QMS.
15. It was clearly understood by Maori that they were not only receiving existing rights but that there was also a right of development. So, for example, there could be an undeveloped fisheries management area that with the passage of time and improved fishing techniques could be worked up into a commercially valuable settlement. This right of development is very relevant when I come to talk about the development of a marine reserve in the Kermadecs.
16. TOWFC was required to develop proposals for allocating the various assets and benefits deriving from the settlement in respect of commercial fisheries. For some years I was one of the lawyers acting for the Commission. It was, as the Privy Council in London noted, “an extremely challenging process”. Litigation needed to resolve the issue of whether allocation to Maori meant allocation to iwi or everyone who happened to be Maori. Then there were arguments about whether allocation should be determined on the basis of coastline or population. This litigation continued for many years until finally (and some would say, unsatisfactorily) resolved by the Maori Fisheries Act 2004.
17. So resolution of all issues related to fishing was something of a Homeric epic concluded after many years litigation in the courts and tribunals of New Zealand.

#### The Kermadecs

18. Some years ago, the Government of which I was a member, announced the establishment of the Kermadecs Sanctuary to be created in the Kermadec region of the South Pacific Ocean about 1000 kilometres northeast of New Zealand.
19. At 620,000 square kilometres, it would be one of the world’s largest and most significant fully protected areas. It would be 35 times larger than the combined area of New Zealand’s existing 44 marine reserves. The sanctuary would mean 15 percent of New Zealand’s ocean environment will be sealed off from fishing.
20. The sanctuary would cover an area of New Zealand’s Exclusive Economic Zone (EEZ) from 12 to 200 nautical miles from the five Kermadec Islands of Raoul, Macauley,



Cheeseman, Curtis and L'Esperance which lie halfway between New Zealand and Tonga.

21. The Government introduced legislation to Parliament to enact the new sanctuary but it is stalled because of objections of Maori.
22. The proposed sanctuary follows the establishment in 1990 of the Kermadec Marine Reserve which consists of 7500 square kilometres. That marine reserve extends 12 nautical miles from the cliffs and boulder beaches of the various Kermadec Islands and rocks, out to the edge of the territorial sea.
23. The Kermadec area is said to be one of the most pristine and unique places on Earth. It includes the world's longest chain of underwater volcanoes and the world's second deepest ocean trench at over 10 kilometres - deeper than Mount Everest is tall. Its waters are home to:
  - over six million seabirds of 39 different species
  - over 150 species of fish
  - 35 species of whales and dolphins
  - three species of sea turtles - all endangered
  - many other marine species unique to this area such as corals, shellfish and crabs.
24. New Zealand has sovereign rights in its territorial sea with very few limitations. Its rights and obligations in the EEZ are different but include the rights to manage fishing and minerals resources. These rights (eg, over navigation and submarine cables) must be exercised with due regard for those of other states.
25. Rights and limitations are:
  - no fishing or mining applies to both the sanctuary and marine reserve
  - ships will be allowed to exchange ballast water in the sanctuary (subject to regulation) but not in the marine reserve
  - marine discharges from ships and yachts (subject to regulation) will be allowed in the sanctuary but not in the marine reserve
  - submarine cables will be allowed in the sanctuary but are not permitted in the marine reserve.
26. All fishing and mining is prohibited in the marine reserve (the territorial sea out to 12 nautical miles around the Kermadec Islands). This is unchanged by the sanctuary.
27. Currently the 620,000 square kilometre area where the sanctuary will be created is a benthic protection area (BPA). This was put in place in 2007 under the Fisheries Act 1996 and prohibits bottom trawling and dredging. The area is also subject to the EEZ Act and the Crown Minerals Act 1991. This means any applications for prospecting, exploration or mining are subject to these laws.
28. When the sanctuary is created, all fishing, prospecting, exploration and mining activities will be prohibited.

29. Other countries have also announced the establishment of protected areas, including the United States, Australia and the United Kingdom. For myself, and it is not directly related to the theme of the speech, I wonder whether a better way of protecting the oceans is to work with other nations to address the scourge of plastic in the Pacific. It could almost be called the Henderson Island Project. Henderson Island is part of the Pitcairn group. It should be one of the most pristine places on Earth but it is covered in plastic disgorged into the Pacific and driven there by the ocean currents. It is simply an environmental disgrace. Massive marine reserves on the other hand could be said to be environmental emoting – it looks good, makes one feel good, but does it achieve all that much?
30. The Kermadecs area is one of 10 New Zealand fisheries management areas and is known as FMA10. A total of about 20 tonnes of fish are caught there every year with a value of about s9(2)(b)(ii). The species caught are highly migratory and include swordfish s9(2)(b)(ii), bigeye and albacore tuna s9(2)(b)(ii) and blue shark s9(2)(b)(ii). This is where the problem starts.
31. The quota for these highly migratory species is for New Zealand's entire EEZ and is not specific to FMA10. As the catch can be caught in other parts of New Zealand's EEZ, fishing interests will not be significantly impacted by the establishment of the sanctuary.
32. As all mining, exploration and prospecting activities will be prohibited in the sanctuary, there will be an opportunity cost for New Zealand but this is obviously very difficult to quantify. The logistics of mining in these very deep, remote waters is difficult and expensive.

#### The Maori Response

33. After the announcement, there was an immediate response from the negotiators of the Treaty Settlement and from TOWFC. They alleged first that there had been inadequate consultation with Maori, and secondly that the proposed reserve undermined the fisheries settlements. Let us carefully examine those complaints.
34. On consultation they are correct. Consultation with Maori on most issues is invariably rushed and superficial. Many government officials think consultation with Maori is some kind of box ticking exercise designed to bomb-proof a decision. Certainly that is what happened here where the then Minister for the Environment made a few rushed calls to the iwi he thought would be interested (without consulting me I might add). It was a very poor effort on his part. Good process was the first victim.
35. The undermining of the settlement is a very serious matter. Let us look closely at that charge. Earlier I mentioned the right to develop. The settlements reached were not just about existing opportunities but future opportunities as well. FMA10 may not have much fishing in it now but in years to come, with climate change and different fishing methods, the situation may be completely different. There could be

valuable commercial opportunities. One of the things that really disturbed me after the storm broke was the complete lack of understanding by Crown officials of the fisheries settlements reached in 1989 and 1992. When I asked some officials to explain their understanding of the 1992 settlement, they looked at me much as the cows on the summit of Mt Kaukau look at me when I get to the top and walk past them to the trig station – a mixture of passive aggression and confusion. They didn't know what I was talking about. Little wonder then that TOWFC mounted a public relations campaign which asked the question what's the difference between Maori property rights and Pakeha property rights? Maori property rights can be interfered with at will by the Crown and are not as valuable as other property rights.

36. TOWFC said that when Maori entered into the Treaty Fisheries Settlements, they accepted the QMS, which included defined QMAs, as the basis of a Treaty Settlement. It was a core condition on the Crown side agreed to by Maori. If the Crown wants to change the QMS, it cannot do it unilaterally without being in breach of the Treaty Settlement. Such change requires Maori agreement. I have already noted that the Inshore Kermadec (12 mile) Zone currently has the highest possible international level of marine protection. This was imposed with the agreement of Maori.
37. The point made by Maori is that if the Crown can unilaterally alter the system it entered into as a condition of the Fisheries Settlements of 1989 and 1992 it has the capacity to alter any Treaty Settlements on its own political whim. What price a Treaty, what price the honour of The Crown?
38. In the Kermadec Zone there is no evidence of fish-stock depletion in any species. The only fishery of any current scale is in fact migratory tuna which can by definition be harvested either to the North or the South of proposed sanctuary in any case. It has been argued that the case for the sanctuary cannot on any evidence be made on any presently observable danger to Bio-diversity or Ecology. Rather it is political ideology inspired by groups like Pew which is known to have funded Forest & Bird and the Environmental Defence Society. They are very well connected in Washington. I think these arguments have merit.
39. The legislation giving effect to the sanctuary is now in limbo because the issues have not been resolved. It was put on the back burner when I was a Minister because a coalition partner threatened to pull out of the coalition if the Government proceeded with the proposal.
40. I don't think it will be resolved by further consultation, certainly not the consultation methods employed by Crown officials. Applying a principled approach to the matter, I doubt whether the proposal can proceed as there is an argument that it undermines the rights of Maori established as recently as 1992. In any event, a strong argument can be made that with the QMS, there is in fact no need for such a

large marine reserve. Conservation of fisheries species is an essential ingredient of the QMS.

41. It's easy to say that this could have been resolved if there had been adequate consultation. The Crown seems to think too often that all it needs to do to satisfy its Treaty obligations is to consult with Maori hopefully in a more professional manner than what was done by Environment on this occasion. I acknowledge that it is important to consult one's Treaty partner, and consultation to the standard required by the Court of Appeal in the Wellington Airport case will obviously mean more than a few 11<sup>th</sup> hour phone calls. But consultation is not the be all and end all and, in the case of the Kermadecs, there is more to consider. The critical thing here is that property rights were created and must be honoured. In my opinion that is a stumbling block for the Kermadecs proposal. It cannot happen if those important property rights finally secured in 1992 are undermined. Durability of Treaty Settlements and the honour of the Crown are more important than a marine reserve.
42. Some in the audience may well be asking – you were a Minister. It's all very well to have a Paul on the road to Damascus type conversion. Why didn't you do something about this shambles? The problem was that by the time I had learnt about it, it was too late. If due process had been observed and the proposal had been through the usual Cabinet committee and Cabinet decision making processes, departmental consultation would have highlighted many of these issues. I think the Prime Minister was very badly let down by the Minister for the Environment and his officials. To his enormous credit John Key parked the proposal when these significant issues emerged. He was very disappointed but that was the appropriate thing to do in the circumstances. He should never have been put in this embarrassing position.

#### Rights of First Refusal

43. Rights of First Refusal (or RFR's) are a valuable component of a Treaty Settlement. See, for example, the very detailed RFR provisions set out in Part 4 of the Nga Mana Whenua o Tamaki Makerau Collective Redress Act 2014 or Part 3 of the Te Atiawa Claims Settlement Act 2016. With a few exceptions, an RFR landowner must not dispose of RFR land to a person other than the trustees of a settlement trust or their nominee for a defined period. In the case of Te Atiawa, that period is 172 years. It is a commercial mechanism which is worth millions to a settling iwi and is recognition of the fact that the monetary component of a settlement is not restitutio in integrum but that favourable commercial opportunities for iwi can occur over a period.
44. All RFRs have similar features but differ in the detail and it behoves Crown officials who deal with these issues to familiarise themselves with that detail. Attention to detail was not immediately apparent a few years ago when MBIE officials were dealing with land availability issues in Auckland. They seemed to be busily trying to organise protocols with iwi on land use issues when a far more profitable use of their time would have been to read the relevant settlement statutes and pay close attention to the parts dealing with commercial redress.

45. An illustration perhaps of the self-evident proposition that the Crown needs to know what it has agreed to do. In order to honour an agreement to which one is a party, it is useful to know what the agreement provides.

#### Conclusion

46. What therefore will make for enduring settlements? Once again:

- a. Recognition by the Crown of the fundamental principle that agreements must be honoured.
- b. Recognition by the Crown of the sanctity of Maori property rights.
- c. Recognition by the Crown of the importance of due process.

Understand and follow these simple principles, even self-evident principles, and the Crown Maori relationship will flourish in the future. Ignore them and run the risk that full and final settlements will not be full and final and that the Crown Maori relationship will suffer.

C F Finlayson

**From:** s9(2)(a)  
**To:** [SEMP](#)  
**Subject:** Submission from the West Coast Penguin Trust  
**Date:** Monday, 3 August 2020 11:58:27 AM  
**Attachments:** [image001.png](#)  
[2020\\_07\\_31 WCPT Submission on the proposed south east marine protected areas.docx](#)

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Please find attached our submission on the south-eastern South Island marine protected areas.  
Many thanks

INGER PERKINS

Manager

**West Coast Penguin Trust**

**P:** 03 755 8600 **M:** s9(2)(a) **W:** [www.westcoastpenguintrust.org.nz](http://www.westcoastpenguintrust.org.nz) **E:**

s9(2)(a) **D=**[Donate!](#)

We have experts working on the protection of penguins and seabirds but we need your help to continue our projects that will ensure the survival of these threatened species on the West Coast. You can donate by [clicking here](#). Thank you.

