

Otago Rock Lobster Industry Association Inc and Pauamac 5 Incorporated RPS21_0125

Fishing Industry Submission –

The Otago Proposed Regional Policy Statement

Introduction

1. This response to the Otago Regional Council's *Proposed Regional Policy Statement* is provided by:
 - Otago Rock Lobster Industry Association Inc (CRAMAC 7), a member of the NZ Rock Lobster Industry Council (NZRLIC); and
 - Pauamac 5 Incorporated (PAUMAC 5), a member of the Pāua Industry Council (PIC).
2. Our members are quota owners, fishers and affiliated seafood industry personnel involved in fisheries within the Otago coastal marine area. CRA7 is the acronym for the crayfish quota management area off the Otago coast. PAU5D is the acronym for the paua quota management area off the Otago coast. NZRLIC and PIC are national representative bodies for the rock lobster and pāua sectors of New Zealand's fishing industry. Many of our members are involved in other inshore fisheries in Otago.
3. We note that Council's Proposed Regional Policy Statement (RPS) seeks to achieve integrated management across the land-sea boundary. It has a strong emphasis on freshwater management but less discussion on the coastal marine area where our members fish.
4. Through the Fisheries Act (FA) and the practices of our members there are already many measures in place which relate to sustainability and biodiversity protection along the Otago Coast. We wish to take this opportunity to:
 - identify important issues that the Council should consider before finalising the RPS in relation to our coastal marine area, and highlight alternative approaches to achieve integrated management.
 - give an overview of how the FA and the Resource Management Act (RMA) interact.

Commercial Fishing in the Otago Coastal Marine Area –

Comments on the Proposed Regional Policy Statement

5. Many different interests need to be balanced. The RPS notes that natural resources support the economic wellbeing of Otago people, including those involved in the marine industries (fishing and aquaculture). It also notes that natural resources are impacted by such industries. The RPS recognises in several places that poor environmental quality (whether terrestrial, freshwater or coastal) can have adverse effects on fishing. We particularly support the references in the RPS to the effects of land based activities on the coastal environment – they are known contributors to rocky reef and inshore kelp bed habitat degradation.
6. While the RPS contains no specific proposals relating to commercial fishing, it makes references to fishing in relation to biodiversity, such as:
 - 'Overfishing' is listed among many activities that threaten Otago's biodiversity (see SRMR-17); and
 - Trophic cascades from fishing pressure are said to impact on kelp forests (alongside sedimentation, climate impacts, and downward trends in fish and crayfish catches) (p79)

(although these trends are not detailed, quantified, given any context or referenced to credible sources of research).

7. In SRMR-17 it is said that “*the extent of impacts on marine species and environments is not well understood*”. A lack of understanding is acknowledged in SRMR-18 as well: “*threats to [Otago’s coast] are not always understood and not always well managed*” (p80). We encourage Council to find out more information from industry participants and Fisheries New Zealand (FNZ) to understand what they know of these impacts. For example, within the Otago crayfish quota management area known as CRA7 crayfish/koura/rock lobster have been sustainably harvested by the recreational, commercial and customary sectors. Kilograms of lobster caught per pot (known as CPUE, which is used as an indicator for abundance) have been consistently high in CRA7. This has been reviewed and recorded by Fisheries New Zealand and the Minister of [Ocean and] Fisheries in their annual sustainability reviews. The most recent full stock assessment in 2015 suggested vulnerable biomass was twice the reference level. Since 2013 – 2014 ‘catch per unit effort’ data, an indicator of abundance, has been consistently above 2 kg/potlift and the stock would appear to be at a historically high level. There will be a further full assessment undertaken in late 2021.

8. There are also many controls placed on fishers under FA which are designed to prevent over fishing – indeed, that is one of the founding principles of the quota management system. We support measures to protect biodiversity. However, it is our view that such measures need to be based on evidence. Any proposed controls must consider evidence of genuine and actual threats to biodiversity from particular sources activities, including threats from land based activities. Any controls should be imposed only after checking the full range of regulatory tools that are already been used or are available to help protect the coastal marine environment (specifically, those under the FA).

