



**Te Ohu Kaimoana's response to
protecting South Island Hector's
dolphins**

Te Ohu
Kaimoana


This is our response to protecting South Island Hector's dolphins

1. This document provides our comments on Fisheries New Zealand's consultation on Protecting South Island Hector's dolphins.
2. We are committed to ensuring that iwi/hapū/whānau can express their relationship with Tangaroa, informed by their tikanga. As part of Te Ohu Kaimoana's role, we recognise that the interests of Māori are multifaceted, arbitrarily separated into non-commercial and commercial components by the Government, which is further observed in the consultation document. In this response, we step out a process for Fisheries New Zealand to consider that connects iwi/hapū/whānau with the protection and sustainability of their taonga.
3. It is our view that the Government are not fulfilling their obligations to Māori in respect to the protection of taonga. Tino rangatiratanga of taonga is a right guaranteed to Māori in Te Tiriti o Waitangi and the Fisheries Deed of Settlement. Simply, consulting with Government established for a and Māori fishing companies categorised as "other stakeholders" is an unacceptable level of engagement with Māori. It is insulting that this is considered acceptable practice.
4. Increased protection of Hector dolphins will require a process that does not isolate the issue to one impact, in this case, fishing, but instead evaluates and addresses the many impacts which affect the health of our taonga. Iwi/hapū/whānau are best placed to co-develop sustainability and protection measures of taonga. This enables an approach informed by tikanga and mātauranga, which provides rigour and veracity as this knowledge is intergenerational and specific to place. The plan for the South Island Hector's dolphins should be informed by iwi/hapū/whānau to promote holistic management: ki uta, ki tai.
5. In 2019 Te Ohu Kaimoana responded to the consultation for 'Fisheries New Zealand and the Department of Conservation Proposed Threat Management Plan for Hector's and Māui Dolphins'. As a result of this consultation, set net and trawl restrictions were put in place to protect Hector's dolphins in the South Island. We considered these measures on merit, but we urged Fisheries New Zealand to shift the way it works in partnership with Māori. Unfortunately, it seems to us that little progress has been made.
6. The desirability of further reducing the impact of fishing on Hector's dolphins is supported in a manner that does not have unintended consequences. Te Ohu Kaimoana supports implementing a bycatch response plan if it is co-developed with iwi/hapū/whānau. We also support a more holistic approach to sustainability that seeks to address all the issues impacting Hector's dolphins. This requires Fisheries New Zealand to work more closely with their Department of Conservation and Regional Council colleagues.

7. Te Ohu Kaimoana is concerned that the proposed measures in this consultation document will not provide the long-term protection of Hector's dolphins because key risks are not being considered or escalated. However, it may have potential negative impacts on the livelihoods in the proposed affected areas.
8. We do not intend our response to conflict with or override any response provided independently by iwi through their Mandated Iwi Organisations (MIOs) and/or Asset Holding Companies (AHCs).

We are Te Ohu Kaimoana

9. Te Tiriti o Waitangi guaranteed Māori tino rangatiratanga over their taonga, including fisheries. Tino rangatiratanga is about Māori acting with authority and independence over our own affairs. It is practiced through living according to tikanga and mātauranga Māori, and striving wherever possible to ensure that the homes, land, and resources (including fisheries) guaranteed to Māori under Te Tiriti o Waitangi are protected for the use of future generations. This view endures today and is embodied within our framework Te Hā o Tangaroa kia ora ai tāua (the breath of Tangaroa sustains us).
10. The obligations under Te Tiriti and the Māori Fisheries Deed of Settlement (the Fisheries Deed of Settlement) apply to the Crown whether there is an explicit reference to Te Tiriti in governing statute, in this case, the Fisheries Act 1996 (the Fisheries Act). These obligations are also confirmed in the Public Service Act 2020, section 14 (1) "the role of the public service includes supporting the Crown in its relationships with Māori under the Treaty of Waitangi".
11. Te Ohu Kai Moana Trustee Ltd (Te Ohu Kaimoana) was established to protect and enhance Te Tiriti and the Fisheries Deed of Settlement. The Fisheries Deed of Settlement and the Māori Fisheries Act 2004 (the Māori Fisheries Act) that followed it are expressions of the Crown's obligation to uphold Te Tiriti, particularly the guarantee that Māori would maintain tino rangatiratanga over our fisheries resources.
12. Our purpose, set out in section 32 of the Māori Fisheries Act, is to "advance the interests of Iwi, individually and collectively, primarily in the development of fisheries, fishing and fisheries-related activities, in order to:
 - a) ultimately benefit the members of iwi and Māori generally
 - b) further the agreements made in the Deed of Settlement
 - c) assist the Crown to discharge its obligations under the Deed of Settlement and the Treaty of Waitangi
 - d) contribute to the achievement of an enduring settlement of the claims and grievances referred to in the Deed of Settlement."