*I work part time and variable hours and will respond to emails as soon as possible.*



## Submission on the proposed southeast Marine Protected Areas



From the West Coast Penguin Trust

Submitted by Inger Perkins: s9(2)(a)

### Background

The West Coast Penguin Trust (<https://www.westcoastpenguintrust.org.nz/>) exists to conserve and enhance penguins and other seabirds on New Zealand's South Island West Coast through research, advocacy and practical projects. By treating the penguins and other seabirds as a treasure or taonga, we help look after the wider marine and coastal ecosystems on the West Coast.

The Trust raises awareness about local penguins and other threatened seabirds, including the Westland petrel, and supports local communities and agencies to implement effective conservation plans and policies to benefit penguins, seabirds, their local ecosystems and nearby communities.

### General feedback

- (1) The proposed network of Marine Protected Areas (MPAs) are a great start to protect our unique marine biodiversity and to safeguard marine productivity and ecosystem services for the benefit of people and nature in the long term.
- (2) We appreciate the effort of the Forum to negotiate, identify and endorse many small MPAs along the South East Coast of the New Zealand South Island.
- (3) The proposed network appears not to meet the MPA policy and New Zealand's international obligations by adequately representing the full range of habitats found in the SEMPF Area.
- (4) In 2016, the IUCN called for 30% of each marine habitat to be set aside by 2030 in "highly protected MPAs and other effective area-based conservation measures", aiming to cover "at least 30% of the global ocean, with no extractive activities permitted.
- (5) It is particularly disappointing to note that there are no marine reserves proposed for the Catlins region, four habitats have no protection and the ten poorly represented habitats are those most heavily fished.
- (6) Efforts need to be made to adequately extend the MPA network. We strongly encourage all involved to continue negotiations to achieve an even better outcome in the near future.
- (7) New Zealand signed the United Nations Convention on Biological Diversity in 1993, agreeing to the goal of establishing an effectively and equitably managed, ecologically representative, and well-connected system of MPAs and other conservation-related measures covering at least 10% of its coastal and marine areas by 2020. The current proposal considers <5% of the area being considered as Type I MPAs/ Marine Reserves. The proposed Type II MPAs may be managing or restricting some fisheries through regulations made under the Fisheries Act 1996.
- (8) The current proposal does not consider important taonga species including penguins and Hector's Dolphins that require larger protected areas to safeguard their populations. We are supportive of any meaningful MPA, and often a small MPA is better than none at all. However, for the survival of those species, destructive and unselective fishing methods including set-netting need to be excluded from all types of MPAs.

- (9) We ask that the proposals be implemented as soon as possible before it is too late for these taonga species.
- (10) The decline of the yellow-eyed penguin in recent years is drastic and they are heading towards extinction on the mainland. MPAs are essential to their survival and recovery.
- (11) Other submitters will provide greater detail in relation to the individual proposed MPAs and we support all initiatives that will protect penguins, other seabirds and marine mammals.



**From:** [Stan and Marion Rutherford](#)  
**To:** [SEMP; Marion Rutherford](#)  
**Subject:** Proposed southeast marine protected areas  
**Date:** Monday, 3 August 2020 12:34:42 PM

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From, Marion Rutherford

s9(2)(a)

Contact ph. s9(2)(a)

email s9(2)(a)

Proposed southeast marine protected areas Consultation document.  
Hakinikini (M1)

### Background

My interest in this proposed Marine Reserve stems from generations of our family owning farm land on this coast.

In the early eighteen sixties my Great Grand Father was an original settler farming just north of Akatore creek. That farm remained in the family for 123 years.

In 1941 his grandson, (my father), bought a farm at Akatore - (also adjacent to the proposed marine reserve). This land 79 years later is still in the family, the sixth generation now enjoying infrequent fishing expeditions to the coast during the summer, learning about the coastal ecology and the pleasure of catching a fish (wrasse) in most cases released. We are also involved in monitoring sealion movement in this area of coast and have had the excitement of finding an untagged female who has pupped in the same place for the last four years.

### Re. the Proposal.

In regard to customary marine title, P11, 2.4.3 could that also extend to land owners and their whanau adjoining the prescribed area who have owned farmland on this coast for one and a half centuries.

I am concerned there's a paragraph in this report (P36 - protection importance and benefits) going into detailed description of the rocks, when it is the marine life that is being considered.

I fail to understand how fishing will have any impact on the rocks.

The seal colony at Quoin point is mentioned, there is also a much larger colony of breeding seals about two kilometres north of Quoin Point, - we have counted over 100, and a smaller group north of that. What effect are these seals having on the fish population? Rock pools which were once full of sea life are now polluted, brown, smelly, and devoid of much life. I consider the seal population, which is visibly expanding, must be taken into account when decreasing fish numbers are being discussed.

I also have a concern that on P36 the word "speculation" has been used with regard to the demise of macrocystis. There are some areas where macrocystis is still growing healthily.

I do not agree with the costs and benefits listed for this site.

Changes I would like to see in this area. (1) The current allowable take for recreational fishing should be substantially reduced, eg. 30 blue cod per recreational fisherman is urgently in need of revision. As a result of creating this reserve, more pressure will be imposed on any other areas available to the public.

(2) I am strongly in favour of creating a marine reserve around Taieri Island (Moturata) where I understand finding Paua is already becoming difficult - is anyone monitoring this resource? This area could become a

wonderful snorkelling destination. Don't leave it until OOPS they have all gone.

(3) I would like to see some research done and ongoing monitoring to back your "speculation" to give clearer facts to support the necessity for a marine reserve.

Thank you for taking time to read this submission.

Marion Rutherford.

# SEMP 2020 - Written submissions

## 1. Proposed marine protection measures for south-eastern South Island

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**Date received**

03/08/2020

**Channel received**

southeast.marine@publicvoice.co.nz

**Please tell us your name**

**First name:**

Chanel

**Last name:**

Gardner

**What is your email address?**

s9(2)(a)

**Are you responding as an individual or as an organisation?**

Organisation

**Please state the name of the organisation**

Harbour Fish South Island Seafood

**Do you identify as tangata whenua?**

**Which category best describes your main interest in this area?**

Commercial fishing

**Information release**

## 2. Proposed marine protection measures

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**I would like to make a submission on the establishment of the full network:**

No

**And/or**

**I would like to make a submission on the following sites: (please tick all that apply)**

Te Umu Koau Marine Reserve (D1)

Papanui Marine Reserve (H1)

Kaimata (E1)

## 6. Te Umu Koau Marine Reserve

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**Do you consider you exercise kaitiakitanga in the area of the proposed marine reserve?**

**Do you agree with the costs/impacts identified for this site?**

**Do you agree with the benefits identified for this site?**

### What option best represents your view on this site?

I object to the proposal being implemented (support the status quo and do not implement the marine reserve)

### Why do you object to this proposal? Please consider the stated costs/impacts and benefits described in the consultation document. Please provide evidence to support your answer.

Harbour Fish has 5 trawl fishermen who work these northern grounds. This area is highly productive for gurnard and elephant fish and would not be easily displaced to other fishing zones particularly due to the specificity of elephant fish habitat. b. We estimate that s9(2) of their trawl activity would be effected should D1 be implemented. The direct financial loss of revenue would be in excess of s9(2)(b) from trawling in this area alone.

c. Rock Lobster has been addressed at length in industry submissions, however, from a Harbour Fish perspective as contracted handlers of Ngai Tahu crayfish D1 is another overlaying impact on our operations. We estimate that s9(2)(b) of our turnover would be removed.

d. Aside from the financial implications for Harbour Fish we are deeply concerned that the overall impact on fishers who rely on this industry will be forced from their businesses, such is the impact of D1. The impacts as set out in the proposal document fall far short of the reality of the financial ramifications.

## 7. Papanui Marine Reserve

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### Do you consider you exercise kaitiakitanga in the area of the proposed marine reserve?

### Do you agree with the costs/impacts identified for this site?

### Do you agree with the benefits identified for this site?

### What option best represents your view on this site?

I object to the proposal being implemented (support the status quo and do not implement the marine reserve)

### Why do you object to this proposal? Please consider the stated costs/impacts and benefits described in the consultation document. Please provide evidence to support your answer.

The setnet catch from H1 currently constitutes s9( ) of the total finfish catch landed to Harbour Fish from coastal setnet fishers. We have 2 setnetters who fish in this proposed marine reserve with a catch of s9( ) tonnes per year worth over s9(2)(b) The loss of this setnet activity, based on catch value, would result in a revenue loss in excess of s9(2)(b)

b. The applicant states that “the export value of potentially displaced commercial catches from the site to be s9(2)(b) per year.” We question the calculation of this figure given Harbour Fish alone processes in excess of s9 tonne for export from this site.

c. Rig caught by the two setnetters account for s9(2) of the SPO3 landed to Harbour Fish. The SPO3 fishery from H1 currently has a catch of over s9 tonnes. The exclusion of our fishers from these ground would result in a direct loss of over s9(2)(b)

## 13. Kaimata

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### Do you agree with the costs/impacts identified for this site?

### Do you agree with the benefits identified for this site?

### What option best represents your view on this site?

I object to the proposal being implemented (support the status quo and do not implement the Type 2 MPA)

**Why do you object to this proposal? Please consider the stated costs/impacts and benefits described in the consultation document. Please provide evidence to support your answer.**

Of the fishing methods utilised by our fishers, bottom trawling, set netting and midwater trawling would be prohibited in this area. This will impact substantially on our ability to receive product for sale which will in turn impact consumer prices.

## 17. Comments and supporting documents

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**Please add any final comments to your submission**

Statement of direct impact on our operations

7. Harbour Fish supports conservation of marine biodiversity and evolving sustainable marine management. We are firm advocates for the health of our marine environment as we want to continuously showcase our exceptional wild-caught product to the domestic and international markets. We acknowledge the long-term benefits of sensible protection measures for the wellbeing of all who interact with the ocean resources.

8. Harbour Fish has viewed the submissions from NZ Rock Lobster Industry Council (NZRLIC), the Paua Industry Council (PIC), Fisheries Inshore New Zealand (FINZ) and Southern Inshore Fisheries (SIF) (the fishing industry) which directly represent all the major inshore fisheries of the south-east of the South Island and we endorse the contents of those submissions entirely.

9. We will utilise this submission to specify our position in respect to areas D1, H1 and E1 as our data and economic impact analysis is most driven by these areas. For the avoidance of doubt, Harbour Fish supports the statements contained in the fishing industry submissions in relation to the other areas.

10. Harbour Fish views the economic analysis in the proposal as in no way fit-for-purpose. As the primary LFR in the lower South Island we were not consulted at any stage as to the effects on either our fishers who land to us or any potential impact (positive or negative) on our operation.

11. In preparing our submission we approached the Fisheries New Zealand to gather data to assist the formation of our economic impact analysis. Clearly as an LFR we do not have access to the details of where the fish is caught to investigate how severe any restrictions would be for our operation.

12. We initially requested heat maps for the where our fishers were operating to enable us to apply catch figures and dollar values (for our purposes and to assist our fishers) in relation to the proposed affected areas. In a year-long exercise we were only able to get a brief spreadsheet with estimates of catch percentages per fisher.

13. Given that electronic monitoring is fully operational in our fleet, Harbour Fish views the lack of available data as concerning when the potential adverse effects for our community are immense.

Statement on overall impact on our operations

17. The South East Coast supports a productive and diverse range of valuable inshore fisheries. The setnet and trawl fishery are particularly productive and yield a substantial volume of fish that are supplied to our consumers. The setnet fishery has already been subject to significant spatial displacement as a result of earlier regulations and, as addressed in industry submissions, the further displacement due to the TMP and marine network areas will have a substantial impact.

18. Harbour Fish views the prohibitions and/or restrictions on other fishing methods as unnecessary. Overall, we consider the fishing practices of our fleet as sustainably managed and environmentally conscientious.

