



Royal Forest and Bird Protection
Society of New Zealand Inc.

National Office:
Level One, 90 Ghuznee St
PO Box 631, Wellington 6140
New Zealand

P: +64 4 385 7374

F: +64 4 385 7373

www.forestandbird.org.nz

Denise Ashley
Ministry of Fisheries
PO Box 1020
Wellington 6140

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Submission: Reconsideration of measures to manage fishing-related threats to Maui's and Hector's dolphins

Forest & Bird (The Royal Forest & Bird Protection Society of New Zealand Inc) is New Zealand's largest independent conservation organisation, representing around 68,000 members and supporters.

Our members are people who care passionately about New Zealand's unique and special natural environment and native species, and want to make sure that these natural treasures are protected so that they can continue to be enjoyed by future generations.

Forest & Bird appreciates the opportunity to comment on the Initial Position Paper in relation to managing the fishing-related threats to Hector's and Maui's dolphins.

Submission Summary

- Forest & Bird supports the Ministry of Fisheries' preferred protection option for Maui's dolphins off the west coast North Island (WCNI) – to retain the closure area between 4 and 7 nautical miles (Option 3).
- Forest & Bird supports the original 2008 decision to protect Hector's dolphins from the East Coast South Island butterfish fishery, so supports the option to not provide an exemption of the commercial butterfish fishery (Option 3).
- Forest & Bird also recommend that additional protection be implemented on the basis of new information on the distribution and fishing-related mortality of Hector's and Maui's since the 2008 decision.

Maui's dolphins: West Coast North Island — beyond 4 nautical miles offshore

Forest & Bird supports the Ministry of Fisheries' initial preference of Option 3 — to retain the closure area between 4 and 7 nautical miles (nm).

Maui's dolphins are critically endangered. It is essential that the ministry take all possible measures to prevent any fishing-related deaths to prevent extinction of these dolphins.

Forest & Bird agrees with the Ministry that:

- the Maui's dolphin population is at a very low level and needs to rebuild as soon as biologically possible to provide the best opportunity for long-term survival;
- the population has a PBR which indicates a population at extreme risk;
- management of all human-induced impacts, including fishing, is needed;
- fishing is a demonstrated threat to Maui's dolphins in the WCNI area;
- fishing related mortalities are not sustainable for the Maui's dolphin (Potential Biological Removal (PBR) analysis indicates they can sustain no more than 0.2 human-induced deaths per year);
- while there is uncertainty in information, there is enough evidence to indicate that dolphins make visits to the area beyond 4nm;
- set nets are known to pose the greatest risk of dolphin mortality;
- the impact of any fishing effect on the dolphins would be very high and therefore makes closure of this area desirable.

Failure to implement the additional 4-7nm closure to set netting would put Maui's dolphins at an unacceptable risk of fishing-related death.

Hector's dolphins: Commercial butterfish fishery – northern end of East Coast South Island

Forest & Bird recommends Option 3 — do not provide for exemption of the commercial butterfish fishery.

Should an exemption be provided, as preferred by MFish, Forest & Bird strongly recommend that 100% observer coverage be implemented

Forest & Bird strongly oppose the Ministry's initial preference of Option 1 — to allow an exemption for the commercial butterfish fishery.

Forest & Bird is disappointed with some of the information presented in the butterfish section of the IPP and to the Ministries' overall position given some of the evidence presented. In particular, the Ministry:

- under-estimates the numbers of dolphins that could be killed along the ECSI;
- acknowledges that the number of dolphins known to be killed by fishing probably exceeds the limit calculated by MFish;
- has minimal information on the numbers of dolphins killed in butterfish nets (observers covered only nine fishing days during November and December 2008. No further observer coverage is reported in the IPP);
- provides no risk assessment and so underestimates the risk posed by butterfish set nets;
- acknowledges that there are several disincentives for fishers to report dolphin deaths;
- acknowledges that dolphins have been sighted in the region north, south and offshore of the proposed exemption area;

- fail to note that there have been sightings of Hector's and Bottlenose dolphins within the exempted area at Rarangi¹, even though the source of this information is referenced in the IPP;
- acknowledges that butterfish nets are set "generally between kelp beds in rocky shore areas, less than 200m from shore" – an area regularly used by Hector's dolphins²
- fail to consider the impact of recreational fishing;
- does not consider the indirect impacts of the exemption – such as depletion of food available to dolphins;
- over-emphasises the impact on the fishery should the exemption be granted;
- does not consider the fact that no exemption was granted for butterfish set netting in Southland.

