


Fisheries New Zealand

Tini a Tangaroa

17 March 2020

Document Number: B20-0147

Updated Cabinet paper Dolphin Threat Management Plan – Significant changes and Implementation advice

Purpose:

This briefing accompanies the revised Cabinet paper (Sub19-0131), Hector's and Māui Dolphin Threat Management Plan – Fisheries Measures. The briefing outlines transition support, the proposed timeline for announcement of fisheries measures and implementation of those measures, as well as changes made to the Cabinet paper following interagency review.

Minister	Action Required:	Minister's Deadline
Minister of Fisheries	Note and Agree to the recommendations in this briefing.	By 18 March 2020

Comments:

Any further revisions to the Cabinet paper will need to be received by COB on 18 March 2020, so that the paper can be finalised/formatted and ready for lodgement with the Cabinet office before 10am on 19 March 2020.

Contact for telephone discussion (if required)

	Name	Position	Work	Mobile
Responsible Manager	s 9(2)(a)	Manager – Dolphin Threat Management Plan	s 9(2)(a)	
Principal Author	s 9(2)(a)	Senior Fisheries Analyst – Inshore Fisheries	s 9(2)(a)	

Key Messages

Transition Support

1. To address concerns by Treasury and the Minister of Finance around transition support, the associated recommendation in the Cabinet paper has been amended to request that Cabinet authorise you and the Minister of Finance to agree on how transitional support should be provided, if approved for funding under the 2020 Budget.
2. This agreement will require you and the Minister of Finance to work closely to determine the details of the support, and jointly sign-off on its delivery to significantly affected parties.

Announcement and implementation of measures

3. Fisheries New Zealand considers that it is important for the wellbeing of impacted fishers that the details of, and application process for, transition support are available for fishers at the same time as announcements are made. Options could include payments to shift to different sustainable fishing operations or to exit the fishery (depending on the individual circumstances).
4. We also consider it important that the financial support is available before the measures come into effect. Linking the transition process in this way impacts on both the timing of the announcement of decisions and their implementation.
5. To enable the transition support process to be developed and agreed to by Ministers, before decisions are announced, we propose shifting the announcement date to 28 April 2020.
6. The Cabinet paper seeks agreement from the Committee that, subject to Budget 2020 funding decisions, the announcement of fisheries measures and support for fishers occurs at the same time.
7. Fisheries New Zealand proposes a revised implementation date of 1 October 2020 for the fisheries measures that have been consulted on (i.e. set-net and trawl closures). This date will provide time for transition applicants to receive financial support before new fisheries measures come into effect, and for others affected to amend their business operations in time for the beginning of the new fishing year that begins on that date.

8. s 6(a)

[Redacted content]

- s 6(a) [REDACTED]
- [REDACTED]

Changes made to Cabinet paper

11. Additional key changes made to the Cabinet paper as a result of interagency review include:
- inclusion of the Minister of Conservation's views on your recommended measures;
 - transition support has been amended to provide more detail to address comments received from Treasury and Ministry for the Environment; and
 - comments from Te Arawhiti have guided edits to ensure that Māori rights and interests have been sufficiently addressed throughout the paper.

Measures proposed for Golden and Tasman Bays

12. Chief Science Advisors from the Ministry for Primary Industries and Department of Conservation have reviewed the available science and whether the proposed measures are likely to be effective in achieving the fisheries objectives of the Threat Management Plan for this area.
13. There remains a difference of opinion between the Chief Science Advisors on the effectiveness of the measures to address fisheries risk, particularly from set-net in Golden Bay in the north coast South Island area.
14. The Department of Conservation's Chief Science Advisor considers that the risk assessment should be revisited with the new information on dolphin distribution to quantitatively assess whether the proposed measures will achieve the fisheries objectives. The Department of Conservation also supports undertaking further consultation to extend the set-net measures further, as is proposed for Banks Peninsula (although the rationale for this differs).

15. The Ministry for Primary Industries' Chief Science Advisor considers the measures recommended by you for the north coast South Island subpopulation meet the fisheries population objective. But he recommends that further data be collected to resolve uncertainties in dolphin distribution that can be used to revisit the risk analysis, and the Threat Management Plan fisheries measures, in future.