19. We consider it highly unlikely that any displaced catch can be taken elsewhere in the fishery without additional cost to fishing operators and without resulting in localised changes to the distribution and abundance of commercially harvested species. We also consider the cumulative effects of spatial displacement, particularly from the proposals in the TMP and other initiatives may restrict the flexibility of some fishers to respond to additional displacement.

20. We have further concerns as to the impact on quota value should these restrictions be implemented. The specificity of the preferential habitats will result in fishers not being easily able to relocate to catch the ACE if excluded

from those areas. The result is the inability to exercise access to areas to realise the value of the quota. No mention of compensation has been addressed in relation to quota value, assets or other property rights adversely affected by the proposed marine network.

21. Harbour Fish has invested heavily in quota to ensure consistency of fish supply. This investment includes both quota ownership and lease arrangements. Quota lease expenditure alone equates to **s9(2)(b)(ii)** per annum paid to quota owners with holdings on the south eastern coast.

22. The flow-on effects on our broader community, were these proposals to be implemented, would be immense. Careys Bay and the wider Port Chalmers area is a vibrant port in an industry that is diminishing nationally. The pressure on fishers has a direct financial impact on our operation as well as the well-being of the community. We consider our community to be far reaching beyond just our operation and retail sites. During lockdown, Harbour Fish provided sustainably sourced fish to homes throughout the South Island when families could acquire little else outside a supermarket. Harbour Fish services pensioners, families, struggling restaurants and food banks and takes pride in distributing premium wild-caught product to a broad market.

23. Harbour Fish interacts with all levels of the fishing value chain from the wharf to the plate— quota holders, fishermen, truck drivers, factory staff, subcontractors and customers. The increased catch-effort for fishermen and the potential uncaught ACE for quota holders would drive costs higher resulting in upward pressure on fish prices. This would ultimately be borne by the consumer as well as the trickle-down effects on the economy as a whole.

24. Harbour Fish is firmly committed to the sustainability of all fish stocks and further development of best practice across the industry. We have serious concerns, however, that the proposed southeast marine protected areas are not the best way of achieving New Zealand's marine biodiversity objectives.

25. We have great confidence in the health of the southeast coast marine system as it currently is and existing fisheries management implementation for the future health of our coast. Harbour Fish has no confidence in the mechanisms that drove this proposal process and emphasise that significant economic and community downturn will result should the marine network be imposed.

26. Coupled with a reduction in staffing levels require which would equate to around 5 FTE's in processing and administrative staff, the financial impact of the implementation of the proposed network on Harbour Fish would be a **s9(2)** reduction in turnover in the region of **s9(2)(b)(ii)** Harbour Fish considers this as an irresponsible and unconscionable outcome given the proposed objectives of the network and the Government's recent statements that "farmers, growers and producers will play a critical role in New Zealand's economic recovery.

#### **Upload any supporting documents**

[Harbour Fish Submission SEMPA.pdf](#)

#### **Upload a copy of the original email**

#### **Paste in all the email text (if appropriate)**

Please see attached.

Best

Chanel Gardner on behalf of Damon Cooper, Director of Harbour Fish Limited

**From:** [Trish Rea](#)  
**To:** [SEMP; s9\(2\)\(a\)](#) [Trish Rea](#)  
**Subject:** Southeast MPAs recreational submission - pls confirm receipt  
**Date:** Monday, 3 August 2020 1:28:33 PM  
**Attachments:** [SEMPA-submission-NZSFC-Aug20.pdf](#)

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Kia ora team

Please find attached a submission from joint recreational interests in response to the proposed southeast marine protected areas.

Would you please confirm receipt of this submission and keep us informed of future developments?

Thanks in advance.

Regards

Trish Rea

For the New Zealand Sport Fishing Council

Fisheries Management Marine Protection Standing Committee

[s9\(2\)\(a\)](#)



## **Submission**

### **Proposed Southeast Marine Protected Areas**

**To: Department of Conservation and Fisheries New Zealand**

**From: New Zealand Sport Fishing Council, affiliated members and**

**LegaSea supporters.**


***3 August 2020***

Bob Gutsell  
President  
NZ Sport Fishing Council  
PO Box 54242  
The Marina, Half Moon Bay, Auckland 2144.  
s9(2)(a)

Department of Conservation and Fisheries New Zealand  
Conservation House  
PO Box 10420  
Wellington 6143  
[southeast.marine@publicvoice.co.nz](mailto:southeast.marine@publicvoice.co.nz)



# Part 1. Introduction

1. In February 2018 the South-East Marine Protection Forum (the Forum) provided a recommendation report to the Minister of Conservation and the Minister of Fisheries with two network options for them to consider. In March 2019 Ministers announced their decisions and outlined the statutory processes to follow. Following a delay due to the Covid-19 pandemic, the Department of Conservation and Fisheries New Zealand released the Proposed Marine Protected Area for New Zealand's Southeast Coast consultation documents on 3 June 2020. The submission deadline is 3 August 2020.
2. The New Zealand Sport Fishing Council (NZSFC) Fisheries Management - Marine Protection team reviewed the consultation documents and issued a Preliminary View in July. Feedback has been sought from members and supporters. That feedback has informed this submission, as has our previous submission made in December 2016.
3. The New Zealand Sport Fishing Council (NZSFC) is a National Sports Organisation with over 32,000 affiliated members from 55 clubs nationwide and a growing number of organisations aligning with our policies and principles.
4. This submission is a joint effort by the New Zealand Sport Fishing Council, affiliated members and LegaSea supporters, collectively referred to as 'the submitters.'
5. Our representatives are available to discuss this submission in more detail if required. We look forward to positive outcomes from this review and would like to be kept informed of future developments. Our contact is Helen Pastor, s9(2)(a) 

## Part 2. Submission

6. The submitters are concerned about the validity of the consultation process to date, the way the proposed marine protected areas have expanded, the lack of data to assess the costs to the community including recreational fishers, and the lack of evidence to support the establishment of the protected areas to the extent that they are now proposed.
7. The submitters wish to express their support for the submissions from our affiliated local club, Tautuku Fishing Club, and its members. We acknowledge that their submissions were written with a high level of local knowledge around current fishing practices and conditions in the region.
8. The submitters note that the COVID-19 pandemic has truncated the consultation period and restricted the involvement of national organisations such as ours. As representatives of a significant number of individuals with an interest in coastal management and marine protection, a considered response to proposals of this magnitude is time consuming. The available timeframe simply did not allow for the research and consultation needed to make a comprehensive submission on the proposed Southeast Marine Protected Areas.
9. It is due to the preceding points that we have formed our submission based on the recommendations from our local members and the policies of the NZSFC. It is also informed by [our previous submission](#) on proposed marine protected areas for the southeast coast, made in December 2016.
10. Our recommendations are as follows:
  - A1 Tuhawaiki (Type 2 MPA) – Support excluding bulk harvesting methods.
  - B1 Waitaki (Marine Reserve) – Oppose (support site B2).
  - C1 Moko-tere-a-torehu (Type 2 MPA) – Support excluding mobile bottom contact fishing methods.
  - D1 Te Umu Koau (Marine Reserve) – Oppose (support site D2).
  - E1 Kaimata (Type 2 MPA) – Support excluding mobile bottom contact fishing methods.
  - H1 Papanui (Marine Reserve) – Oppose (support site H2).
  - I1 Ōrau (Marine Reserve) – Oppose.
  - K1 Okaihae (Marine Reserve) – Oppose.
  - L1 Whakatorea (estuary, Type 2 MPA) – Oppose.
  - M1 Hākinikini (Marine Reserve) – Oppose.
  - Q1 Tahakopa (estuary, Type 2 MPA) – Oppose.
  - T1 Arai Te Uru (kelp protection area) – Support.

## Part 3. Further Points

11. These proposals show a lack of consideration for the safety of small vessels. Many of these proposed sites cover large portions of popular, inshore fishing areas. Without access to these areas local small vessel operators may be unable to safely venture beyond the MPA borders, therefore restricting their fishing entirely.
12. The South-East Coast is plagued by adverse weather conditions. Due to this the number of days available to fish are limited. Removing areas that may provide shelter would have an undue adverse effect on the number of fishable days for our members and other non-commercial fishers.
13. The Forum states, “The fact that there is an adverse economic or social impact is not a reason to exclude a habitat in the MPA network”. The submitters disagree with this statement. The point of public consultation is to obtain the views of all involved and to take all opinions into consideration. The Courts have considered the nature of consultation including the need to consider the impacts of proposals, the need to allow sufficient time, and the requirement to provide adequate information so people can make an informed response<sup>1</sup>. Economic and social impacts must be considered when deciding the final outcome.
14. The new cost benefit analysis presented in the 2020 consultation document focuses in detail on the adverse economic loss of commercial fishing income. However, it gives little regard to the social, economic and cultural impact of restricting the access of recreational fishing. All cultural, economic and social impacts must be considered when deciding the final outcome, and there is currently insufficient information at a fine enough spatial scale to assess the full impact that the proposed sites will have on recreational fishers. A detailed recreational fishing survey of the proposed Southeast Marine Protected Areas is therefore required before an informed decision can be made on the final outcome.
15. The purpose of the current Marine Reserves Act is very narrow. The requirements of the new Marine Protected Areas Act have yet to be written and enacted. The MPA discussion document was publicly consulted on in 2016 and the Marine Protected Areas Bill is on the parliamentary list. It seems counterproductive to consult on the implementation of MPAs without knowledge of the requirements of the new Act and a clear idea of the tools that will be available. For example, there is currently no MPA legislation in place to implement the Type 2 MPAs as described, however, there are opportunities available by using Fisheries Act tools.
16. The submitters note the proposals are deliberately tailored towards protecting the commercial sector, especially the trawl fishermen. The proposed sites are

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<sup>1</sup> Wellington International Airport Limited and ors v Air New Zealand [1993] 1 NZLR 671, at p.675.

positioned in most cases, to avoid impacting the majority of trawl effort, we note there has not been the same level of effort given to avoiding areas of importance to recreational fishing interests. We believe this to be an outcome of inadequate prior consultation due to the absence of mandated representatives of recreational interests appointed to The Forum.

17. We believe there has been inadequate and insincere consultation with recreational fishing interests in the appointment of people to The Forum who have no clear mandate from local recreational interests. We are especially concerned by the lack of representation from the FMA3 and FMA5 Recreational Fishing Forum established by Fisheries New Zealand.
18. The establishment of these MPAs still needs to be supported by reliable scientific evidence to show the benefits that will be received, the submitters will not support the implementation of MPAs simply for the sake of it.
19. In order to justify the cost of implementation, monitoring and enforcement (as well as the negative effects to the public), there must be clear evidence that there will be significant benefit to the ecosystems in that area. It is also not clear if a management and compliance plan with an associated budget has been considered by the Department of Conservation or Fisheries NZ. These plans and costs must be considered in the cost/benefit analysis.
20. We know from the 2016 [economic study](#) carried out by the New Zealand Marine Research Foundation that residents and visiting fishers spend over \$172 million on recreational fishing activity in the South Island. How much of that is spent in this part of the southeast region is not defined in the cost/benefit analysis. Recreational fishers in these waters spend their hard-earned cash on equipment and vessels that will give them a good return for their effort and get them home safely. This contribution to the local economy needs to be determined via a local study and factored into the cost/benefit analysis associated with these proposals.
21. At present there is no reliable means of calculating recreational fisher numbers at the scale of any given area in the 2020 proposed Southeast Marine Protection Areas. We submit these proposals would be better informed about recreational harvest by a more detailed analysis of the [2017-18 MPI National Panel Survey](#) and by additional small scale recreational fishing surveys as required to supplement this data. This would provide a greater insight into the effects of these proposed MPAs would have on recreational fishing interests.
22. At present there is little information to demonstrate the impacts of recreational fishing in the Southeast region, nor does the evidence suggest that the total exclusion of recreational fishing is justified or needed to achieve the protection of any of the outlined habitats.

