

**IN THE ENVIRONMENT COURT OF NEW ZEALAND
AUCKLAND REGISTRY**

**I TE KŌTI TAIAO O AOTEAROA
TĀMAKI MAKAURAU ROHE**

IN THE MATTER of the Resource Management Act 1991

AND of an appeal under clause 14 of Schedule 1 of the Act

BETWEEN **ROYAL FOREST AND BIRD PRECTION SOCIETY OF
NEW ZEALAND**

BAY OF ISLANDS MARITIME PARK INCORPORATED

Appellants

NORTHLAND REGIONAL COUNCIL

Respondent

**REBUTTAL EVIDENCE OF ENRIQUE MANUEL PRADO ON BEHALF OF THE
MINISTER OF CONSERVATION AND THE MINISTER FOR OCEANS AND
FISHERIES**

TOPIC 14 – MARINE PROTECTED AREAS

22 JUNE 2021

Department of Conservation

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Qualifications and experience

1. My qualifications and experience are set out in my Evidence in Chief dated 14 May 2021.

Code of Conduct

2. I have read the Environment Court's Code of Conduct for Expert Witnesses 2014, and I agree to comply with it. The contents of this statement are within my area of expertise. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed in this statement.

Scope

3. This statement provides a response to matters arising from the evidence provided by Messrs West and Clark on behalf of the Fishing Industry Parties.
4. I have focussed this statement on areas where I consider further information would assist the Court and where there is outstanding disagreement with Mr West. I offer further clarification on matters raised by Mr Clark.

Clarification on the source of information

5. At paragraph 11, Mr West's EIC seems to comment on two different sources of information indistinctly: the habitat mapping developed by DOC 2009; and the identification of Significant Ecological Areas (SEA) from Northland Regional Council. It is unclear whether he is disagreeing with the methodology to identify the SEA or with the science behind the DOC habitat mapping (which is based on Ocean Survey 20/20 data).
6. The information in paragraphs 29-31 does not correspond to Area C of Te Ha o Tangaroa proposal (it refers to Area B), as the heading suggests. The section (paragraph 28-36) is unclear and there is no assessment of the relevance of deep rocky reef under NZCPS Policy 11. The JWS states that 'The experts agree that the rocky reefs are ecologically important' (paragraph 9 JWS).

Assessment of NZCPS Policy 11 alignments

7. I disagree with the conclusion reached in the paragraph 27, where Mr West states that Rhodolith beds do not fall into NZCPS Policy 11 a(iii). The same study referenced in this paragraph states: "Sediment and modelling studies demonstrated that increased suspended sediments could be a significant threat to water quality while fine sediment deposition was at higher than average rates

that may smother and bury some low-lying habitats, such as rhodoliths, where average sedimentation exceeds resuspension and movement of these sediments". The study also indicates that 'Likely future trajectory' is 'Unknown/vulnerable'. Refer further to my EIC Appendix 3 Table 3-13.

8. While the proposed protection area has been reduced, I nevertheless note I disagree with the conclusion in paragraph 36 that "Neither area contains taxa or ecosystems to a high enough ecological value to be protected under the NZCPS Policy 11." If paragraph 36 Mr West's EIC is assessing Policy 11 only for the inlets referred in the paragraph, it should be noted that 'salt marsh' and 'wetlands' are examples specifically listed in Policy 11 (b)(iii) and in some instances may engage Policy 11 (a).
9. If the Policy 11 assessment in paragraph 36 refers to the whole section (paragraph 28-36) i.e. beyond just the inlets, Mr West does not appear to reference any data and scientific studies to reach this conclusion. The section is heavily based on the SEA, but does not take into account other studies, such as those noted at paragraphs 110-118 of my EIC.
10. Mr West correctly acknowledges that seagrass triggers policies 11(a)(iii) and 11(a)(v), but overlooks that seagrass is classified as At-Risk Declining and therefore also triggers Policy 11(a)(i).
11. At paragraph 39, I disagree with the statement that "The shallower habitats (<33m) have no rare or threaten taxa or ecosystems, to trigger the implementation of NZCPS policy 11 a or b with the exception of the seagrass habitat eastern end of Mimiwhangata Bay ...". Policy 11 (a) and (b) include wider consideration than just taxa and ecosystems. The presence of biogenic habitats in the shallow rocky reef (for example, sponge aggregations) meet, at least, the criteria for Policy 11 (b) (iii) and (iv).

Fisheries impacts considerations

12. The statements made in paragraph 66 and above and paragraph 87 do not acknowledge that the maps in Mr Clark's EIC (i.e. map in paragraph 107 Mr Clark EIC) and Appendix 2 of Mr Hore EIC are based on the start point of fishing events. These maps do not map the seabed area impacted by bottom trawling and likely do not fully reflect where all activity is happening because they are based on the start point only. Figure 1 in Mr Hore's EIC shows some catches reported on the rocky reef in areas C, this might indicate some fishing activity on the rocky reef areas.

Protected species risk mitigation plans

13. Mr Clark's EIC outlines the Protected Species Risk Mitigations Plans (PSRMPs). I note there are limitations with relying only on these. The current PSRMPs are focused on seabirds, with some additional measures for sharks, turtles, seals and dolphins. I note that ecological values and species addressed within NZCPS Policy 11 are broader than just "protected species".
14. The PSRMPs for fishing vessels using bottom mobile fishing gears (bottom trawlers, Danish trawling etc) do not currently include any measure to minimise the effect of this activity on benthic communities.
15. The use of additional buoyancy in bottom longlines to minimise their contact with the seabed slow their sinking and can generate increased risk of seabird bycatch. The aerial extent of the tori lines in these cases is sometimes insufficient to adequately mitigate seabird bycatch risk.
16. To minimise the effect on the point above, additional weight is attached to the long line, in these cases there is the potential of increasing footprint and benthic invertebrate bycatch (i.e. corals, see Dr. Stirnemann EIC, Appendix 2, Tablet 7).
17. The DOC estimated budget allocated to the Liaison Officer programme is around \$360k per annum at the national scale.

Enrique Manuel Pardo Diaz

22 May 2020