Butterfish set-net decisions

16. The Ministry for the Environment raised a comment regarding the effect of the recommended set-net measures on quota (i.e. the ability to take the Total Allowable Commercial Catch), especially butterfish. Additional information is provided on butterfish. We seek confirmation of your decision not to proceed with exemption to the set net ban for "butterfish fish nets" in defined areas.

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Recommendations

17. Fisheries New Zealand recommends that you:

- a) **Note** that the Transition Support recommendation in the Cabinet paper has been amended to request that Cabinet authorise you and the Minister of Finance to agree on how transitional support should be provided.

Noted

- b) **Agree** to the proposed timeframes for announcement and implementation of measures, as 28 April and 1 October 2020, respectively.

Agreed / Not Agreed

- c) **Agree** to seek an early Budget bid announcement in support of the proposed timeframes from the Minister of Finance (if transition support is authorised by Cabinet).

Agreed / Not Agreed

- d) **Agree** that if an early Budget bid announcement is not secured, announcements should be delayed to at least 14 May 2020 (Budget Day).

Noted

- e) **Note** the changes to the Cabinet paper following interagency consultation.

Noted

- f) **Note** that Fisheries New Zealand and the Department of Conservation have not reached agreement on additional set-net measures proposed by the Department for within Golden Bay. The Minister of Conservation's views and rationale have been included within the Cabinet paper, and your recommendation on measures retained.

Noted

- g) **Agree** to retain your decisions on commercial and recreational set-net measures out to 4 nautical miles from Hawera to Wellington, with no exemption for commercial and/or recreational butterfish fishers.

Agreed / Not Agreed

- h) **Agree** that the revised Cabinet paper can be lodged with the Cabinet Business Committee for consideration at its meeting on 23 March 2020.

Agreed / Not Agreed

Stuart Anderson
Director Fisheries Management
Fisheries New Zealand

Hon Stuart Nash
Minister of Fisheries

/ / 2020

Background

Process steps

18. As per your instructions, Fisheries New Zealand is working towards the Cabinet Business Committee (CBC) being notified of your recommended decisions on fisheries measures to protect Hector's and Māui dolphins at its meeting on 23 March 2020.
19. The Cabinet paper attached must be lodged with Cabinet by 19 March 2020.
20. To meet this deadline, any further revisions to the Cabinet paper must be received by end of day on 18 March 2020.

Transition support

- s 9(2)(g)(i)
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23. We consider that these risks are mitigated by the following factors:
 - a. The precautionary nature of the proposed measures;
 - b. The transitional assistance being targeted to a small number of individuals who are significantly impacted, due to their large capital investments and the strong likelihood they will not remain viable;
 - c. The nature of the proposed assistance, and the time-bound application process for assessing it; and
 - d. The requirement for joint approval of the Ministers of Finance and Fisheries on the details of the process.
 24. The joint approval by you and the Minister of Finance on the details of the transition process will require you to work together to determine how transition support is delivered and to whom.
 25. Should transition support be approved by Cabinet on 23 March 2020, we assess that a five week period is needed to finalise and prepare the processes for accessing the funds, and to gain agreement with the Minister of Finance on transition details. This would put timing of an announcement at the end of April. Further details on proposed timing are outlined below.

26. Fisheries New Zealand proposes an approximately three month period (May to July) for affected parties to apply for transition support. This will be followed by an approximately two month period (August to September) to assess the applications and make decisions, so that fishers have funds available to them when the measures take effect (i.e. 1 October 2020).