23. Moreover, the Minister of Fisheries has a statutory duty to 'allow for' recreational fishing interests. In part that is achieved through setting aside a tonnage of fish to 'allow for' those interests. The next duty is to actually allow that fish to be caught. The statutory obligations of the Minister to the people of the Southeast region cannot be ignored or discounted in the absence of any evidence to justify the exclusion of recreational fishing.
24. The estimates of commercial catch and displacement are unreliable. In light of revelations around mass fish dumping from trawlers working on the East Coast of the South Island, and subsequent [Heron QC report](#), it is obvious that the self-reported data from commercial fishers cannot always be relied upon and should be used with caution in support of decisions of this magnitude.
25. A more complete cost-benefit analysis of each individual proposed MPA needs to be carried out (fully including the impact on recreational fishers – not simply commercial landings and export value) and the results made publicly available for future consultation. This would more transparently outline to the public the full extent of what is being sacrificed to implement these protection measures and what benefits are being sought.
26. We submit the only reasonable conclusion after considering these proposals is that they are ideologically based and not designed to address any particular threats. We have a policy of: first management then protection. These proposals do not address any significant fisheries management need on the southeast coast other than the removal of some destructive bottom contact fishing methods.
27. There is no statement outlining what would be considered a success or the tools and methods that would be used to measure this. This would be an important part of these proposals in order to better understand the outcomes.
28. As it stands, there is a lack of information regarding the goals and rationale for these proposals. Until the threats to the marine environment have been clearly identified, and the measures of success have been explained then we do not support the implementation of measures to exclude recreational fishing based on ideology alone.
29. We note that the Forum could not reach consensus and recommended two alternative marine protected area networks, of which only the more intrusive Network 1 is proposed in the 2020 consultation document. However, the Minister of Conservation and the Minister of Fisheries recommend on 11 May 2019 that the Committee:
  - a. note that we agreed to progress Network 1 in its entirety to maintain the integrity of the Forum process and because it best meets biodiversity protection objectives.

- b. note that amendments may be made to the Network 1 proposal based on the outcomes of public consultation and assessments against the relevant statutory requirements.
30. In our [2016 submission](#) we supported all of the MPAs proposed in Network 2, and we maintain that position in our 2020 submission. We request further consultation with a more inclusive representation of recreational fishing interests and for the acquisition of more detailed data in recreational fishing activity by Fisheries New Zealand before proceeding with the establishment of the Southeast Marine Protection Areas.

**Our specific recommendations for each proposed site are as follows:**

31. *A1. Tuhawaiki (Type 2 MPA) - Support excluding mobile bottom contact harvesting methods*

- a. Costs/benefits identified – The site size has increased 3600% from the area supported by NZSFC in 2016. The costs to recreational fishers are not adequately identified.
- b. Other benefits/impacts – There is insufficient information or time available to fully assess the impacts on recreational fishers. However, the removal of bottom trawling and other mobile bottom contact harvesting methods is consistent with our [Rescue Fish policy](#).
- c. Suggested changes to site/activity (why) – Further consultation is required with a more inclusive representation of recreational fishing interests to determine the impact of a 5-hook limit.

32. *B1. Waitaki Marine Reserve - Opposed (support site B2)*

- a. Costs/benefits identified – It is not clear why there has been a 13% increase to the area supported by NZSFC in 2016. The costs to recreational fishers are not adequately identified.
- b. Other benefits/impacts – There is insufficient information or time available to fully assess the impacts on recreational fishers.
- c. Suggested changes to site/activity (why) – Further consultation is required with a more inclusive representation of recreational fishing interests to determine if the size increase is necessary or return the site to the original area proposed in 2016.

*33. C1. Moko-tere-a-torehu Type 2 MPA - Support excluding mobile bottom contact harvesting methods*

- a. Costs/benefits identified – The costs to recreational fishers are not adequately identified.
- b. Other benefits/impacts – There is insufficient information or time available to fully assess the impacts on recreational fishers. However, the removal of bottom trawling and other mobile bottom contact harvesting methods is consistent with our [Rescue Fish policy](#).
- c. Suggested changes to site/activity (why) – Further consultation is required with a more inclusive representation of recreational fishing interests.

*34. D1. Te Umu Koau Marine Reserve – Oppose*

- a. Costs/benefits identified – It is not clear why there has been a 187% increase to the area supported by NZSFC in 2016. The costs to recreational fishers are not adequately identified.
- b. Other benefits/impacts – There is insufficient information or time available to fully assess the impacts on recreational fishers.
- c. Suggested changes to site/activity (why) – Further consultation is required with a more inclusive representation of recreational fishing interests to determine if the size increase is necessary or returning the site to the original area proposed in 2016.

*35. E1. Kaimata (Type 2 MPA) - Support excluding mobile bottom contact harvesting methods*

- a. Costs/benefits identified – It is not clear why only the larger alternative one from the 2016 consultation is proposed for this site in 2020. The costs to recreational fishers are not adequately identified. The smaller alternative site (G2) was supported by NZSFC in 2016.
- b. Other benefits/impacts – There is insufficient information or time available to fully assess the impacts on recreational fishers. However, the removal of bottom trawling and other mobile bottom contact harvesting methods is consistent with our [Rescue Fish policy](#) and these Bryozoan beds are of national significance.
- c. Suggested changes to site/activity (why) – Further consultation is required with a more inclusive representation of recreational fishing interests.

*36.H1 Papanui Marine Reserve - Support excluding mobile bottom contact harvesting methods*

- a. Costs/benefits identified – It is not clear why there has been a 56% increase to the area supported by NZSFC in 2016. The costs to recreational fishers are not adequately identified.
- b. Other benefits/impacts – There is insufficient information or time available to fully assess the impacts on recreational fishers. However, the removal of bottom trawling and other mobile bottom contact harvesting methods is consistent with our [Rescue Fish policy](#) and these Bryozoan beds are of national significance.
- c. Suggested changes to site/activity (why) – Further consultation is required with a more inclusive representation of recreational fishing interests.

*37.I1 Ōrau Marine Reserve – Opposed*

- a. Costs/benefits identified – The costs fail to fully consider the significant impact on recreational fishing and there is considerable opposition to this site. The submitters continue to oppose this site.
- b. Other benefits/impacts – There is insufficient information or time available to fully assess the impacts on recreational fishers. The marine reserve area is likely too small and accessible (via connected reef systems) to be viable, it does not meet the protection standard.
- c. Suggested changes to site/activity (why) – This site will seriously impact recreational fishers and the submitters suggest considering a more community-based fisheries management tool such as a taiāpure or mātaītai for this area.

*38.K1 Okaihae Marine Reserve – Opposed*

- a. Costs/benefits identified – The costs fail to fully consider the significant impact on recreational fishing and there is considerable opposition to this site. The submitters continue to oppose this site.
- b. Other benefits/impacts – There is insufficient information or time available to fully assess the impacts on recreational fishers.
- c. Suggested changes to site/activity (why) – This site may seriously impact recreational fishers. The submitters suggest consideration is given to a more community-based fisheries management tool such as a taiāpure or mātaītai for this area.



39. L1 *Whakatorea Type 2 MPA – Opposed*

- a. Costs/benefits identified – The cost potentially underestimates the amount of recreational fishing at this site. The costs to recreational fishers are not adequately identified.
- b. Other benefits/impacts – There is insufficient information or time available to fully assess the impacts on recreational fishers. However, the removal of dredging is consistent with our [Rescue Fish policy](#).
- c. Suggested changes to site/activity (why) – Further consultation is required with a more inclusive representation of recreational fishing interests.

40. M1 *Hākinikini Marine Reserve – Opposed*

- a. Costs/benefits identified – This site is frequently used by recreational fishers who are also likely to target rock lobster as well as the paua and shore-based fishing identified. The costs to recreational fishers are not adequately identified.
- b. Other benefits/impacts – There is insufficient information or time available to fully assess the impacts on recreational fishers which include the displacement of fishing effort into surrounding areas.
- c. Suggested changes to site/activity (why) – Further consultation is required with a more inclusive representation of recreational interests to ensure the impact on recreational fishing is fully considered.

41. Q1 *Tahakopa Type 2 MPA – Opposed*

- a. Costs/benefits identified – The cost potentially underestimates the amount of recreational fishing at this site.
- b. Other benefits/impacts – There is insufficient information or time available to fully assess the impacts on recreational fishers. The removal of dredging is consistent with our [Rescue Fish policy](#).
- c. Suggested changes to site/activity (why) – Further consultation is required with a more inclusive representation of recreational fishing interests.

42. T1 *Arai Te Uru kelp protection area – Supported*

- a. Costs/benefits identified – Agreed.
- b. Other benefits/impacts – This proposed site is consistent with our [Rescue Fish policy](#).
- c. Suggested changes to site/activity (why) – Supported.

**From:** [Trudi Webster](#)  
**To:** [SEMP](#)  
**Subject:** Submission from YEPT  
**Date:** Monday, 3 August 2020 3:18:27 PM  
**Attachments:** [YEPT SEMPF submission 3 Aug 2020.pdf](#)

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Please find attached a submission on the proposed network of protected areas in southeast New Zealand from the Yellow-eyed Penguin Trust.

Best wishes  
Trudi

**Trudi Webster (PhD)**

Conservation Science Advisor | Kaitohutohu Pūtaiao-whāomoomo  
**Yellow-eyed Penguin Trust | Te Tautiaki Hoiho**

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*PENGUINS - PLANTS - PEOPLE - PASSION*

**Submission on the proposed southeast marine protected areas**  
**Yellow-eyed Penguin Trust**  
3 August 2020

Dr Trudi Webster  
Science Advisor, Yellow-eyed Penguin Trust  
s9(2)(a)

## **GENERAL COMMENTS**

The Yellow-eyed Penguin Trust (YEPT) are pleased that Ministers have decided to consult on the larger of the two networks (Network 1) which would cover 14.2% (1267 km<sup>2</sup>) of the region and include six marine reserves, five Type 2 MPAs and one kelp protection area.

YEPT hopes to see the proposed reserves and protection measures in Network 1 implemented in full. We strongly support the creation of a network of marine protected areas in southeast New Zealand to fill the void between Banks Peninsula and Stewart Island. There is a significant opportunity to improve protection for coastal habitats and the wider ecosystem along this coast.

Network 1 should be seen as the minimum requirement. The aim of the New Zealand Government to protect 10% of Aotearoa's territorial waters in a comprehensive network of protected areas still lags behind current international recommendations. The International Union for the Conservation of Nature (IUCN) aims for effective protection of at least 30% of the ocean in order to achieve effective protection of biodiversity (e.g. O'Leary et al. 2016). The 10% threshold is only reached for the southeast area when the type 2 reserves are included (marine reserves only cover 4.6%). Also, there is not adequate representation and replication of all of the habitats

YEPT are pleased to see at least some protection for yellow-eyed penguins / hoiho (in particular the following sites: Papanui, Kaimata and Te Umu Koa). The southeast marine area encompasses almost the entire mainland range of the hoiho, which means that when marine protection is viewed as a national network, it can only be this region which provides protection for this species. As an endangered endemic taonga species and one of the rarest penguins in the world, habitat protection for this species should be a high priority. Hoiho are top predators, and as such are an indicator of overall biodiversity and ecosystem health. Penguins are most successful where their foraging areas have an intact and healthy ecosystem with a diversity of benthic habitats (e.g. kelp beds, rocky reefs and biogenic reefs).

In recent years, however, the yellow-eyed penguin population on mainland Aotearoa has plummeted. The number of nests in 2008 was 580, this dropped significantly to just 171 breeding pairs in 2019/20. It is likely that marine impacts are a major factor in this decline – and during the 2018/19 breeding season hoiho suffered another catastrophic starvation event.

