

**RESPONSE TO CONSULTATION 'PROPOSED AMENDMENTS TO COMMERCIAL FISHING
REGULATIONS'**
**FROM THE ROYAL FOREST & BIRD PROTECTION SOCIETY OF NEW ZEALAND
INCORPORATED**

To **2025 Fishing regulation amendments, Fisheries Management, Fisheries New
Zealand**

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Date **24 November 2025**

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INTRODUCTION

1. The Royal Forest and Bird Protection Society Incorporated (Forest & Bird) has served as Aotearoa New Zealand's independent voice for nature since 1923. Forest & Bird's constitutional purpose is to "take all reasonable steps within the power of the Society for the preservation and protection of the indigenous flora and fauna, as well as the natural features of New Zealand."
2. With over 100,000 members and supporters and approximately 47 volunteer branches, Forest & Bird is dedicated to protecting and restoring nature in rural and urban areas across the country.
3. Forest & Bird's Strategic Direction (2025-2030) includes the focus area 'Driving change through advocacy and legal action'. Which includes the outcome:
 - Forest & Bird's advocacy and legal actions have helped secure improvements for indigenous biodiversity across climate, land, freshwater and marine domains.
 - To achieve this, Forest & Bird advocate for tangible national policy and legislative improvements that strengthen protection for indigenous species and ecosystems across all environmental domains.

Our operational plan also includes specific objectives which aim to protect the marine environment, such as reducing bycatch to zero, promoting ecosystem-based fisheries management (EBFM) as default and ensuring the transparency of cameras on boats.

4. Forest & Bird has had a long history in marine advocacy. We launched our first bycatch campaign in 1989 to stop kekeno New Zealand fur seals being killed by hoki boats off the West Coast. Attracted by fish spilling from the boat, the seals would get caught up in the fishing nets and drown. Once mitigation measures were put in place, seal populations bounced back and now number more than 200,000¹.
5. Over the next 35 years, Forest & Bird has successfully campaigned for better protections for marine mammals, fish and seabirds, greater marine protection and EBFM. In 2004, Forest & Bird published the country's first Best Fish Guide², showing which fish species were sustainably caught, and those that weren't. Thanks to our supporters, volunteers, and donors, Forest & Bird has also contributed to securing new marine reserves, including 19 new protected areas in the Hauraki Gulf, achieved '3 out of 3' seabird bycatch mitigation measures in surface longline fisheries and continue to protect and restore seabird habitats on the mainland through volunteer branch 'on the ground' projects and advocacy work.

¹ Department of Conservation - New Zealand fur seal/kekeno: <https://www.doc.govt.nz/nature/native-animals/marine-mammals/seals/nz-fur-seal/#:~:text=Population%3A%20the%20last%20total%20population,well%20as%20parts%20of%20Australia>

² The Royal Society of Forest and Bird Inc. – Best Fish Guide (2017) <https://www.forestandbird.org.nz/sites/default/files/2018-05/Best%20Fish%20Guide%20-%20Pocket%20Guide.pdf>

6. Forest & Bird’s other marine achievements include: actively supporting the roll-out of digital monitoring and having representation on the Digital Monitoring Implementation Advisory Group (MPI), fighting up to the Supreme Court for rebuilding of overfished stocks to be based on biology and environmental conditions, having representation on the South East Marine Protection Forum (SEMPA), considering and recommending marine protection options for the southeast coast region, calling for internationally aligned 30% marine protection by 2030, advocating for a plan of action to reduce sedimentation entering the marine environment and an end to bottom trawling in the Hauraki Gulf and involvement with the Hauraki Gulf Forum.
7. Fisheries New Zealand (FNZ) is seeking feedback on a package of 19 proposed changes to commercial fishing regulations. Many changes have been proposed by representatives of the commercial fishing industry, which has been stated in the discussion document ‘as a means to remove redundant regulations and/or regulations that are overly complex, duplicative, or impose unnecessary compliance costs’.
8. Forest & Bird do not agree that the majority of the proposed amendments will better ensure sustainability and believe that it is a backwards step away from Ecosystem Based Fisheries Management (EBFM) and reduced bycatch.
9. Many of the suggested amendments in the discussion document appear to lack a thorough assessment, particularly their effects if they were to be formalised. The potential impacts of the proposals are downplayed, anecdotal and speculative, which is not an appropriate way to set regulation or policy.
10. Forest & Bird are concerned that some of the proposals do not align with our domestic and international obligations for biodiversity and marine conservation, particularly Te Mana o te Taiao (TMOTT) (see [Appendix One](#)), and the NZ-EU Free Trade Agreement (EUFTA) which includes sustainability commitments such as maintaining sustainable fisheries management based on science and the ecosystem approach³.