Timeframes for Announcements and Implementation

27. Fisheries New Zealand considers it would be best to publically announce the transition support funding alongside announcements of the new fisheries measures to protect dolphins. It is important that the details of transition support funding and the application process are available immediately for significantly affected fishers and licensed fish receivers to consider.
28. It is not desirable to announce decisions that will have significant impacts on these peoples' livelihoods without, at the same time (if agreed by Cabinet), signalling that Government will provide transitional support to them. Further, we believe that financial support should be provided to fishers before the measures take effect.
29. However, both the announcement and implementation dates would need to be delayed to enable work on the transition support mechanism to be completed and in place for an announcement. To prepare, and stand-up the functions and processes to deliver the transition support package, we propose that you announce your decisions on 28 April 2020.
30. This is on the assumption that this timing is adequate for you and the Minister of Finance to agree on the delivery of a transition fund if the proposal is authorised by Cabinet. We propose to submit the transition package to you and the Minister of Finance for consideration in early April 2020. However, we note that the House is in recess from 10 to 27 April.
31. An announcement on 28 April would also require you and the Minister of Finance to reach agreement on securing an early Budget bid announcement (Budget 2020 is set to be released on 14 May).
32. Fisheries New Zealand also recommends a revised implementation date of 1 October 2020 for those measures not requiring further consultation, in line with the beginning of the fishing year:
- extend existing, and create new, areas that prohibit the use of commercial and recreational set-nets in both the North Island and South Island, which will address the main fisheries risk to both Māui and Hector's dolphins;
 - extend the closure to trawl fishing in the central Māui dolphin habitat zone;
 - put in place a fishing-related mortality limit of one dolphin within the Māui dolphin habitat zone;
 - prohibit the use of drift nets in all New Zealand waters; and
 - enable the use of commercial ring nets in set-net prohibition areas within west coast North Island harbours, which is a fishing method that does not pose a risk to the dolphins.

33. As noted above, Fisheries New Zealand considers that the time between an announcement on new measures and implementation should allow for significantly affected parties to apply for transition support and for decisions to be made on whether funds will be available to them. This approach would mean that support can be provided to successful applicants as measures come into effect.
34. The date will also help all fishers that are affected to amend their business operations in time for the beginning of the new fishing year that begins on 1 October.

Risks

- s 6(a) [Redacted text block]
- [Redacted text block]
- [Redacted text block]

Changes made to Cabinet paper

38. The Cabinet paper has been updated following interagency review. The version attached (refer **Appendix One**) includes a number of significant amendments.

Minister of Conservation/Department of Conservation

39. The Minister of Conservation's views (provided by the Department of Conservation) have been included in the Departmental Consultation section of the paper. A table outlining the areas of disagreement between you and the Minister of Conservation has also been added (Appendix 6) and replaces the original letter to you on 3 February 2020 that was previously included.

The Treasury

40. The text regarding Transition Support has been amended to address comments received from Treasury. Where appropriate these are also addressed in the revised Executive Summary. We note a number of these comments were also raised by the Ministry for the Environment. The amendments now clarify the purpose of the transition support, rationale behind the proposal, concerns regarding precedent, and alternative options for the delivery of financial assistance.
41. The Transition Support recommendation has also been amended to request that Cabinet authorise you and the Minister of Finance to agree on how transitional support should be provided.

Te Arawhiti

42. The text regarding Māori rights and interests has been amended to address comments received from Te Arawhiti. Where appropriate these are also addressed in the revised Executive Summary. Edits better reflect impact on customary use of the fisheries resources, potential impacts of the measures, and kaitiakitanga.

Other matters

Effectiveness of Measures (specific focus on Golden and Tasman Bay)

43. Following discussions between yourself, the Minister of Conservation and the Prime Minister it was agreed that Chief Science Advisors from respective agencies would review the science information and consider in that context whether the proposed measures would achieve the fisheries objectives.
44. This review followed concerns raised by the Department of Conservation, which had a particular focus on the measures to manage set-net risk off the north coast South Island. Their view is that there are significant uncertainties in dolphin distribution off the north coast South Island, and therefore a risk that the measures proposed would inadequately cover that distribution to ensure the fisheries objectives are achieved.
45. The Chief Science Advisors have met to discuss the available information, but have been unable to reach agreement on a way forward. The Ministry for Primary Industries' Chief Science Advisor considers that on the basis of the science that has been provided to him, the measures proposed will achieve the fisheries population objective. This includes sightings data from a research project completed since the risk assessment was undertaken that suggests the majority (approximately 70%) of the dolphins present within Golden Bay are found within four nautical miles of shore, which support the measures that are proposed. Notwithstanding the above, he recommends that extra data on the dolphin population abundance and migratory patterns in the different seasons of the year should be collected, and that the risk analysis and Threat Management Plan should be revisited once we have sufficient data.