13. We work on behalf of 58 Mandated Iwi Organisations (MIOs)¹ who represent iwi throughout Aotearoa. Asset Holding Companies (AHCs) hold Fisheries Settlement Assets on behalf of their MIOs. The assets include Individual Transferable Quota (ITQ) and shares in Aotearoa Fisheries Limited which, in turn, owns 50% of the Sealord Group.
14. Our role in this consultation process arises from our responsibility to protect the rights and interests of iwi/Māori under Te Tiriti in accordance with the Fisheries Deed of Settlement. Māori rights in fisheries are not just a right to harvest but also to use the resource in a way that provides for social, cultural and economic wellbeing now, and for future generations. Te Hā o Tangaroa kia ora ai tāua, the basis for our advice, does not mean that Māori have a right to use fisheries resources to the detriment of Tangaroa: rights are an extension of responsibility.

We base our advice on Te hā o Tangaroa kia ora ai tāua

15. The reciprocal relationship that Māori have with Tangaroa is underpinned by whakapapa. Protection of this relationship with Tangaroa is an inherent part of our identity as Māori. There are multiple facets to the relationship with Tangaroa, all of which are inherent parts of Māori identity. In a contemporary context, the management and protection of fisheries resources, as a facet of the relationship with Tangaroa, is expressed through our expression of kaitiakitanga and tino rangatiratanga. This relationship is articulated in the Deed of Settlement.
16. Te Hā o Tangaroa kia ora ai tāua is an expression of the unique and lasting connection Māori have with the environment. It contains the principles we use to analyse and develop modern fisheries policy, and other policies that may affect the rights of iwi under the Deed of Settlement. In essence, Te Hā o Tangaroa kia ora ai tāua highlights the importance of our whakapapa to Tangaroa, ultimately ensuring our mutual health and wellbeing.
17. In accordance with this view, "conservation" is part of "sustainable use", it is carried out to sustainably use resources for the benefit of current and future generations. The Fisheries Act's purpose is "to provide for the utilisation of fisheries resources while ensuring sustainability." The purpose and principles of the Act echo Te Hā o Tangaroa kia ora ai tāua.

¹ MIO as referred to in The Māori Fisheries Act 2004: in relation to an iwi, means an organisation recognised by Te Ohu Kai Moana Trustee Limited under section 13(1) as the representative organisation of that iwi under this Act, and a reference to a Mandated Iwi Organisation includes a reference to a recognised iwi organisation to the extent provided for by section 27.

Our view on protecting South Island Hector's dolphins

18. Iwi/hapū/whānau should be decisions makers over their taonga

We consider the engagement that has taken place with iwi/hapū/whānau regarding this consultation is inadequate. Engagement with iwi/hapū/whānau for taonga such as Hector's dolphins should not be limited to the statutory consultation process. To reach the best outcomes for Hector's dolphin management iwi/hapū/whānau need to be involved in each step towards decision making and ultimately as the decision-makers. We encourage Fisheries New Zealand to reflect and implement a different approach that connects iwi/hapū/whānau with the protection and sustainability of their taonga.

19. A holistic management approach: ki uta, ki tai, is essential for the health of Hector's dolphins' We

understand that the Government is aware that the pressures on Hector's dolphins are multifaceted, yet management measures are only focused on fisheries. If directed by Māori to do so, we would see the benefit in a closer cross-government partnership with iwi/hapū/whānau, and fishers to pursue a holistic management approach. This would involve work led and directed by iwi/hapū/whānau with the Department of Conservations' toxoplasmosis plan and with Regional Councils to address land-based impacts in the marine coastal area.

20. We would also see a benefit from iwi/hapū/whānau led research into ways best to manage their taonga from perceived and actual risk, that is informed by mātauranga and tikanga. This could involve working closely with fishers and the community to better understand the risk of fishing on Hector's dolphins. As well as wider business and community buy in to address impacts of the land-use practices in the marine coastal environment and how these can be better managed.

21. We support implementing a bycatch response plan if it is co-developed with iwi/hapū/whānau

We support high-level aspirations of reducing the number of dolphins being caught towards zero, while noting this goes beyond the limits of legislation. If a Hector's dolphin is captured as part of a fishing event, we consider a bycatch response (in preference to a reduction) plan should be in place to deal with that. In this way we would be actively improving fishing practices and will be able to progress towards bycatch elimination. We see this approach as preferable to the terminology of a bycatch elimination plan as a capture under that approach would suggest the plan had failed at its first hurdle.

22. We consider a bycatch response plan to be an opportunity for the community and iwi/hapū/whānau to work with fishers towards a positive outcome. This will require Government to act in a supporting role and allow for a bottom-up approach.

23. Risk to Hector's dolphins has been reduced by 60% from the set net restrictions following the 2019 Threat Management Plan. Appropriate measures have been taken under the Fisheries Act 1996 to

mitigate fisheries risk to Hector's dolphins. Concerning protected species, the Fisheries Act requires sufficient action to ensure long-term viability and maintain biodiversity. This obligation would seem to be being met as the population of Hector's dolphins is increasing. Hence our view is that we should be working more collaboratively to go beyond statutory requirements. This cannot be achieved through a reliance on top-down regulation.

24. We urge Fisheries New Zealand to reset the way it works with Māori so that it is compliant with its obligations as outlined in the Fisheries Act 1996, Māori Fisheries Act 2004 and the Deed of Settlement 1992.

Nāku noa, nā

A handwritten signature in blue ink, appearing to be 'Lisa te Heuheu', written in a cursive style.

Lisa te Heuheu

Te Mātārae

Te Ohu
Kaimoana

