



# Fisheries New Zealand

Tini a Tangaroa

28 February 2020

Document Number: B20-0117

## Updated Draft Cabinet paper for Hector's and Māui Dolphin Threat Management Plan – Fisheries Measures

### Purpose:

This briefing seeks confirmation your decisions on managing fisheries risk to both Hector's and Māui dolphin subspecies, and seeks your feedback on the attached draft Cabinet paper. A revised version of the Cabinet paper will then be provided to you to allow for consultation with other coalition parties and other departments prior to proposed submission to Cabinet Office on 11 March.

Minister	Action Required:	Minister's Deadline
Minister of Fisheries	<p><b>Advise</b> the fisheries measures you want to put in place.</p> <p><b>Note</b> the content of the draft Cabinet paper and provide officials with your comments.</p>	<p><b>By 2 March</b> to allow cross-party consultation to be completed prior to lodging the paper with Cabinet committee on 11 March.</p>

### Comments:

s 9(2)(g)(i)

### Contact for telephone discussion (if required)

	Name	Position	Work	Mobile
Responsible Manager		Manager – Dolphin Threat Management Plan		
Principal Authors		Senior Fisheries Analyst – Inshore Fisheries		
		Principal Advisor – Dolphin Threat Management Plan		

## Key Messages

1. You have agreed to notify the Cabinet Economic Development Committee (DEV) of your decisions on fisheries measures to protect Hector's and Māui dolphins at its meeting on 18 March 2020.
2. You have advised officials of your preferred measures. We now seek formal confirmation of your decisions as outlined in the recommendations attached to this paper.
3. We also seek your views on the attached draft Cabinet paper by 2 March.
4. A revised version of the Cabinet paper will then be provided to you to allow for consultation with other coalition parties and departments prior to submission to Cabinet Office on 11 March.
5. Your preferred measures as outlined in the recommendations have resulted from a well-considered and robust decision-making process, including:
  - a. Consideration of Final Advice provided on 18 October 2019 (refer B19-0533);
  - b. Consultation with the Minister of Conservation, including at least four meetings to discuss the Hector's and Māui dolphin Threat Management Plan and consideration of her views outlined in a letter received 3 February 2020 (refer 19-A-0467); and
  - c. Consideration of further information provided to your office by Fisheries New Zealand, such as AM19-0907 and B19-0681, and discussion with Officials.
6. This briefing summarises our view of your current preferred position for each area and measure, including areas where there is disagreement on approach with the Minister of Conservation, and measures where further consultation would be required.
7. Note you that you are entitled to take into account the views of the Cabinet Committee before reaching final decisions provided they are relevant to your decisions to take such measures that you consider are necessary to avoid, remedy, or mitigate the effect of fishing-related mortality on the Hector's and Māui dolphins under s 15(2) of the Act.
8. s 9(2)(f)(iv)  
[REDACTED]  
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[REDACTED]. \$7.1 million of this is for the transitional support, in the form of ex gratia payments, for affected fishers and licensed fish receivers.
9. It is noted in the draft Cabinet paper that if this funding turns out to be inadequate, based on discussion with affected parties, then you will either prioritise fishers that have suffered the greatest impact or seek further funding.

10. As part of the announcement of new fisheries measures, intended for late April / early May, you will need to seek agreement from the Minister of Finance funding for transitional support as the same time.

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## Recommendations

11. Fisheries New Zealand recommends that you confirm your decisions out outlined below:

- a) **Note** contents of the Final Advice Paper (B19-0533) which provides information relevant to your decision-making, including legal obligations and Treaty considerations.

**Noted**

**Agree** to a new vision statement for the Threat Management Plan, which is:

*New Zealand's Hector's and Māui dolphin populations are resilient and thriving throughout their natural range.*

**Agreed / Not Agreed**

- b) **Agree** to a new long-term goal for the Threat Management Plan, which is:

*Hector's and Māui subpopulations are thriving or increasing, supported by an enduring, cohesive and effective threat management programme across New Zealand.*

**Agreed / Not Agreed**

- c) **Agree** to the medium-term goals for the Threat Management Plan, which are:

- i. *Ensure known human-caused threats are managed within levels that allow subpopulations to thrive and recover.*
- ii. *Engage all New Zealanders in Hector's and Māui dolphin conservation.*
- iii. *Understand how tangata whenua wish to exercise kaitiakitanga of Hector's and Māui dolphins.*
- iv. *Improve knowledge of poorly understood threats to support development of long- and medium-term goals in Hector's and Māui dolphin conservation, which are measurable, and time-bound.*