³ EU-New Zealand: Text of the agreement: https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/new-zealand/eu-new-zealand-agreement/text-agreement_en?utm_source=chatgpt.com

COMMENTS ON THE FNZ ‘SUMMARY OF PROPOSALS’ CONSULTATION DOCUMENT

Proposal 1 - Limiting applicability of Karekare Beach shellfish closed area regulation to gastropods and bivalves only.

11. Forest & Bird do not have concern over this proposed change. However, we would like to encourage FNZ to continue close monitoring of rock lobster in the area and then respond appropriately (by reinstating the shellfish closed area) if data shows that rock lobster are in decline due to this change.

Proposal 2 - Providing for the ability to sell certain non-QMS species taken in Fisheries Management Areas (FMAs) 1 and 9 if taken by certain commercial fishing methods, not including set netting.

12. Forest & Bird oppose this change due to the risk that 19 species of vulnerable reef fish not intended to be caught, could potentially be targeted for commercial sale, compromising EBFM, the sustainability of these 19 species and the ecosystem which relies upon them.
13. These 19 non-QMS species of reef-fish are long lived with low productivity/low recruitment, meaning if the catch of them increase, they will take a long time to recover.

Proposal 3 - Review of daily limit and species restrictions that apply to trolling in area around Ngā Motu / Sugar Loaf Islands.

14. No comment

Proposal 4 - Amendment to definition of shark to exclude chimaeras.

15. No comment

Proposal 5 - Providing for dead marlin caught by commercial fishers to be landed in monitored fisheries.

16. Forest & Bird oppose this change as it has the potential to alter fisher behaviour and could lead to the eventual introduction of marlin into the QMS.

17. Forest & Bird are concerned this proposal could lead to longer soak times, meaning any marlin caught are more likely to be dead when landed. The result of that would mean this proposal could create an unintended marlin fishery, with no record of effort or limits for commercial catch.
18. Although the proposal is only for digitally monitored vessels, Forest & Bird are concerned that the cameras will be unable to identify whether the marlin caught are dead or moribund. A camera cannot establish the chance of a fish surviving when released.

Proposal 6 - Clarification of surface float requirements when gear is on board a vessel.

19. No comment

Proposal 7 - Review of whether fyke nets should be excluded from restrictions relating to use of nets in channels.

20. Marine mammals such as Māui and Hector's dolphins and pakake New Zealand (NZ) sea lions are known to swim into brackish and freshwater channels where they are at risk from set nets and possibly fyke nets. Areas where they have been reported, include the Waikato river (Hector's), Okarito lagoon (Hector's) the Mata-au/Clutha River (NZ sea lion), the Taieri/Taiari River (NZ sea lion), the Kakanui river (NZ sea lion) and other freshwater systems.
21. There is no apparent analysis either within or outside of FNZ, of whether this more liberal rule will add risk to marine mammals or sea/estuarine birds in these ecosystems. In the absence of this risk assessment and given the endangered and threatened status of some of these animals, Forest & Bird oppose this rule change.

Proposal 8 - Review approval process allowing set nets to exceed 3,000 m in length in open waters.

22. Many non-target species are killed by set nets including the endangered hoiho yellow-eyed penguin, nationally vulnerable Hector's dolphin, threatened flesh-footed shearwater and internationally vulnerable white-chinned petrel, among others. Allowing for an increase in the length of set nets at the discretion of the Chief Executive of MPI, is a non-transparent and arbitrary increase in risks to these species.