As well as biodiversity and cultural values, hoiho also have huge economic value as a significant tourism drawcard (e.g. Tisdell 2007). Much of the tourism in the wider Otago region relies upon the health and wellbeing of the marine and coastal environment. In particular the survival of charismatic megafauna, species such as penguins, albatross and sea lions are key to tourism in our region. Many local jobs in conservation (e.g. YEPT, DOC), as well as ecotourism would be lost if these species are allowed to continue to decline at the rate that they are currently. Several local businesses depend entirely on the health of our local marine species for their livelihoods, including (but not limited to): Elm Wildlife Tours, Penguin Place, Monarch Cruises, Nature Guides Otago, Untamed New Zealand, Nature's Wonders, Royal Albatross Centre. YEPT believes that the impacts on conservation workers, ecotourism workers and local tourism businesses have not been considered in the analysis of the effects of the status quo (i.e. not establishing any marine protection).

YEPT were particularly disappointed to see that the Long Point (Type 1) and Long Point Offshore (Type 2) sites were excluded from the proposed network. These two sites were the only offshore marine protection proposed for the Catlins, and were therefore a vital part of the network. The excluded Long Point marine reserve is adjacent to the YEPTs reserve at Long Point / Irahuka which supports a colony of hoiho, as well as other seabirds (including titi, little penguins), fur seals and sea lions. The marine reserve would have provided a good level of protection for hoiho breeding at this site and nearby smaller breeding sites, including Cosgrove Creek. Hoiho in the Long Point region were subject to the starvation events in 2018/19, which resulted in the death of many birds and a decline in nest numbers of 61% over just one season (31 nests in 2018/19, 12 nests in 2019/20).

YEPT recommends that this additional site be considered for protection.

## **COMMENTS ON SPECIFIC AREAS**

### **A1 Tuhawaiki**

*Proposed Type 2 MPA*

YEPT supports this proposed site.

The proposed area is a known nursery area for coastal sharks and contains a range of sediment types. Tuhawaiki is also an important foraging habitat for protected vertebrate species. Juvenile hoiho in particular are known to use this area for foraging, as shown in recent research using satellite trackers. YEPT notes however that the area extends little protection outside the current coastal protected areas established for Hector's dolphin.

### **B1 Waitaki**

*Proposed marine reserve*

YEPT supports this proposed site.

This proposed reserve site south of the Waitaki river has significance as the riverine input and benthic habitats make it an important area for primary productivity and foraging for seabirds (e.g. penguins) and marine mammals (e.g. Hector's dolphin). It is also the only reserve in the proposal which protects shallow gravel habitats. Bycatch of hoiho in setnets has been known to occur in this area. This marine reserve would therefore provide some protection for hoiho from fishing activity. The estimated value of the displaced fisheries is relatively low, therefore and the Trust therefore recommends protecting the maximum area possible.

### **C1 Moko-tere-a-torehu**

*Proposed Type 2 MPA*

YEPT supports this proposed site.

This type 2 protected area would provide an extension to the Waitaki reserve site and thus additional protection for the biodiversity associated with shallow gravel habitats. The area is likely an important region for primary productivity, due to the riverine input and habitat type and is important for foraging seabirds (e.g. penguins) and marine mammals (e.g. Hector's dolphin). An MPA would protect these species from fisheries bycatch impacts which are known to have occurred in the area.

### **D1 Te Umu Koau**

*Proposed marine reserve*

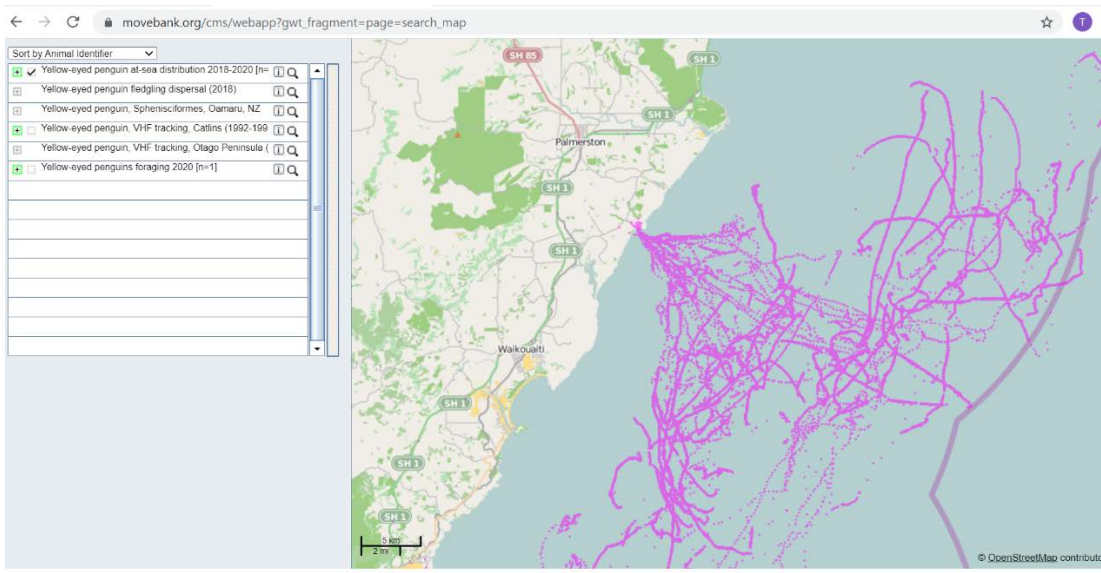
YEPT supports this proposed site and would like to see .

This proposed marine reserve includes Bobby’s Head, which adjoins the Trust-owned Tavora Reserve. The reserve is managed by the Trust through their habitat and species conservation programme to support yellow-eyed penguin breeding.

The reserve would protect many habitats, including a nationally significant area of *Macrocystis* kelp and the only deep reef site. The rocky headland is used by fur seals and breeding colonies of spotted shags occur on the cliffs. Foraging grounds for many seabirds are found in this area including hoiho, little penguins, spotted shags, Otago shags, and several gull and tern species.

In terms of public use the reserve has a coastal walking track, which would support public access and appreciation of a marine reserve. Scientific research continues to be carried out at this reserve, as breeding penguins have been monitored here for the last 30 years. More recently at sea tracking of hoiho has also been carried out (see image below for tracks).

YEPT’s preference would be to extend the reserve further offshore and thus include more reef and important penguin foraging grounds.



Data source: Thomas Mattern, Movebank

## E1 Kaimata

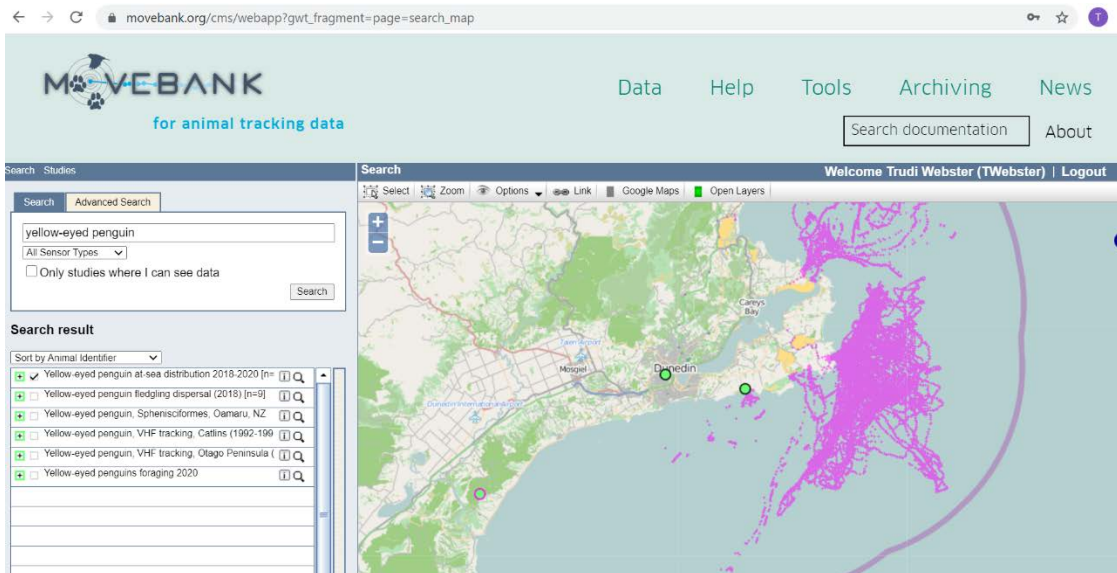
### *Proposed Type 2 MPA*

YEPT supports this proposed site.

The Otago Peninsula and surrounding marine areas have very high ecological values, including seabirds, marine mammals and fish. Wildlife tourism associated with this region also has a very high economic value and supports many local jobs and businesses. It therefore makes sense to protect this asset. It is clear that this is an ideal location for a marine reserve, as it can provide a high level of both ecological and community benefit.

The proposed site options focus on a canyon environment and bryozoan beds. YEPT agrees that these are important ecosystems and should be protected. In this area the currents, frontal zone and bathymetry interact to drive primary productivity which is important for many species of seabird and marine mammals. Hoiho from the Otago Peninsula are known to forage in this area, as shown by recent tracking data (see image below).

The Trust recommends the extension of the Type 2 area inshore to enable it to connect with the Otago Peninsula. This will mean that birds have some protection as they travel out from their breeding areas to feed. Bycatch of hoiho has occurred in this region previously and is a known risk. Extending the protected area inshore also means that a range of habitats from nearshore to deep water including the deep gravels which are important for foraging.



Data source: Thomas Mattern, Movebank

## H1 Papanui

### *Proposed marine reserve*

YEPT supports this proposed site.

The Papanui site focuses on a submarine canyon and bryozoan beds. YEPT agrees that these are important ecosystems, a biodiversity hotspot and should be protected. In this area the currents, frontal zone and bathymetry interact to drive primary productivity which is important for many species of seabird and marine mammals. The canyon areas have very high ecological values, including seabirds, marine mammals and fish. It is clear that this is an ideal location for a marine reserve, as it can provide a high level of ecological benefit.

These sites have important scientific value for ongoing seabird and marine mammal surveys and research on the bryozoan beds (University of Otago). In fact, recent surveys of the Otago canyons conducted by researchers showed that the canyons were important habitat year round for rare Shepherd's beaked whales and sperm whales, as well as a wide huge variety of seabird species.

The bryozoan beds are important biogenic habitats that support a diverse range of invertebrates and fish, and is the only reserve in the network to protect this type of habitat. The juvenile fish that use the bryozoan beds in this area (e.g. species such as blue cod and red cod; Batson and Probert 2000) are also food for penguins. Yellow-eyed penguins are known to forage on the western boundary of this reserve, so will offer some protection.

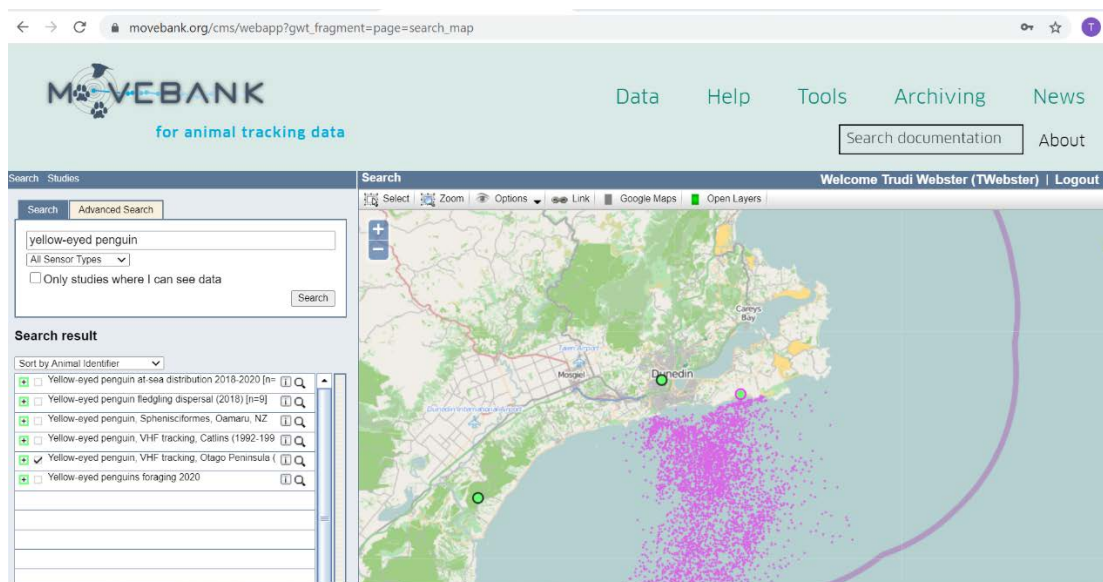
## I1 Ōrau

### *Proposed marine reserve*

YEPT supports this proposed site.