**Agreed / Not Agreed**

- d) **Agree** to setting a population outcome for Māui dolphins of:

*Human impacts are managed to allow the population to increase to a level at or above 95 percent of the maximum number of dolphins the environment can support.*

**Agreed / Not Agreed**

- e) **Agree** to setting a population outcome for Hector's dolphins of:

*Human impacts are managed to allow the population to increase to a level at or above 90 percent of the maximum number of dolphins the environment can support.*

**Agreed / Not Agreed**

- f) **Agree** to setting fisheries objectives to:
- i. *Reduce fisheries risks to very low levels, sufficient (with 95 percent certainty) to allow the Māui dolphin population to recover to and remain at or above 95 percent of un-impacted status.*
  - ii. *Reduce fisheries risks to very low levels, sufficient (with 95 percent certainty) to allow the overall Hector's dolphin population to recover to and remain at or above 90 percent of un-impacted status.*
  - iii. *Reduce fisheries risks to very low levels, sufficient (with 95 percent certainty) to allow localised Hector's dolphin populations to recover to and remain at or above 80 percent of un-impacted status.*

**Agreed / Not Agreed**

- g) **Agree** to ensure that dolphin deaths arising from fisheries threats do not:
- i. *exceed population sustainability thresholds set to achieve the applicable subpopulation objective with 95 percent certainty,*
  - ii. *cause localised depletion, and*
  - iii. *create substantial barriers to dispersal or connectivity between subpopulations.*

**Agreed / Not Agreed**

#### **West Coast North Island (Māui dolphins)**

- h) **Agree** to the following commercial and recreational set-net closures along the west coast North Island (in addition to current closures):
- i. *A new commercial and recreational set-net closure out to 4 nm offshore between Cape Reinga and Maunganui Bluff;*
  - ii. *Extension to the commercial and recreational set-net closure between Maunganui Bluff and the Waiwhakaiho River (New Plymouth) from 7 nm to 12 nm offshore;*
  - iii. *Extension to the commercial and recreational set-net closure between the Waiwhakaiho River (New Plymouth) and Hawera from 2 nm to 7 nm offshore;*
  - iv. *A new commercial and recreational set-net closure out to 4 nm offshore between Hawera and Wellington;*
  - v. *Extension to the commercial and recreational set-net closures further into the Manukau Harbour to Taumatarea Point in the north and Matakawau Point in the south within the harbour.*

**Agreed / Not Agreed**

- i) **Agree** to extend the commercial trawl closure between Maunganui Bluff and Pariokariwa Point south to the Waiwhakaiho River (New Plymouth), and to 4 nm offshore.

**Agreed / Not Agreed**

- j) **Agree** to put in place a fishing-related mortality limit of one dolphin within the Māui dolphin habitat zone that extends from Cape Reinga to Cape Egmont;

**Agreed / Not Agreed**

- k) **Agree** to seek Cabinet authority to waive the 28 day rule for any Gazette notice that is needed in response to a trigger of the fishing-related mortality limit.

**Agreed / Not Agreed**

- l) **Agree** to allow commercial ring netting in the set-net prohibition areas in the harbours as an alternative method able to avoid Māui dolphins.

**Agreed / Not Agreed**

- m) **Agree** to prohibit commercial and recreational driftnet (of any size) for fishing within New Zealand waters.

**Agreed / Not Agreed**

- n) **Agree** to align the definition of driftnet within the commercial and recreational fisheries regulations to that of the Driftnet Prohibition Act 1991 to include that a driftnet does not have attached to it sufficient means of anchoring it to any point of the land or the sea bed (irrespective of whether the net has attached to it any means of being attached to any vessel).

**Agreed / Not Agreed**

#### **South Island (Hector's dolphins)**

- 0) **Agree** to the following set-net closures along the north, south and east coasts of the South Island:
- i. *Create new commercial and recreational set-net closures out to 4 nm offshore within Golden and Tasman Bay, from Farewell Spit to Cape Soucis (Raetihi);*
  - ii. *Extension to the commercial set-net closures off Kaikōura as per the community proposed boundaries;*
  - iii. *Extension to the recreational set-net closures off Kaikōura from a variable offshore boundary to 4 nm offshore;*
  - iv. *Extension to the commercial and recreational set-net closures to encompass Pegasus Bay, approximately 19 nm offshore southeast from the headland east of Motunau Beach offshore, and then southwest to a point 7 nm offshore from Goat Point;*
  - v. *Extension to the commercial and recreational set-net closures from Snuffle Nose southwest to 12 nm offshore across the Canterbury Bight to just south of Timaru to the existing 4 nm offshore boundary; and*
  - vi. *Extension to the commercial and recreational set-net closures from Te Waewae Bay (between Sand Hill Point and Wakaputa Point) to 10 nm offshore.*

*Further consultation required*

- p) **Agree** to consult on a proposal to extend the commercial and recreational set-net closures around Banks Peninsula between Goat Point and Snuffle Nose from 4 nm to 12 nm offshore.