46. The Department of Conservation's Chief Science Advisor considers that the risk assessment should be revisited with the new information on dolphin distribution to quantitatively assess whether the proposed measures will achieve the fisheries objectives. The Department of Conservation also supports undertaking further consultation to extend the set-net measures further, as proposed for Banks Peninsula (although the rationale for this differs).
47. Fisheries New Zealand notes that this area of outstanding disagreement is included in the text and table provided by the Minister of Conservation for inclusion within the Cabinet paper.

Butterfish set-net decisions

48. The Ministry for the Environment commented on the effect of the recommended set-net measures on quota (i.e. the ability to take the Total Allowable Commercial Catch), especially butterfish.
49. You decided not to provide an exemption to commercial and recreational butterfish fishers, which may impact on fishers' ability to harvest this species. The majority of butterfish harvest is undertaken with set-nets, a small portion of harvest is undertaken by diving/spearfishing. Diving/spearfishing for butterfish is more common among recreational fishers than commercial fishers.

50. s 9(2)(h)

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51. Fisheries New Zealand provided advice to you regarding an exemption to the set-net prohibition in discrete areas within the southern habitat zone from Hawera to Wellington (west coast North Island) for commercial and recreational butterfish fishers (refer to Package 2 in B19-0533, and Appendix 3B in the Technical Advice Paper). The matters that you must have regard to, and noted above, are discussed in that advice.

Risk (likelihood and consequence) of fishing-related mortality to the species

52. In summary:

- butterfish set-netting is considered to pose a lower risk to the Māui and Hector's dolphins than other types of set-netting because net lengths are shorter and the area where fishing occurs is not generally considered core dolphin habitat;
- the risk assessment model estimated the risk of commercial butterfish set-netting to dolphins that may be present in the area, which produced a negligible change in the risk estimate;
- a similar assessment could not be undertaken for recreational butterfish set-net activity due to the lack of information on scale, effort and location;
- despite the low risk from butterfish set-netting a Hector's dolphin was caught in a recreational butterfish set-net off the east coast off the South Island (in a butterfish exemption area) in February 2015; and
- while the risk to dolphins may be low, there is still some risk to them from butterfish set nets.

The particular effect of mortality

53. Set-netting in the southern habitat zone (from Cape Egmont to Wellington) poses the greatest risk to dolphins that may be present in this area. There is no evidence of a current resident population of dolphins in the area, but sightings data confirm that Hector's and/or Māui dolphins are present at least intermittently. Most recently Hector's dolphins have been genetically confirmed in this area, while historically Māui dolphins have been found here. The area may provide important connectivity between the South Island Hector's and Māui dolphin populations, as well as recolonisation of historically occupied areas.
54. The proposed set-net closures (with or without a butterfish exemption) are estimated to achieve the fisheries objectives for the southern habitat zone, including the population objective, and will be particularly important to help connectivity of the subpopulations.

The likely impact of the proposed measure in addressing the effect

55. The estimated risk from commercial butterfish set-netting in defined exemption areas is negligible with respect to the overall estimate of set-net risk. Recreational butterfish set-net risk is unquantified, but is generally considered to be greater than the risk from commercial fishers. This is because of differences in fishing effort, types of gear used, and set-net practices that are highly variable depending on the experience of the fisher, environmental conditions, and season.

The impact on utilisation including the availability of alternatives

56. As noted above most butterfish is harvested (by both commercial and recreational fishers) using set-nets. Available alternatives include harvesting in other areas (e.g. east of Wellington to Palliser Bay where the fishery also operates), or transitioning to diving/spearfishing.
57. For the commercial butterfish fishery in this area fishers are less likely to take up diving/spearfishing to continue that harvest, but some may do. Uptake will be influenced factors such as costs/profitability, gear, physical fitness, and weather constraints. For recreational fishers, these factors (excluding profitability) are likely also relevant.
58. You are authorised to do what you consider is necessary to avoid, remedy or mitigate the effect of a fishing-related mortality on Hector's and Maui dolphins. If that significantly impacts one method and therefore limits the ability of fishers to take their catch, it doesn't make it any less lawful provided you are reasonably satisfied the risk being addressed is sufficient to justify the impact to utilisation.
59. Fisheries New Zealand seeks confirmation on your decision to not provide an exemption to commercial and recreational butterfish set-net fishers in the recommended set-net prohibition area from Hawera to Wellington.

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