This site is adjacent to Boulder Beach, which is the largest hoiho colony on the Otago Peninsula. The area includes rocky reef and beach habitats which are home to a range of fish and invertebrates. This site has high scientific value due to the long-term (35+ years) intensive monitoring of hoiho. The proximity to Dunedin means that the marine reserve makes the reserve readily accessible, and thus has the potential to play an important educational and advocacy role.

The proposed marine reserve has the potential to provide some protection for hoiho as they transit out to their foraging grounds (see image below). Ideally the reserve would extend further offshore to increase the protection afforded.



Data source: Thomas Mattern, Movebank

## **K1 Okaihae**

### *Proposed marine reserve*

YEPT supports this proposed site.

This proposed reserve site includes a yellow-eyed penguin breeding area, and Green Island itself experiences relatively low impact from human disturbance and land-based predators. The small size of the proposed reserve means that in its existing format it offers little protection to mobile species such as penguins (see image above). An extension of this reserve further offshore to include areas of deep reef would overall increase the benefits and effectiveness of this reserve. Bycatch has been an issue in this area, with evidence of a hoiho being caught in a trawl net.

## **L1 Whakatorea (estuary)**

### *Proposed Type 2 MPA*

YEPT supports this proposed site.

The proposed type 2 site encompasses important estuarine habitat which includes a significant area of saltmarsh. The proposal to link coastal habitat adjacent to the estuary means that there is an added layer of protection for this estuary and the added benefits that come with that.

## **M1 Hākinikini**

### *Proposed marine reserve*

YEPT supports this proposed site.

This marine reserve contains schist rock, which provides excellent habitat for crayfish. To increase the effectiveness of this small reserve and reduce the impact of edge effects it is recommended that the reserve is extended slightly further offshore, ideally to the 50 metre depth contour.

### **Q1 Tahakopa**

#### *Proposed Type 2 MPA*

YEPT supports this proposed site.

This proposed type 2 reserve provides important saltmarsh habitat for estuarine fish and wading birds. YEPT are pleased to see that the protected area now includes the whole estuary will increase its effectiveness and make compliance and enforcement more straightforward.

### **T1 Arai Te Uru**

#### *Proposed kelp protection area*

YEPT supports this proposed site.

The kelp forests along the south-east coast provide an important and very productive ecosystem which provide habitat for fish species and undertake important functions (e.g. carbon fixing). They are also increasingly threatened by sedimentation and increasing sea temperatures. The protection of the kelp beds would ensure properly functioning ecosystems (which support penguins and other marine species) and it is YEPT's view that commercial harvesting of kelp should be prohibited in this area.

### **General comments on creating Marine Protected Area networks**

- Currently there are no Marine Reserves along the south-east coast between Pohatu (Banks Peninsula) and Ulva Island (Stewart Island). We have an opportunity to rectify this through the South-East Marine Protection Forum process.
- Marine protected areas are useful tools for ecosystem management, preserving biodiversity (e.g. directly by preventing bycatch or indirectly by protecting prey) and habitat (e.g. avoiding habitat destruction from mining, fishing and dredging) and protecting ecosystem services.
- Marine Reserves have the potential to enhance local fisheries (Gaines et al. 2010) and there are two main mechanisms for this. The first is the net export of biomass from marine reserves or *spillover effect*. Typically, *spillover effects* extend a few hundred metres outside the no-take zone (e.g. Russ et al. 2003). This is largely dependent on the mobility of the species, and is strongly affected by fishing effort around the boundary. Few studies until recently, have quantified the positive contribution of spilled fish to local fisheries (Goni et al. 2010). The second mechanism is larval replenishment of areas immediately adjacent to the reserve due to movement of larvae across boundaries (via currents and water movement). For example, the populations of two species of exploited reef fish resident in marine reserves exported 83% of coral trout and 55% of stripey snapper to fished reefs outside the reserve (Harrison et al. 2012).
- The size of each reserve is important – larger is better particularly for mobile species such as hoiho. Reserves should be a simple shape which makes them easier to manage and reduces any potential edge effects. Edge effects make the effective area of a marine reserve smaller than the actual size of the reserve due to the removal of fish at or near the boundaries. Based on studies of marine reserves in New Zealand, the ideal reserve should include a minimum coastline length



of > 5 km (although 10-20 km is preferred) and extend offshore to the 12 n.mi limit to cover adult ranges for the species (Thomas & Shears 2013).

- Marine reserves in New Zealand have been shown to lead to large increases in the size and abundance of fish and other species within their boundaries (snapper, crayfish and blue cod; Babcock 2003), assuming that the reserve is well designed to protect the habitat and their communities.
- All habitats should be effectively represented by a protection network and ideally the network should include replicates of each habitat type which ensures that all biodiversity is protected (Gaines et al. 2010).
- Marine protected areas can directly impact penguins by reducing fisheries bycatch and therefore increasing the survival rate of penguins. Bycatch of hoiho continues in commercial set nets despite lower penguin numbers and reduced fishing effort.
- Marine Protected Areas indirectly benefit penguins by removing competition for the same resource (e.g. blue cod) or by protecting the habitat (e.g. biogenic reefs as fish nursery habitat) from damage or disturbance.
- Marine Reserves have been shown to have positive effects on penguin populations globally (e.g. Pichegru et al. 2010).
- Effective marine protected areas ideally need to be linked and to reach into deep water, to cover the different species and life stages that are needed for a healthy ecosystem.

For further background information see previous submission from YEPT, submitted 6-Dec-2016.

## References

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- Thomas HL and Shears N (2013) Marine Protected Areas: A comparison of approaches. The Royal Forest and Bird Protection Society of New Zealand, Wellington, New Zealand.

**From:** [Mary](#)  
**To:** [SEMP](#)  
**Subject:** submission on proposed south east marine protected areas  
**Date:** Monday, 3 August 2020 4:26:23 PM  
**Attachments:** [Marine Reserves for Birds OSNZ submission.docx](#)  
[Screen Shot 2019-01-10 at 2.16.18 PM.png](#)

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Sincerely  
Mary Thompson

Mary Thompson  
Regional Representative  
Otago Branch

s9(2)(a)



*Ornithological Society of New Zealand*  
*"fostering the study and enjoyment of birds"*

**Ornithological Society submission on the “Proposed southeast marine protected areas: Consultation document Feb 2020”**

3 August 2020

emailed to [southeast.marine@publicvoice.co.nz](mailto:southeast.marine@publicvoice.co.nz).

If you are unable to make an electronic submission, you may make a written submission, This is the submission of the Otago Branch of the Ornithological Society of New Zealand Inc. (OSNZ)/Birds New Zealand supporting the creation of a network of marine protection in Otago. The Society is the premiere organization concerned with the study of birds in New Zealand and the dissemination of this knowledge. The Objects of the Society include, *inter alia* ‘To assist the conservation and management of birds by providing information, from which sound management decisions can be derived’.

First, we wish to support the creation of the proposed network of six marine reserves and several other areas in their full extent. It is long overdue to have some scientific baselines against which to explore, investigate and understand our marine environment, its biota, and the changes and impacts upon it. Our society’s principle concern is the study, appreciation and conservation of the birds of New Zealand. This network will assist in furthering those purposes.

**Value of Marine Protection for Seabirds**

We wish to bring to your attention that over forty of the more than fifty seabirds present in Otago waters are threatened with, or at risk, of extinction; and, furthermore, the status of most of them declines further with each review (Robertson 2017). Three species are of major economic importance to tourism in this region, the yellow-eyed penguin, Northern Royal albatross and the little penguin.

The yellow-eyed penguin is one of the best-studied species in New Zealand. Its mainland population has been undergoing a steady and significant decline since the mid-1990s, a trend that appears to continue. It is suspected that fisheries interactions, pollution and human disturbance have all contributed to the dire status of this species.

The mainland colony of Northern Royal albatross exemplifies the extraordinary role New Zealand plays in the world of seabirds. An isolated island in the Southern Ocean, lying astride the Roaring Forties, only recently colonised by humans, is recognised as the seabird capital of the world.

The Otago shag *Leucocarbo chalconotus*, is endemic to Otago, and is now famously nesting on Sumpter Wharf in Oamaru Harbour. It is a benthic forager that feeds in waters out to 80 metres deep, though mostly closer inshore. It is a solitary forager, vulnerable to net fishing methods. We have records of it being killed in recreational setnets in Otago Harbour (G Loh pers. obs. Portobello Peninsula 1998)

Three of the proposals will be of particular value to the Otago shags, Waitaki MR, Te Umu Koau MR and the Arai te Uru bladder kelp protection. The other proposals will provide some habitat (except Papanui MR which is too deep) but are shallow or in waters not as favoured.

Another bird, the little penguin (blue penguin) *Eudyptula minor*, has an unusual biogeography. The population in Otago is closely related to the Australian variety, distinct from all the other NZ populations (Grosser 2017; Wilson 2019) Fortunately, with modest conservation management of predators and nesting habitat, it is doing well in Otago compared with elsewhere. But its status is “At risk: Recovering”, so its welfare cannot be taken for granted.

Spotted shags *Stictocarbo punctatus* are a ‘not threatened’ species and the Otago coast has flocks of thousands foraging pelagically on ‘workups’. This abundance cannot be taken for granted. These shags have declined to near extinction in the Auckland region almost unnoticed because there was no monitoring. The factors causing the decline have not been identified.

We have a vision of marine management which needs to include the tool of marine reserves that will restore the important ecosystem processes such as fish workups that make prey available to many seabird species.

The Marine Reserves Act emphasises the need to avoid impact upon the fishing industry and this is reflected in the limited size of the proposals and the inconvenient locations of some such as Te Umu Koau and Hakinikini. We are disappointed the opportunity to extend the coastal reserves to the 12 Nm territorial limit, and so take in a ‘coast to the deep’ transect of habitat, has not been accepted.

We look forward to the creation of a comprehensive network marine reserves and protection in the Catlins.

## **Costs of status quo**

### Biodiversity

All fishing methods (except hand picking of paua and kina) have bycatch of unwanted species. Net fishing methods have a particularly negative impact upon seabirds in Otago. The status quo perpetuates this waste. Many fishing methods mobilise silt which also has a negative impact upon predators that find their prey predominantly by sight such as birds (Wilson 1995). Discarded fishing gear, nets, lines, hooks and oil all take a toll.

Removal of large pelagic predatory fish such as barracoota and sharks is believed to reduce the occurrence of bait balls (work-ups) where various predators concentrate krill and bait fish and drive them to the surface where they are available for efficient foraging by many species of birds.

Most seabird need to swallow their food whole. This means their preferred prey are usually larvae or young fish. Most commercially valued fish are taken when they are only just mature and old fish are gradually removed from the population. Large fish produce far more young of better quality than young fish. There is an expectation that having large fish will benefit birds by increasing the numbers of prey size young.

Marine reserves provide an un-fished baseline on a local scale to facilitate study by structured comparison.

## Tourism.

In addressing the costs and impacts of the proposals there is little mention of the negative impact of maintaining the status quo upon the nature tourism industry which is active in Dunedin, Oamaru and the Catlins. The industry is reliant upon several iconic seabirds that are suffering population declines. The industry provides income and employment for skilled people with knowledge of ornithology. Our members are represented in this industry as consumers, providers and workers.

## Knowledge Economy

There is an economic benefit for our tertiary institutions in the research opportunities opened up by the creation of the network.

## **Comment on the Sites proposed**

By north to south order, marine reserves and then type 2 sites

### **Waitaki MR**

We support the creation of this reserve. Little penguins, red billed-gulls black-billed gulls and white-fronted terns will also feed in this area. Variable oystercatchers breed and feed on the shore.