**Agreed / Not Agreed**

- q) **Agree** to consult on trawl gear restrictions (tow speed and height of trawl net) in high-dolphin-density areas of the south and east coasts (refer to map of the areas shown in **Appendix One**).

**Agreed / Not Agreed**

- r) **Agree** to consult on a management approach to manage fishing-related mortality of Hector's dolphins in the South Island that would include a graduated capture response framework, electronic monitoring (on-board cameras), and fishing-related mortality limits (refer to **Appendix Two** for more information).

**Agreed / Not Agreed**

- s) **Note** that on-board camera monitoring is a crucial component of the new management approach in the South Island, and this is dependent on a successful Budget Bid.

**Noted**

**Transition assistance**

- t) **Note** that under the Fisheries Act 1996 the Crown is under no obligation to compensate quota holders, commercial fishing permit holders or licensed fish receivers for implementing a sustainability measure such as the ones proposed in the recommendations above.

**Noted**

- u) **Agree** to seek Cabinet approval for the proposed policy intent of transitional support, via ex gratia payment, to significantly-affected fishers and licensed fish receivers of the fisheries measures.

**Agreed / Not Agreed**

- v) **Agree** to notify Cabinet of the decisions as outlined in the above recommendations (a-t).

**Agreed / Not Agreed**

- w) **Note** you will need to seek agreement from the Minister of Finance to announce the funding for transitional support as part of the announcement of new fisheries measures, intended for late May/early April.

**Noted**

Stuart Anderson  
Director Fisheries Management  
Fisheries New Zealand

Hon Stuart Nash  
Minister of Fisheries  
/ / 2020



## Background

12. The recommendations and draft Cabinet paper (**Appendix Three**) outline our view of your preferred approach to managing fisheries risk to both Hector's and Māui dolphin subspecies off the west coast North Island and around the South Island.
13. This follows your consideration of final advice (refer to B19-0533), public submissions, the views of the Minister of Conservation, and discussions with officials.
14. You must consult with the Minister of Conservation before you make your decisions to take such measures that you consider are necessary to avoid, remedy, or mitigate the effect of fishing-related mortality on the Hector's and Māui dolphins. We note that this does not mean that you must reach agreement. To consult with the Minister means you must have given the Minister of Conservation reasonable time and information to think about the fishing-related measures under consideration. Then you must consider her views and opinions with an open mind.
15. You have met with the Minister of Conservation on at least four occasions between October 2019 and February 2020 to discuss the fisheries-related measures. You also provided a copy of the final advice and associated briefing for her consideration, to which she formally responded via a letter on 3 February 2020.
16. Fisheries New Zealand considers that you have fulfilled your consultation requirements with the Minister of Conservation. In that context we recommend that you now make your decisions on what measures you consider are necessary to avoid, remedy, or mitigate the effect of fishing-related mortality on Hector's and Māui dolphins. s 9(2)(g)(i)
17. We seek your comments on the draft Cabinet paper to confirm your preferred position so that the Cabinet paper may be finalised for submission.
18. A proposed timeline of next steps to progress your decisions is provided below:

Step	Date (2020)
Provide FNZ with a signed copy of this briefing outlining your decisions on fisheries measures for the revised Threat Management Plan	2 March
Provide FNZ comments on the Cabinet paper (Attachment Two)	
FNZ submit updated version of Cabinet paper for your review and coalition consultation	3 March
FNZ undertake interagency consultation on the Cabinet paper	
FNZ submit final version of the Cabin	
Submit Cabinet paper to DEV	11 March



Step	Date (2020)
DEV committee meeting	18 March
Cabinet committee meeting	23 March
Announce decisions (pending early budget bid approval on transition assistance)	March / April

## Summary of your preferred measures

### West coast North Island

19. The following table summarises your preferred measures to manage risk off the west coast North Island. A map of the preferred measures is provided in **Appendix One**. All measures have been consulted on and can be implemented by July 2020.