23. Set netting poses a massive risk to some inshore species and seabirds, with data showing that at least 27 Hector's dolphins, hoiho and pakake have been killed by set nets since the October 2019/20 fishing year. Other species, such as shags, are overrepresented in this data, with 115 killed in the same timeframe from set nets. Shags are declining nationwide, some of them in rapid decline (spotted shag).
24. One of the objectives of the Hector's and Māui dolphins Threat Management Plan (TMP) include returning the Hector's dolphin population to at or above 90% of the environment's carrying capacity. Te Mahere Rima Tau, the five-year action plan, which was written to support Te Kaweka Takohaka mō te Hoiho (the overarching strategy for hoiho conservation) has an objective to ensure bycatch does not threaten hoiho (Strategic Priority 6). Set netting (and trawling) in the habitat of these two taoka is not compatible with fully achieving both objectives.
25. Increased net lengths might be 'more efficient' at catching fish but increasing the length of these nets by an additional fifty percent of the current limit, will greatly increase the risk of bycatch of non-target species. This is an unacceptable increased risk and a stark move away from reducing accidental captures of protected seabirds and marine species. We are disappointed FNZ have included this proposal, given how adverse it is to many outcomes FNZ are trying to achieve (in bycatch reduction and EBFM).
26. This proposal directly conflicts with NZ's international biodiversity commitments via TMOTT, namely 12.2.1 – 'The number of fishing-related deaths of protected marine species is decreasing towards zero for all species' (2025 goal), 12.2.2 – 'The direct effects of fishing do not threaten protected marine species populations or their recovery' (2030 goal) and 12.2.3 - The mortality of non-target species from marine fisheries has been reduced to zero (2050 goal) – see [Appendix One](#).
27. Forest & Bird are disappointed that there has not been any analysis of increased bycatch risk in the discussion document, and we are concerned that this proposed increase in set net size has been a response to industry requests and unsubstantiated claims of efficiency, rather than robust evidence.

Proposal 9 - Review restrictions on Danish seine use in South Island waters.

28. Neither trawl nor Danish seine fishing should occur in the habitat of taonga/taoka vulnerable to accidental capture like Hector's dolphin, hoiho, kekeno and pakake. Instead of making the Danish seine rules more liberal for consistency with trawling, the trawling rules should be made stricter to align with Danish seine rules.

29. Kekenō, hoiho, rāpoka/whakahao (more commonly accepted as pakake), kororā and other species are all listed in Schedule 97 – Taonga Species of the Ngāi Tahu Claims Settlement Act 1998⁴. There are multiple captures of these species and others in the trawl fishery and Forest & Bird are concerned that a loosening of the seine rules to be more aligned with current trawling rules, could encourage increased fishing in the delicate coastal waters of Te Waipounamu, increasing the risk of bycatch of these taoka species.
30. Unintended consequences of this proposed change are not adequately investigated or addressed in the discussion document, as with many of the proposed amendments in this consultation.
31. Sustainability of target species might be covered by the Quota Management System (QMS), but bycatch is not. Threatened and vulnerable species are still at risk from bycatch, even when a target species is included under the QMS.
32. As Danish seining is a form of bottom trawling, Forest & Bird advocate for a shift to more sustainable fishing methods that pose less risk of bycatch to marine wildlife.

Proposal 10 - Providing for kina to be taken with the use of underwater breathing apparatus (UBA)

33. No comment

Proposal 11 - Review obligations that apply when UBA is used for purposes not directly related to commercial harvesting.

34. No comment

Proposal 12 - Clarifications to wording in geospatial position reporting (GPR) legislation.

35. Forest & Bird supports FNZ's option 1 for both 8(1)(a) and (c) of GPR circular.
36. The second change proposed to FNZ for wording on continuous monitoring when commercially fishing makes administrative sense and is supported.

⁴ Ngāi Tahu Claims Settlement Act, Schedule 97 – Taonga Species 1998: <https://tetaumuturunanga.iwi.nz/wp-content/uploads/2019/11/2014-05-May-Taonga-Species-Schedule-97.pdf>

Proposal 13 - Amendment to what must be shown on Annual Catch Entitlement (ACE) register.

37. No comment

Proposal 14 - Prohibit trawl and Danish seine fishing within one nautical mile of the coast in the Canterbury Bight (Birdlings Flat to the Waitaki River Mouth).