Forest & Bird does not consider there to be sufficient evidence to justify an exemption for the commercial butterfish fishery. An exemption may pose a lethal threat to Hector's dolphins that occasionally inhabit the shallow coastal waters where the fishery operates. This is unacceptable given the status of these dolphins and the fact that the PBR is already likely being exceeded.

Additional recommendations

Forest & Bird recommend that the Final Advice Paper (FAP) include new information on the distribution and fishing-related mortality of Hector's and Maui's dolphins and that as a result of this information, provide options for increased protection of these dolphins.

The most urgent protection needed includes:

- a southward extension of Maui's dolphin protection measures from the current southern boundary to Cape Egmont or beyond;
- the removal of the exemption at Kaikoura and extension of protection at Timaru, to prevent more fishing-related deaths of Hector's dolphin.

Since the Minister's decision on measures to manage the fishing-related threats to Hector's dolphins in 2008, there have been several sightings in locations outside current protected areas. These sightings have been made by experts, observers and the public. They include:

- video evidence of a Maui's dolphin off New Plymouth;
- observer sightings of Hector's dolphins beyond the West Coast (WCSI) protected area;
- research sightings of Hector's dolphins beyond the Southland (SCSI) protected area (including one sighting as far as 10nm from shore);
- research sightings of Hector's dolphins beyond the Clifford / Cloudy Bay protected areas;
- Video and photographic evidence, plus expert sightings of Hector's dolphins in the Wellington and Kapiti regions.

¹ Du Fresne and Mattlin (2009) Distribution and abundance of Hector's dolphin (*Cephalorhynchus hectori*) in Clifford and Cloudy Bays. Final Report for NIWA project CBF07401, Marine Wildlife Research Ltd.

² Photographic evidence presented at the High Court showed at least two Hector's dolphins close to a rocky coast in Banks Peninsula with seaweed visible.

There have also been several reported fishing-related deaths of Hector's dolphins along the ECSI:

- 8 May 2009 – entangled, North of the Conway River, South of Kaikoura
- 1 November 2009 – commercial set net, South of Kaikoura
- 26 January 2010 – commercial set net, North of Timaru

It is disappointing that the Ministry has not undertaken to use this information in the IPP and to provide the Minister with options to implement additional protection of these endangered dolphins.

Additional protection needed for Maui's dolphins

The recovery of Maui's dolphins is extremely unlikely while the Taranaki area, the southern part of the range of Maui's dolphin, is left unprotected. It is critical that protection measures are extended to at least Cape Egmont to safeguard Maui's dolphins.

Protection in Tasman Bay and Golden Bay may also benefit Maui's dolphin, as dolphins in this area may provide a pool of potential recruits to replenish dolphins lost from the North Island population.

Additional protection needed for Hector's dolphins

The most urgent action needed is to respond to the death of Hector's dolphins around Kaikoura and Timaru.

In 2008 the Kaikoura region was granted an exemption on the basis that Hector's dolphins were thought to only inhabit waters less than 100m water depth. This was a mistake. Both of the commercial set-net incidents occurred in waters deeper than 100m. Failure to amend this mistake immediately is likely to result in more dolphin deaths in the Kaikoura region.

Protection measures at Timaru must also be increased to prevent more fishing-related deaths in this region.

Other areas needing protection include the West Coast of the South Island (WCSI), where Hector's dolphins are routinely found to 6 nautical miles (nm) offshore. This population is likely to continue to decline without extension of the protection measures.

Sightings from the observer programme (e.g. Tasman Bay, Golden Bay, beyond 2 nm offshore on WCSI, beyond 4 nm on ECSI) and from Hector's dolphin research (e.g. beyond 4nm at Clifford and Cloudy Bay and off the Southland coast) demonstrate a need for an extension of the current protection measures.

Forest & Bird recommend that in the long-term, the best possible measure to protect Hector's and Maui's dolphins is to ban set net fishing throughout New Zealand. This action would not only benefit these dolphins, it would also benefit other cetaceans, pinipeds, seabirds, sharks and fish that are killed in set nets.

Should you have any queries regarding our comments, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Kirstie Knowles', written in a cursive style.

Kirstie Knowles
Marine Conservation Advocate
Royal Forest and Bird Protection Society of New Zealand