Table 1: Proposed measures for the West coast North Island

West coast North Island					
Method	Area	Existing measures (status quo)	Minister of Fisheries preferred	Public consultation complete?	Minister of Conservation support?
Set-net	Cape Reinga to Maunganui Bluff	No measures	Closure out to 4 nm	✓ Yes	✓ Yes
	Maunganui Bluff to New Plymouth (Waiwhakaiho River)	Closure out to 7 nm offshore	Extend closure to 12 nm		
	New Plymouth to Cape Egmont	Closure out to 2nm offshore Observer coverage 2 nm to 7 nm offshore	Extend closure to 7 nm		
	Harbours	Closures at the mouths of the Manukau, Kaipara and Raglan Harbours	Extend closure further into the Manukau Harbour		
	Cape Egmont to Hawera	Closure out to 2nm offshore Observer coverage 2 nm to 7 nm offshore	Extend closure to 7 nm		
	Hawera to Wellington	No measures	Closure out to 4 nm		
Trawl	Maunganui Bluff to New Plymouth (Waiwhakaiho River)	Closure varies between 2 and 4 nm offshore between Maunganui Bluff and Pariokariwa Point	Extend closure to 4 nm offshore and south to New Plymouth	✓ Yes	No

20. The Minister of Conservation supports your proposed set-net closures.

21. You have indicated that to manage trawl risk that you will extend the trawl closure in the central Māui dolphin distribution area (Maunganui Bluff to New Plymouth out to 4 nm). The Minister of Conservation would prefer more extensive trawl closures given the critically endangered status of Māui dolphins, and concern that trawl risk may be underestimated.
22. Trawl closures may not be required to meet the agreed fisheries objectives, but it is recognised that there is trawl effort that overlaps within the central Māui dolphin distribution area that poses a risk. Removal of this effort to 4 nm in the defined area will reduce trawl risk by ~50%. Notwithstanding, you have requested that the Cabinet paper reflect that you have also carefully considered application of trawl gear restrictions as an alternative to closures given this measure would have lower socio-economic impact.
23. **Fishing-related mortality limit:** You have also indicated a preference to apply a fishing-related mortality limit to trawl vessels off the west coast North Island. The electronic monitoring programme will provide information to support its implementation. A single trawl-related death of a Māui or Hector's dolphin in the area would result in the closure of the trawl fishery in the Māui habitat zone (out to 12 nm offshore) until further notice. This fishing-related mortality limit can be implemented without any further consultation, by July 2020.

### ***South Island***

24. The following table summarises your preferred measures to manage risk around the South Island. Maps of the preferred measures are provided in **Appendix One**.
25. All set-net closures (except Banks Peninsula) have been consulted on and can be implemented by July 2020.

Table 2: Proposed measures for around the South Island

South Island					
Method	Area	Existing measures (status quo)	Minister of Fisheries preferred	Public consultation complete?	Minister of Conservation support?
Set-net	Kaikōura (East coast South Island)	Set-net closure to ~ 1 nm offshore	Area closure out to 4 nm for recreational set-net fishers  Area closure (as per community option) for commercial set-net fishers	✓ Yes	✓ Yes
	Pegasus Bay (East coast South Island)	Closure out to 4 nm offshore	Extend area closure to entirety of Pegasus Bay		
	Canterbury Bight to Timaru (South coast South Island)	Closure out to 4 nm offshore	Extend area closure to ~ 12 nm offshore		
	Te Waewae Bay (South coast South Island)	Closure within Te Waewae Bay and out to 4 nm offshore	Extend closure out to 10 nm offshore		
	Golden/Tasman Bay (North coast South Island)	No measures	Area closure out to 4 nm	✓ Yes	No
	Banks Peninsula (East coast South Island)	Set-net closure to 4 nm offshore	Extend closure out to 12 nm	Further consultation required	✓ Yes
Trawl	North coast, East coast and South coast	Low headline restrictions out to 2 nm offshore along east and south coasts	Gear restrictions Capture response approach	Further consultation required	No

26. **Golden/Tasman Bay:** The Minister of Conservation is concerned about set-net effort in Golden Bay and would prefer to see the entirety of Golden Bay closed to set-net.
27. There is uncertainty in dolphin distribution, population size and whether it's a separate subpopulation. Fisheries New Zealand considers that the majority of the risk to dolphins comes from recreational set-net activity, who are highly unlikely to set-net beyond 4 nm offshore. As such, we do not consider further set-net closures are required. Increased monitoring for any remaining set-net activity, and a proposed capture-response approach will provide a means to respond if needed.