38. Forest & Bird support this proposal as evidence shows that despite the current non-regulatory prohibition, bottom trawling still occurs in this area close to shore. The current voluntary prohibitions are ineffective and unenforceable.

39. Evidence also shows that Hector's dolphins are being killed in this area, with at least six dolphins killed within 2 nautical miles of shore during the 2023-2024 fishing year. These deaths have included at least two heavily pregnant cows/females. Given Hector's dolphins only produce one calf every two to four years (producing a maximum of four to seven calves in their lifetime), their very low reproductive rate contributes to their vulnerability as a species. Every death of a cow, especially one in calf, has significant adverse effects to the longevity and resilience of the population.

40. The prohibition is proposed to protect declining stocks of elephant fish; however, the formalising of the voluntary ban will also protect other species, specifically the population of Hector's dolphins which reside in this area. As mainland pakake continue to increase in numbers, they are likely to continue extending into the Waitaki area, with some individuals already visiting the Waitaki river/river mouth. The ban would protect this endangered species as well.

Proposal 15 - Standardise maximum set net soak times

41. Forest & Bird support this proposal as it reduces the maximum set net soak time in some places which could potentially lower the risk of bycatch. Regardless of this though, Forest & Bird would like to see a transition from set netting to fishing methods which pose less risk to endangered and vulnerable species in the areas that they are found, such as hoiho yellow-eyed penguin and Hector's dolphin.

Proposal 16 - Review of fish container labelling requirements

42. No comment

Proposal 17 - Review Fisheries Act 1996 restriction on taking eels from waters of national parks

43. Forest & Bird support the proposed change, given that the taking of eels is prohibited under The National Parks Act 1980 (except in very specific circumstances with explicit authorisation).

Proposal 18 - Reviewing the current spatial restrictions on commercial spearfishing in the Wellington and Marlborough Sounds regions

44. Forest & Bird see the gradual move of commercial fisheries into spearfishing as a potential for commercial interests to dominate all fishery methods and areas.

45. The wish to undertake more commercial spearfishing seems to be in addition to, not instead of (as part of a transition) more destructive or high-risk fishing like trawling and set netting. Therefore, it will not ease pressure to at risk species and ecosystems and will just add additional pressure on top of what already exists.

46. Forest & Bird are concerned that there could be localised depletion in fish stocks, leading to an unbalanced ecosystem and food web, and displaced pressure.

47. Forest & Bird are also worried that this proposal will add to already strained relationships between commercial and recreational fishers and create unneeded animosity between the two groups.

Proposal 19 - Review of rock lobster tail measuring device requirements

48. Forest & Bird agree that the requirement for FNZ to provide certified measuring devices for rock lobster must be cumbersome and costly, however sometimes this is the outcome of good decision making and the result of sustainably managing a resource or species. It is important to acknowledge that achieving sustainability may not always be inexpensive or straightforward.

49. The solution might not be in changing the regulations to drop the requirement, but instead by passing the cost on to those disputing the measurement. After the measurement has been

taken, if the disputer is in the wrong, we suggest they then pay a small measurement fee, if FNZ is in the wrong, they bear that cost.

50. The use of any measurement device (unregulated) could lead to increased disputes and more intervention by FNZ, meaning the cost remains, it is instead used in FNZ resourcing rather than device costs. Establishing a 'single source of truth' through a standardised and certified FNZ device removes this ambiguity.
51. Given that many spiny rock lobster populations are at risk or in decline due to factors like overfishing, habitat degradation, climate change/extreme weather, further causing kelp forests to vanish and kina barrens, to proliferate, it is OK that the measuring of rock lobster is treated differently to that of other species.
52. Therefore, Forest & Bird oppose the removal/revoking of rock lobster tail-measuring device requirements from the regulations.

Thank you for considering our feedback to this consultation. Forest & Bird are happy to discuss this feedback in part or totality if required to do so.