The benefits might be overstated as it does not properly take in the freshwater plume of the Waitaki River Mouth. That plume zone is in Moko-tere-a-torehu where the protection of this value is less.

### **Te Umu Koau MR**

A particular value of this reserve are the *Macrocystis* beds and the seaward extent into deeper waters that are less affected by sediment stirred up by regular storms. It is prime habitat for penguins and shags, gulls and terns. Recent tracking of a yellow-eyed penguin pair foraging while they are rearing their chick shows them using the full extent of the reserve.(Mattern and Young 2020)

The area has good habitat for the Otago shag, a species that is a benthic forager. This proposal has a better depth range of foraging habitat for Otago shags than the other proposals. The other proposals are so shallow and nearshore that in times of moderate winds and seas the sediments are stirred up making them less suitable for foraging by visual predators. This quality is important for the yellow-eyed penguin and little penguins as well.

The peculiar geology of the sandstone and volcanic coastal cliffs provide more than one hundred nests sites for the spotted shag and two secluded sites for black-backed gull colonies. There are at least two pairs of variable oystercatchers breeding on this shore.

It is good to see two different types of estuary included in this proposal. Eutrophic estuaries such as Stoney Ck/Andersons lagoon are particularly rich in waterfowl, waders and seabirds.

The decision makers need create this one to maintain a representative network.

#### Section 2.5.4 Kai Tahu concerns with the proposed Te Umu Koau MR

We observe that it is hard to avoid conflict on this issue. It is essential that deep reefs in clean waters are included to provide protection of a representative range of habitats. And it needs to be done on a scale that is scientifically useful. The proposal as it stands is minimal in terms of “deep reef”. The design has done its best to minimise the impact on users within the criteria. The prominent and extensive reef systems of Danger Reef, Taki a Maru and those off Cornish Head are still open for the status quo of existing fishing. There are no obvious alternative sites because deep reef everywhere is the key habitat of the commercially valuable rock lobster and blue cod fisheries.

Research on the rapidly declining yellow-eyed penguin identifies shortage of suitable prey as an important issue (Brown 2011, Mattern 2018). The commercial take of red cod and blue cod may have a direct bearing on the penguin diet. It is unclear if there would be any changes associated with removal of cray fishing. It is our view that an un-fished study area would be of value for understanding the environment of key bird species.

Logic says that any impact should be short term because no fish are removed by protection. We accept there will be impact on a small number of fishers currently cray potting here, however it is clearly hard to estimate the economic impact of this spatial restriction in the hurly burly of markets, quota management, ENSO and weather.

The review options proposed in Section 2.5.3 seem appropriate in these circumstances.

#### **Papanui MR**

We support the creation of this reserve. This site encompasses the mixing zone between the Southland Current and coastal waters. The turbulence and upwellings create great feeding aggregations of fish marine mammals and seabirds. It is in this deep water environment we see albatross attending furseals processing their deepwater catch on the surface. This mixing zone is an area of great seabird activity.

#### **Orau MR**

We support the creation of this reserve. The good rock pools of Bird Island and Sandymount are great habitat for oystercatchers. There are cliff colonies of spotted shags, red billed-gulls and white-fronted terns, three karoro colonies on headlands. Good feeding opportunities are created by the currents stirred up by the islets and rock stacks. Little penguins have been restored to Bird Island. The important Boulder Beach yellow-eyed penguin colony is along this shore but the reserve does not extend out to cover most of their feeding grounds.

Our members have noted the ecosystem restoration consequent upon the protection and population recovery of fur seals and their predator the sealion. Now giant petrels patrol the shore to scavenge the left-over seal carcasses. We believe the protection provided by marine reserves will lead to further ecosystem restoration and insights into the processes of nature.

This is the only proposal with good access for students and for those without boats. It is the one most visited by our members. It has the highest benefit to the general public and presents the greatest opportunity for 'citizen science'. You can catch a bus to the reserve!

Again, we note the irreconcilable conflict between top fishing spots and the need for representativeness but encourage the retention of this proposal to allow us to learn what happens when the fish are let grow.

### **Okaihae MR**

We support the creation of this reserve. A great reserve that surrounds Otago's most significant predator free island and breeding site of many seabird species and the Royal spoonbill. While it has some good reef, its limited size will not encompass the foraging sites of the yellow-eyed penguin in particular.

The role of the island in mixing currents and creating upwelling is a notable geographic feature of the reserve.

### **Hakinikini MR**

We support this reserve and look forward to the time when it is extended to deeper waters to encompass the waters that are less clouded by sediment. The shores are a feeding ground for variable oystercatchers. There is a colony of black-backed gulls, karoro on one reef headland alongside furseals.

### **Tuhawaiki and Moko-tere-a-torehu type 2**

We support the creation of these adjoining management zones. Modern telemetry methods of studying animal behaviour have opened our eyes to the use of the environment by birds such as penguins and this area is an important feeding ground for seabirds. A priority is to discover the feeding grounds and resources favoured by the Otago shag. Their thriving new colony in Oamaru Harbour and their large roost on the north spit of the Waitaki Mouth indicate that they prefer some aspects of this current northern limit of their distribution. The archaeological record indicates that they were present on most of the east coast of the South Island. We look forward to their flourishing in this area.

We are pleased to see further restrictions on net fishing methods and support them because of their high impact on nontarget species including birds and their role in mobilising silt.

### **Kaimata type 2**

We support this Type2 proposal and view it as an important extension of protection for the values we listed in the Papanui MR section. This site is arguably more valuable because it incorporates the Saunders Canyon and has a larger area of the bryozoan habitat. The prohibition of all net fishing is vital to remove the direct bycatch threat and also to allow the recovery of sharks and other predatory fish that drive smaller prey to the surface to be exploited by the birds.

We support the incorporation of the bryozoan beds in this protection. The shallow reaches of this habitat are available to benthic feeding penguins and shags.

### **Whakatorea type 2**

We support this proposal but more of the creek mouth should be included in the Hakinikini marine reserve as this is a vital site for feeding terns. The estuary is an important area for larval development. The return of elvers, whitebait and other juvenile fish across the bar is important for tern foraging.

### **Tahakopa type 2**

We support the creation of a Type 2 protection and look forward to a proper network of protection in the Catlins including marine reserves that take in islands and deep reefs.

### **Arai te Uru bladder kelp protection**

The summary of benefits is accurate. It was a mistake to allow a quota take of living *Macrocystis*. We fully support the protection and look forward to managements that restores the range.

Seabirds use the kelp as a resting place, for nest material and forage for larval fish underneath its canopy.

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**From:** [Mark Geytenbeek \(Mark Geytenbeek\)](#)  
**To:** [SEMP; FMSubmissions](#)  
**Subject:** Bob Streets Submission  
**Date:** Monday, 3 August 2020 4:42:31 PM  
**Attachments:** [Bob Street Submission SEMPA.pdf](#)

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Good Afternoon

Bob Street a Marine Scientist from Dunedin dropped off his SEMP submission in person today at our Dunedin MPI Office

Please see attached Scan of the letter and the Cover of the booklet detailing aspects of Bobs research over the last few decades in this area

**Mark Geytenbeek** | Senior Fisheries Analyst,  
**Fisheries Management Marine Branch**  
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## Marine Reserves Proposal Otago.

My comments on this subject are outlined below  
Also included <sup>is</sup> a booklet on work I have  
carried out in the South over several decades.

1. In general the marine species in  
Otago are adequately managed by existing  
regulations and there is no need for further  
protection by area closure.

2. My main comment is on the highly  
important rock lobster fishery with  
concern over the area from Stony Creek  
to the Pleasant River — a major  
fishing ground for the industry.  
The Otago rock lobster fishery (Coast)  
is in ~~good~~ good shape and continued  
monitoring of larval settlement gives  
cause for this to continue in future.  
Closure of this area to fishing is  
not necessary and adversely affects  
an important export industry, and in the  
present economic climate caused by the virus  
it would be a very bad <sup>s9(2)(a)</sup> move.

# Southern Shellfish Limited

Fisheries Investigations in the South  
Bob Street – August 2017



**From:** [Ata Suanda](#)  
**To:** [SEMP](#)  
**Cc:** s9(2)(a)  
**Subject:** Submission for SEMPA  
**Date:** Monday, 3 August 2020 5:01:44 PM  
**Attachments:** [SEMPA\\_Submission\\_MOANA.pdf](#)  
[ATT00001.htm](#)

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Dear Department of Conservation committee on the South Island MPA network,

Attached please find a submission on behalf of the MOANA project (<https://www.moanaproject.org/>), with regards to the creation of the the South Island network of Marine Protected areas.

This submission is on the establishment of the full network. Overall, we support the creation of Network 1 as outlined in the SEMPF report and are impressed by the collaborative approach taken by DOC/MPI to the establishment of this network.

Thank you for the opportunity to comment on the process.

Best regards,

Ata Suanda

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## Submission on South Island Marine Protected Area

### Background and summary

Thank you for the opportunity to comment on the proposed Marine Protected Area (MPA) plan for the Otago coast, as recommended by The South-East Marine Protection Forum (SEMP) – Te Roopu Manaaki ki te Toka (the Forum). Here, we present a submission as representatives of the MOANA project (<https://www.moanaproject.org/>). The MOANA project is a collaboration of scientists, commercial fishers/aquaculture and community members working towards better understanding New Zealand's oceans through numerical simulation and measurements to advance the goals of a blue economy.

As mandated by the Department of Conservation (DOC) and Ministry of Fisheries policy and implementation plan (2005), the recommended network aims to protect a range of unique coastal and estuarine habitats on the Otago coast. In the call for submissions, DOC enlists feedback on how to “progress the network of marine protected areas to best protect our environment and valuable marine biodiversity.” In the SEMP Forum recommendations (2018), two possible networks are proposed. Network 1 covers six marine reserves, four Type 2 MPAs, and one kelp protection area, covering a total of 1267 km<sup>2</sup> from Timaru in South Canterbury to Waipapa Point in Southland. Network 2 covers three marine reserves and two Type 2 MPAs totalling 366 km<sup>2</sup>.

In this submission, we express support for the following:

- 1. Marine reserve designations in both governmental MPA and traditional (Mātaitai, Taiāpure) frameworks.** Marine reserves, the selection of locations with enforced restrictions on marine activity, is an effective strategy to protect marine biodiversity, habitat restoration, and recovery of fish stocks. Global evidence of their success is abundant. We support both frameworks that offer this protection.
- 2. A more expansive Network 1 for the SEMP region.** We recognize the sensitivity and effort needed to plan for Marine reserves as they must fairly accommodate a multitude of ecological, socio-economic, cultural, and scientific perspectives. Habitat diversity and replication of environments in Network 1 is more consistent with best practices compared to the Network 2 alternative.
- 3. The protection of a southern site increases the likelihood of success.** We do not support the Long Point site proposal as it is opposed by Kāi Tahu. However, a site designation in the southern part of the forum region is potentially crucial to successful protection. Below, we support this with historical data from interdisciplinary science publications and example numerical model analysis. We recommend in addition to Network 1, either an alternate reserve site is considered or Mātaitai designation is approved for the Long Point site in accord with Fisheries (South Island Customary Fishing) Regulations, 1999. Crucially, adequate resources for Mātaitai management and monitoring should also be provided.

Further comments here centre on the following themes: the overall collaborative approach undertaken to propose the SEMPA, habitat-type representation and future monitoring efforts, and connectivity from an oceanographic and ecological perspective. We also discuss how these can and should be considered in MPA design/implementation and monitoring.

## The collaborative process

Although the call for submissions does not request feedback on the socio-cultural-economic perspectives for Marine Reserve design, the long-term success of any network requires support and buy-in from a wide range of ocean users. The design process, including a delegation of a Forum with stakeholders from a variety of perspectives, Kāi Tahu, science, tourism, and recreational and commercial fisheries is impressive and we express support for this approach. In our own experience with the MOANA project, participation across a wide range of ocean users continues to unlock opportunities and synergies unforeseen at the project's inception.