*Further consultation required*

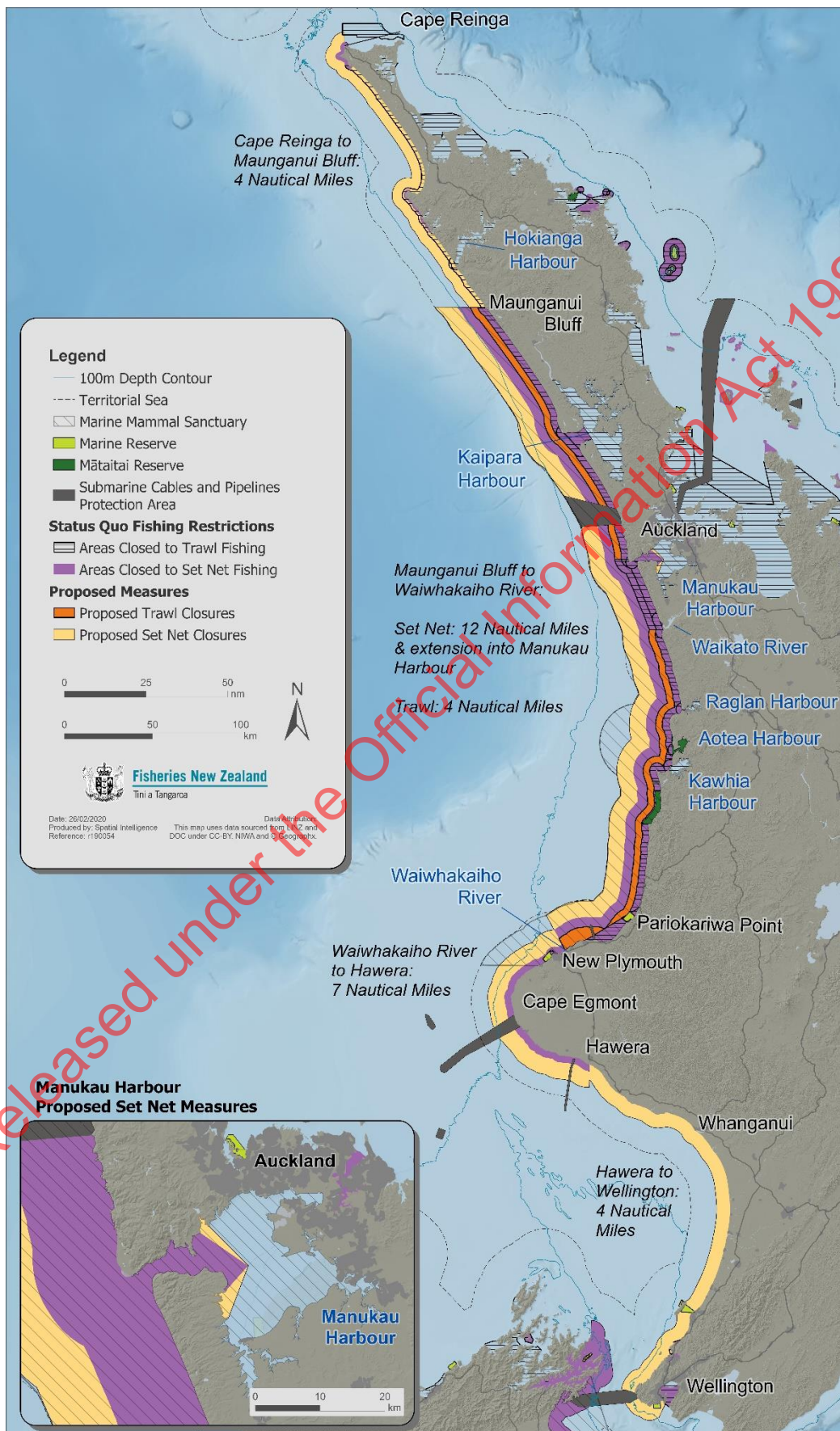
28. **Banks Peninsula:** You have indicated a preference to consult on extended set-net closures around the entirety of Banks Peninsula out to 12nm, following concerns raised in submissions that the above closures may result in displacement (rather than removal) of set-net effort, thereby increasing the risk to Hector's dolphins in that area. This is supported by the Minister of Conservation.
29. **General trawl measures:** You have indicated a preference to take a novel approach to managing the risk from trawl in the South Island, rather than the use of closures. The Minister of Conservation disagrees with that approach and would prefer to see extensive trawl closures.
30. You have indicated a preference for using modified trawl gear in areas of known high dolphin density and risk of fishing-related mortality. Trawl vessels in these areas would be required to operate with a headline height of 1 metre or less and tow speed of 2.5 knots (4.6 km/hour) or less. These measures require further consultation as they were not included in the original consultation material.
31. The Minister of Conservation considers there is no scientific evidence that trawl gear restrictions will reduce risk to the dolphins, and that extensive trawl closures are required to ensure the fisheries objectives are achieved.
32. Fisheries New Zealand considers that qualitative evidence available indicates that vessels operating with low headline height and low tow speed are likely to pose lower risk to dolphins. Fisheries New Zealand considers there is room to consider alternative management approaches for trawl given the larger population size of Hector's dolphins.
33. In addition to gear restrictions, you have indicated support to progress further consultation on a capture response approach would be applied as outlined in **Appendix Two**. The overarching management approach would incentivise individual fishers to ensure zero captures, and provide for better outcomes over the long-term. Regulatory powers to close areas or put restrictions on specific operators will be key in case of recurring captures or captures that threaten populations.
34. Every capture and fishing death of a dolphin will receive attention and a response at a vessel/vessel-operator specific level. This approach is intended to achieve a year-on-year reduction in fishing-related mortalities towards zero over time.