Chelsea McGaw
Regional Conservation Manager - Otago & Southland
Te Reo o Te Taiao | Royal Forest and Bird Protection Society of New Zealand

APPENDIX ONE

Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020 (ANZBS) fisheries relevant goals⁵:

2025 goals -

- i. **10.1.1** - Prioritised research is improving baseline information and knowledge of species and ecosystems.
- ii. **10.2.1** - The cumulative effects of pressures on biodiversity are better understood.
- iii. **10.5.1** - A framework has been established to promote ecosystem-based management, protect and enhance the health of marine and coastal ecosystems, and manage them within clear environmental limits.
- iv. **10.6.1** - A protection standard for coastal and marine ecosystems established and implementation underway.
- v. **10.7.1** - There have been no known human-driven extinctions of indigenous species.
- vi. **12.1.1** - Environmental limits for the sustainable use of resources from marine ecosystems have been agreed on and are being implemented.
- vii. **12.2.1** - The number of fishing-related deaths of protected marine species is decreasing towards zero for all species.
- viii. **12.4.1** - The potential for different sectors to contribute to improved indigenous biodiversity is understood, and sustainable use practices that include benefits for indigenous biodiversity are becoming more widespread.
- ix. **13.3.1** - Potential impacts from climate change have been integrated into ecosystem and species management plans and strategies, and a research and rangahau strategy has been developed to increase knowledge and understanding of climate change effects.

2030 goals -

- x. **10.1.2** - Improved baseline information, comprehensive mapping, and improved knowledge of species and ecosystems and causes of their decline are informing management.
- xi. **10.2.2** - Management at different scales and across domains is reducing the cumulative effects of pressures on biodiversity.
- xii. **10.4.2** - No loss of the extent or condition marine and coastal habitats which have been identified, mapped and designated as having high biodiversity value.
- xiii. **10.5.2** - Significant progress has been made in protecting marine habitats and ecosystems of high biodiversity value.

⁵ Te Mana O Te Taiao, Aotearoa New Zealand Biodiversity Strategy 2020:
<https://www.doc.govt.nz/globalassets/documents/conservation/biodiversity/anzbs-2020.pdf>

- xiv. **10.6.2** - Significant progress made in establishing an effective network of marine protected areas and other protection tools.
- xv. **10.7.2** - Populations of all indigenous species known to be at risk of extinction are being managed to ensure their future stability or an improving state.
- xvi. **12.1.2** - Marine fisheries are being managed within sustainable limits using an ecosystem-based approach.
- xvii. **12.2.2** - The direct effects of fishing do not threaten protected marine species populations or their recovery.
- xviii. **12.4.2** - Sustainable use practices that include benefits for indigenous biodiversity are standard practice for biodiversity resource users (including tourism and recreation) and primary industry (including agriculture, forestry, fisheries, aquaculture and horticulture).

2050 goals -

- xix. **10.1.3** - Comprehensive baseline information integrated with spatial information and knowledge about effective management is informing the adaptive management of species and ecosystems.
- xx. **10.2.3** - The cumulative effects of pressures on biodiversity have been reduced to a level that does not have significant detrimental effects on biodiversity.
- xxi. **10.4.3** - An interconnected series of marine and coastal ecosystems have been protected and restored to a 'healthy functioning' state and are connected to indigenous land, wetland and freshwater ecosystems.
- xxii. **10.5.3** - (2035) Marine and coastal biodiversity is managed within environmental limits so that there is no net loss in the extent or condition of marine and coastal ecosystems.
- xxiii. **10.7.3** - Indigenous species have expanded in range, abundance and genetic diversity and are more resilient to pressures, including climate change.
- xxiv. **12.1.3** - Marine fisheries resources are abundant, resilient and managed sustainably to preserve ecosystem integrity.
- xxv. **12.2.3** - The mortality of non-target species from marine fisheries has been reduced to zero.
- xxvi. **12.4.3** - Sustainable use practices are providing benefits for indigenous biodiversity and maintaining ongoing economic and wellbeing benefits for people.
- xxvii. **12.5.3** - The connectivity of indigenous ecosystems has been improved through targeted restoration from mountain tops to ocean depths (ki uta ki tai).
- xxviii. **13.1.3** - Carbon storage from the restoration of indigenous ecosystems, including wetlands, forests, and coastal and marine ecosystems (blue carbon), is a key contributor to achieving net zero emissions for Aotearoa New Zealand.