We hope that the collaborative approach to the Otago region MPA design continues to the establishment and implementation phases. In particular, the consideration of the Irihuka (Long Point) site O1. SEMPF Recommendations (2018) note that the site is an important customary and commercial fishery resource for Kāi Tahu, and there has been a desire by Te Rūnaka o Awarua to establish mātaimai reserves at this location. It further notes that a no-take MPA and the associated fishing prohibitions is a significant negative factor towards Kāi Tahu rūnaka to agree to the establishment of MPAs in their rohe. The report recommends that agencies continue to work with Kāi Tahu to explore their aspirations for establishing and managing Marine Protected Areas in the region, including co-management of the proposed Marine Protected Area. In the spirit of good faith collaboration and shared conservation goals, we express support for customary protection areas such as mātaimai reserves. If co-management were approved by all parties, inclusion of mātaimai reserves as part of the network of marine protected areas would be a preferred outcome. We believe that there is sufficient evidence a protected Southern site would act as a nursery and serve as a significant larval source to downstream populations.

## Importance of representative habitats

To function as a viable reserve, two levels of representativeness are captured in Network 1: physical habitat environment (estuarine, substrate type, water depth) and variation in community composition (fish, shellfish, etc.). As in Forum Recommendations (Table 2.1, SEMPF, 2018), 27 of 37 habitats are represented in Network 1, compared to 12 of 37 in Network 2. Habitat diversity and replication of environments in Network 1 are consistent with best practices, subject to sufficient connectivity (e.g., Carr et al., 2019). We note that there is a disagreement about spill-over effects in the Network (Section 5.2, SEMPF, 2018), but also note evidence from worldwide MPAs to suggest fish biomass that accumulates inside MPAs can spill-over into adjacent fished areas (e.g., White et al., 2013).

Our main comment here considers the planned monitoring that will take place over the network. The listed planning for monitoring, including a 25 year generational review suggests terrific long-term planning.

1. Monitoring should be comprehensive. Monitoring should be conducted at multiple sites **inside** the newly established MPA network. Monitoring should also be conducted at multiple sites **outside** the newly established MPA network to evaluate the occurrence of spill-over.
2. We encourage the management committee to now consider monitoring survey design: variables, number, and schedule of sites. If possible, monitoring **before** MPA establishment can provide useful contrast to monitoring **after** establishment.

Monitoring design factors such as number of sites and temporal schedule can affect the power to detect biological change (e.g., Jones et al. 2015; Pande et al. 2011).

3. Financial support, as much as possible, for monitoring to be comprehensive and collaborative with the inclusion of economic opportunities for communities adjacent to MPA zones.
4. DOC should strive to make monitoring data open and accessible to researchers and community partners.

## Connectivity

As acknowledged in the Forum Recommendations (2018) and scientific literature, marine population connectivity is difficult to assess. With a range of life histories, evolutionary strategies, and complexity of ocean currents, connectivity is difficult to measure and quantifiable estimates depend heavily on what is measured and how the data are interpreted. However, connectivity is an essential component of Marine Reserve planning (e.g., Carr et al., 2019) and inherent in the philosophical approach of designing a *network* of protection in favour of a standalone reserve.

For many invertebrate species whose adult stage is largely sessile, dispersal occurs during a pelagic larval stage (e.g., Pineda et al. 2007; Cowen and Sponaugle 2009) where larvae are carried passively by horizontal currents (e. g., Genin et al 2005). This leads to asymmetric gene flow, with upstream populations driving population structure (Pringle et al. 2011). Therefore, the conservation and health of upstream source populations is crucial to ensure ongoing recruitment and long-term protection of downstream populations (Roberts 1997, Lundberg and Jonzen 1999). A marine reserve that does not adequately include source populations runs the risk of negatively affecting the entire network (Crowder et al. 2000).

Many tools exist for evaluating marine connectivity and we recommend that *multiple* estimates of connectivity be included in any future monitoring plan. Below, we illustrate a few regional applications of connectivity to the Otago area specifically commenting on two aspects of the SEMP proposal:

1. The baseline connectivity represented in the coloured blue diagrams in the proposal (e.g., Figure 2-5, SEMPF, 2018) *overestimates* southward connectivity.
2. With a predominant northward-flowing current to carry planktonic larvae, a high density of subtidal reef habitats, and a healthy fishery, the area between Waipapa and Nugget Point likely serves as a source population for sites downstream. We strongly encourage a form of marine protection in this southern region to help conserve source populations.

### *Physical Oceanographic connectivity*

Physical oceanographic connectivity concerns the influence of ocean currents to the transport and dispersal of marine larvae. In the context of the Otago region, we recognize the relative lack of direct current observations and therefore some limitations to any description of connectivity. However, available historical observations of the predominantly *northward* flowing Southland Current can, and should, be interpreted to provide baseline connectivity estimates. Direct ocean current observations from 2 locations (Nugget Point and Oamaru) were maintained for 7 months in 100 m water depth (Chiswell, 1996). A remarkable aspect of these measurements was a northward flow (Southland Current) persistently to the north (i.e., rarely directed to the south) that was coherent between the two locations. This indicates a limited pathway for freely-drifting material to transit from north to south in this region.



Chiswell (1996), notes that measurements in 100 m depth are *onshore* of the core of the Southland Current where flow is strongest and even more northward-trending. Subsequent research suggested that the flow “may be the least variable and most predictable of New Zealand’s currents (Chiswell and Rickard, 2011).”

Nearshore current measurements are also few, with more complicated dynamics driven by the combination of winds, tides, waves, and freshwater discharge. However, observations from Russell and Vennell around Cape Saunders indicates that, “the currents around the Cape are dominated by the Southland current which is generally stronger than tidal flows making the current flow in a northeastward direction at most states of the tide (Russell and Vennell, 2017).” This further supports the idea that there is a relative boundary for southward movement of water around the Otago Peninsula. To the north of the peninsula, flow is weaker (Chiswell, 1996) and the nearshore currents are susceptible to retention, recirculation, and even reverse flow that can cause remarkable DNA diversity within short distances (e.g., Jeunen et al., 2019).

For the SEMPA planning, connectivity estimates are drawn as concentric distance markers (e.g., Figure 2-5, SEMPF, 2018), suggesting equal spreading in both directions. The assumption would be that the dispersal is equally probable to the north and south, as would be indicated by a predominantly *diffusive* dispersion regime (e.g., Drake et al., 2011). Because the Southland Current is persistently northward, this flow qualifies instead as being *advective*. In regions of highly variable currents, the diffusive effect can counteract mean advection. However, *particularly south of the Otago Peninsula*, the evidence above suggests a mostly advective region that creates net downstream dispersal northward. Baseline connectivity estimates are therefore more likely shifted northward as seen in Figure 6 of Chiswell and Rickard (2011). In this numerical model study, rapid northward transport of material along the Otago coast was such that after 10 days, the mean dispersal distance was 177 km to the North (Chiswell and Rickard, 2011).

These inferences from observations can be further evaluated with Lagrangian particle tracking in physical oceanographic models forced with realistic wind and large-scale current mechanisms. An example is illustrated here, where passive drifting particles ( $n = 50,000$ ) are released at Long Point and the Otago Peninsula every day for 1 year (2017) within a 4-km resolution, 25-year simulation of New-Zealand wide ocean circulation (Figure 1). These model outputs are publicly available through the MOANA project website, <https://www.moanaproject.org/data>, and a wide range of drift experiments and particle releases can be conducted. In this experiment, 10 days after release particles originating near Long Point are distributed predominantly to the North of the release location (left panel). Particles are found throughout the Otago coastline, remain somewhat close to shore, and are concentrated around the recirculation area of the Blueskin Bay eddy north of the Otago Peninsula (e.g., Murdoch et al., 1990). Few particles transit to the south of the Long Point release location. Particles released from the Otago Peninsula (right panel) similarly transit to the north. Although some particles are retained nearshore, relative to the Long Point release, particles are spread more across the shelf and are exported to offshore regions following the curvature of the depth contours (not shown). In this release, few particles move to the south indicating again the net northward dispersal and a downstream connectivity pattern.

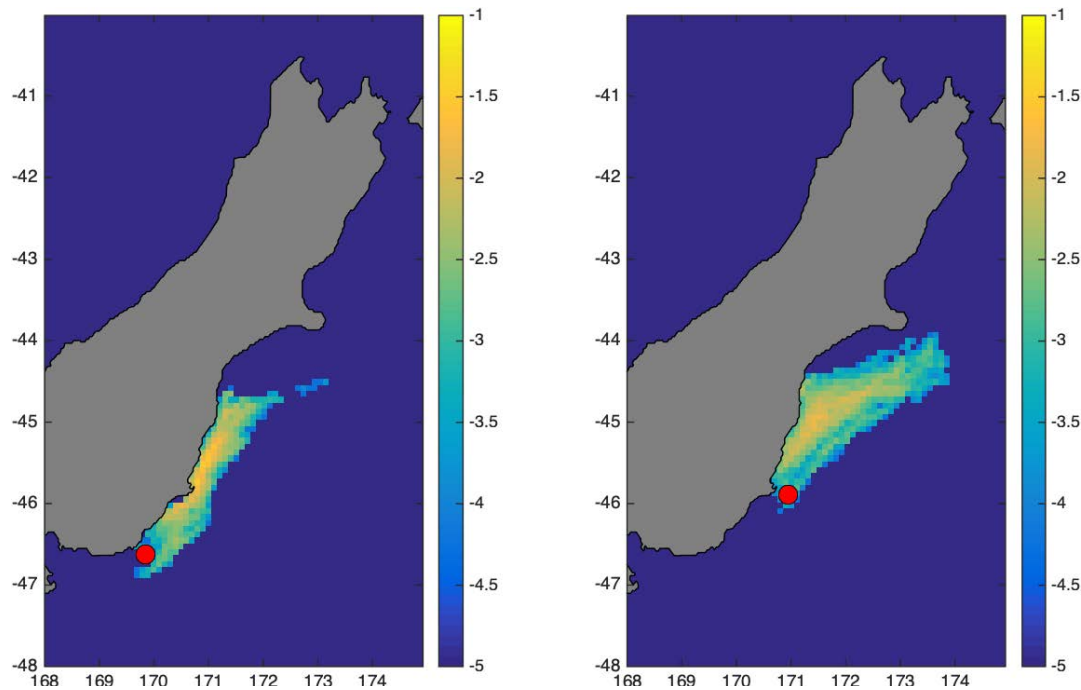


Figure 1: Example physical oceanographic model output used to aid connectivity estimates. Colour is the Log distribution of the probability that a particle lands in a 10 km x 10 km grid around the South Island, 10 days after release. Release locations Long Point (left panel) and Otago Peninsula (right panel) are denoted by the red circles.

### *Genetic Connectivity*

For the South Island, there have been few molecular studies with sufficiently concentrated sampling to provide genetic evidence that southern coastal populations act as a regional source. However, published genetic connectivity data for offshore sites (e.g., Zeng et al. 2019) clearly shows sites to the south and southeast of the Otago coastline contribute offspring to sites further north, including the Chatham Rise. This is interpreted as deep ocean currents promoting the south to north movement of larvae in deep water, in a similar manner as described above for the coastal situation.

Similarly, there are limited analyses and measurements of life history and larval behaviour in the taonga species protected in SEMPA. However, work on blue cod eggs by Robertson (1973) suggests the eggs are positively buoyant and can be passively transported by prevailing currents for 6 days. Together with the prevailing northward flow of the Southland Current, this supports the hypothesis that southern populations can act as important genetic sources within the consultation area.

These combined considerations lead us to comment on the potential for site Irihuka, Long Point site O1. We note the opposition to O1 due to cultural significance and economic value of this location, but believe that protection in this area is crucial to the Marine Reserve network success. Figure 2-7 of the 2018 forum report indicates a region of high catch intensity of trawled fishery running from Long Point, past the Clutha River. If an alternate location cannot be considered, we recommend customary protection should be approved and implemented as part of the regional network (an expansion of Network 1). If included in the network as a mātaītai reserve, the Irihuka reefs have the clear potential to continue to be a healthy source population feeding important harvesting sites to the north. Representation of these southern populations in the reserve network will help ensure continuous fishery yields throughout the region, as well as promote genetic connectivity through the system.

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