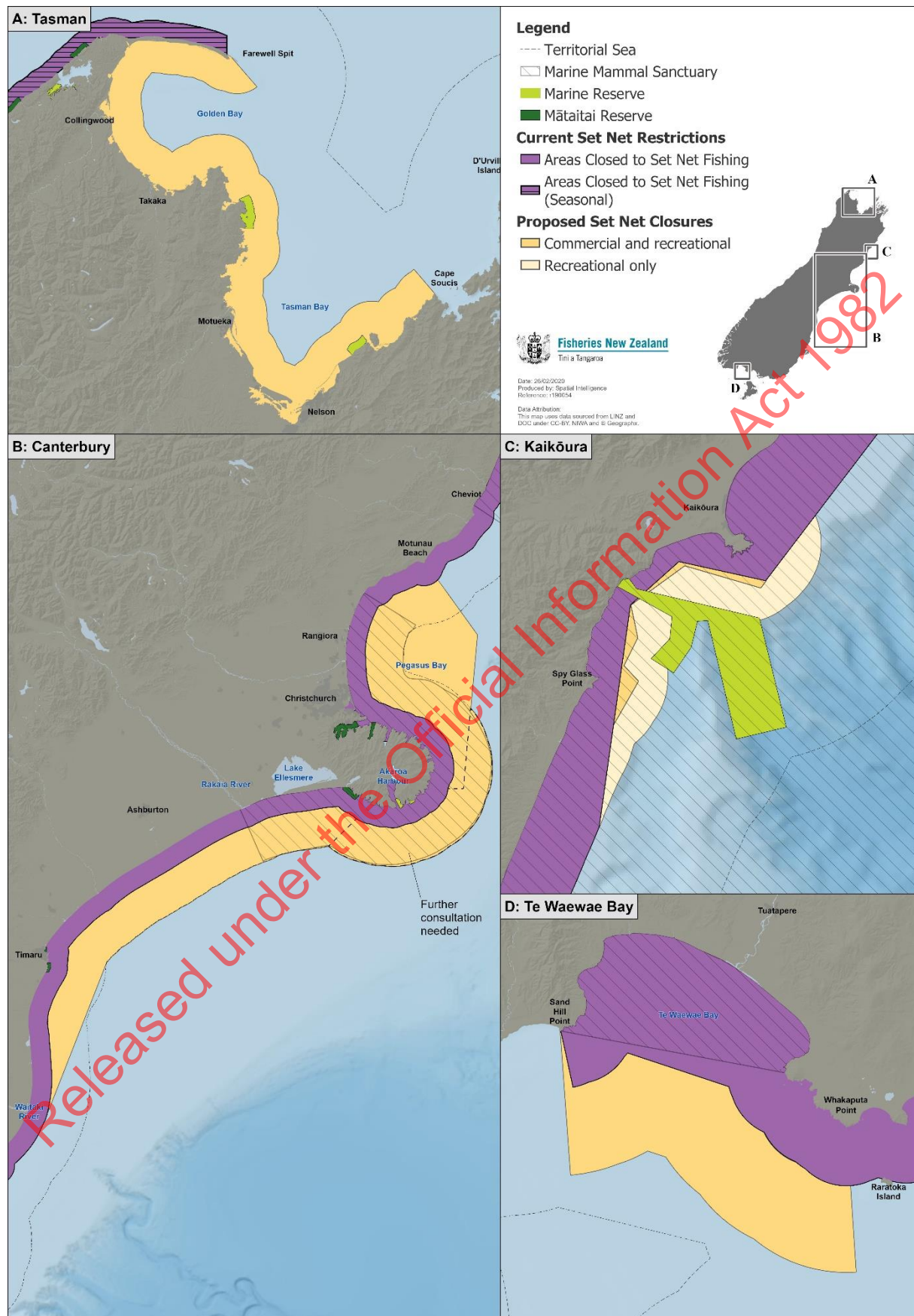


35. The Department of Conservation and Fisheries New Zealand are working closely to develop this capture-response approach that triggers further management action, to ensure the approach is realistic, practicable, and aligned with a medium-term zero-bycatch goal. The Minister of Conservation has indicated support for this capture-response approach outside of closed areas.

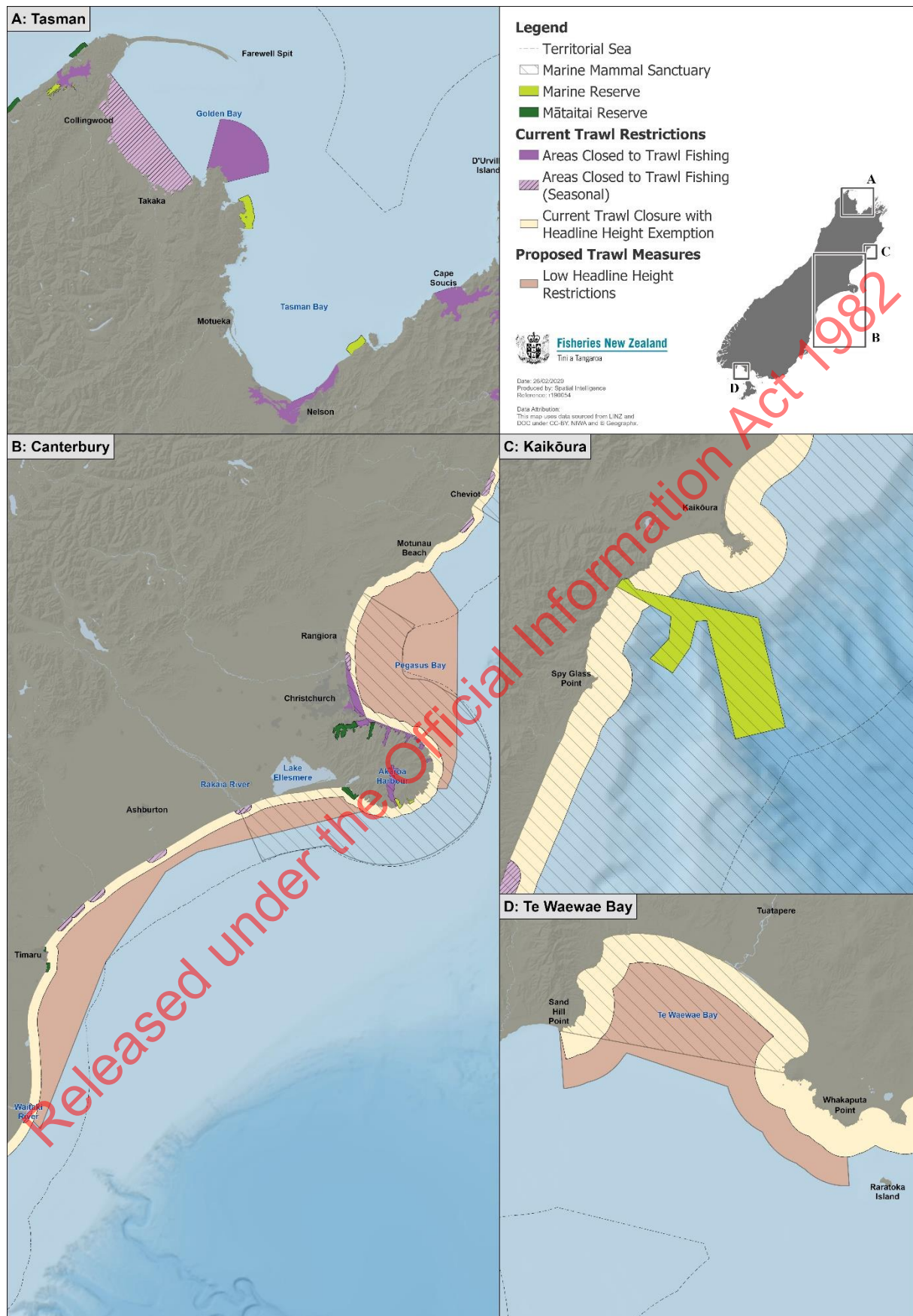
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## Appendix One: Maps of proposed fisheries measures









## Appendix Two: Proposed Capture-Response Management Approach for the South Island

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1. The proposed capture-response management approach introduces a novel incentive framework designed to encourage individual vessels/operators to avoid all bycatch of Hector's dolphins.
2. This approach will be regulated and:
  - Apply to all trawl and set net vessels fishing less than 28 meters operating within 12nm of the coast of the SI.
  - Respond to every dolphin capture (alive or dead); the capture is a "trigger" for action.
  - Provide a graduated response at an operator/vessel level to escalate management action if sequential capture events occur.
3. This approach is designed to incentivise fishers to develop and use gear that reduces risk. Every capture and fishing death of a dolphin will receive attention and a response at a vessel/vessel-operator specific level. Through this approach we want to achieve a year-on-year reduction in fishing-related mortalities towards a target of zero.
4. The key components of the approach are:
  - **A capture response framework:** escalating management action for vessels/operators that are responsible for more than one **confirmed capture event** (alive or dead) in a 12 month period (see Table below).
  - **Ability to require a Capture Mitigation Plan:** which will set out a mandatory vessel-specific approach, in the event of multiple captures, to further mitigating risk (including, if necessary, areas that cannot be fished).
  - **Fishing-related mortality limits (FRMLs):** would lead to closure of the set-net and/or trawl fisheries if the limit is reached.
    - This approach is taken for sea lions, and lessons from the sea lion process will be applied to ensure FRMLs for South Island Hector's dolphins are sound and successfully function as an incentive to avoid captures such that FRMLs are never reached in practice (this works for sea lions; the FRML has not been reached for over ten years now).
    - The FRMLs only as a backstop to other measures (above). The other measures provide an individual incentive to reduce captures to zero; the FRMLs provide a collective incentive on top of that and ensure that immediate action can be taken to close fisheries if that turns out to be necessary.
    - The FRMLs that could be consulted on require further discussion and analysis. The final numbers would reflect population size and the other relevant considerations such as cryptic mortality. Potential numbers for FRMLs that could be consulted on include: 10 (South Canterbury Bight to Timaru), 10 (Pegasus Bay), 4 (Kaikōura), 2 (Te Waewae Bay), and 30 (as an overarching FRML for the whole east coast South Island).

- **Monitoring on 100% of trawl and set-net vessels (<28m in length):** cameras would be required on select trawl vessels less than 28 metres in length and set-net vessels operating within the subpopulation boundaries. Monitoring will ensure compliance, support research, and allow implementation of the capture response framework.
- **Regulatory powers:** to close an area if captures threaten the local or sub-population.
- **Research and improved information:** to test mitigation techniques and update risk estimates.
- **Review every two years:** to ensure the framework is fit-for-purpose and effective.

<b>The escalating management actions in response to increasing numbers of confirmed capture events (live or dead dolphins) by the same vessel operator within 12 months</b>	
First capture event	<p>Vessel operator (permit holder or person fishing on behalf of) must stop fishing and return to port for a specified period.</p> <p>Vessel operator must follow a <b>response protocol</b> issued by Fisheries New Zealand and Department of Conservation. This includes submitting a <b>capture report</b> within 48 hours of capture event.</p>
Second capture event within 12 months	<p>Vessel operator must stop fishing and return to port for a specified period. Vessel operator must follow a <b>response protocol</b>, including submitting a <b>capture report</b> within 48 hours of capture event.</p> <p>Vessel operator must submit a <b>Capture Mitigation Plan</b> to Fisheries New Zealand within 30 days of capture event. Vessel must adhere to Plan once approved by DG Fisheries New Zealand.</p> <p>Vessel operator may continue to operate only with a human observer on board within 30 days of submitting the Capture Mitigation Plan and subsequent time to approval of the Plan.</p> <p>100% review of camera footage charged as fee to vessel operator if vessel continues fishing in any areas where Hector's dolphins may be present.</p>
Third capture event within 12 months	<p>Vessel operator must stop fishing and return to port.</p> <p>Vessel operator must follow a <b>response protocol</b>, including submitting a <b>capture report</b> within 24 hours of capture event. Vessel operator must follow response protocol.</p> <p>Vessel operator must submit an updated <b>Capture Mitigation Plan</b> detailing further mitigation, including areas they will not fish if necessary, and have it approved by DG Fisheries New Zealand before they can continue fishing.</p> <p>100% review of camera footage charged as fee to vessel owner if vessel continues fishing in any areas where Hector's dolphins may be present.</p>
Fourth capture event within 12 months	<p>Vessel operator cannot continue to fish by that method anywhere that Hector's dolphins may be present for a period defined in regulation or when they can show they can effectively mitigate any risk, at which time an updated <b>Capture Mitigation Plan</b> may be submitted for consideration.</p>