9. The RPS chapter on Coastal Environment contains objectives and policies aimed at safeguarding the natural character of, and activities undertaken in, that environment. The RPS method for implementing the biodiversity objectives in the coastal marine area is to identify and map various areas and to amend regional plans to manage adverse effects on the areas. Policy CE-P5 requires identification of habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes and for adverse effects on these habitats to be avoided, remedied or mitigated. Methods CE-M2 and CE-M3 will assist with the implementation of Policy CE-P5. Once habitats of particular importance have been identified (perhaps including those in Table 2 CE-M2 (4)), it is critical to carry out an evidence-based analysis of any adverse effects to each habitat. This requires an understanding of the full range of threats to biodiversity there. Our members are directly connected to the waters of the Otago coast and are interested in the identification analysis and mapping of such, habitats, and in the further development of this part of the RPS and the regulatory framework (including the methods referred to in this chapter) which flows from it. But, please note our preferred position on mapping as set out in the Appendix. CRAMAC 7 and PauaMAC5 request the opportunity to further engage with the ORC on this when the RPS is implemented. This also applies to NFL – O1 – Outstanding and highly valued natural features, landscapes and seascapes. Please include us in any future process for identifying outstanding and highly valued features in Otago’s seascape, which should include interests for fisheries management with intrinsic fisheries value. Taking action needs to be informed by facts and evidence, rather than relying on desktop analysis or presumed or predicted marine biodiversity.

10. The RPS identifies that there are commercial fishing ramps present in Oamaru, Moeraki, Karitane, and Taieri Mouth (p7). There do not appear to be any policies relating to this (or any other) industry infrastructure. We note that, for example, many accessible beaches are used as launching areas. There are other important fishing areas along the Otago Coast, such as where harvesters dive for paua - certain areas are important for commercial fishers, but also for recreational and customary fishers. We request that the Council involve the fishing industry and FNZ when policies are developed that affect industry infrastructure and fishing areas. There are also recreational fishing bodies (such as the Tautuku Club based on the Otago Peninsula) who should be consulted.

11. At p 56, the RPS identifies that Kai Tahu has customary fishing rights which need to be recognised and provided for under the RMA to enable the protection and restoration of fisheries habitat. Due to the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, the Ngai Tahu Claims Settlement Act 1998 and private purchases of quota, Kai Tahu has strong interests in the Otago fishing industry. Therefore it is important Council considers Kai Tahu's fishing interests and rights beyond just customary ones – they encompass customary, commercial and recreational fishing.

Achieving integrated management –

Comments on How the Fisheries Act and the Resource Management Act Interact

12. Although the policies in the proposed RPS do not indicate that Council is seeking to control fishing or fisheries resources, we nevertheless wish to raise issues that Council should consider if the ORC is looking to take an effective and truly integrated approach to both marine biodiversity protection and fisheries management. Using the Fisheries Act (FA) and the Resource Management Act (RMA) in a co-ordinated and complementary manner (so that adverse effects of activities are managed under the most appropriate statute) is central to achieving integrated management. The primary function of the Council under RMA s.30(1) is to establish and implement *objectives, policies, and methods to achieve integrated management of the natural and physical resources of the region*. This is echoed in the chapter of the RPS regarding “Integrated Management”. We completely support this intent - fully integrated management should be achieved.

13. Recently the Court of Appeal in *Attorney-General v Trustees of Motiti Rohe Moana Trust* confirmed that regional councils may control fisheries resources in the exercise of their functions under s.30 of the RMA provided it is not for a ‘Fisheries Act purpose’. The Court’s decision leaves determination of whether specific controls are for a ‘Fisheries Act purpose’ to a case-by-case assessment. There is still considerable uncertainty and risk – for the fishing industry, as well as for councils and regional ratepayers – in the interpretation of the extent to which councils can legitimately seek to impose controls on fishing under the RMA. The Court of Appeal case can lead to an undesirable overlap of legislative boundaries, a situation which the Council is within its mandate to avoid.

14. In our experience, councils that have recently sought to control fishing using RPS provisions, whether at their own initiative (e.g., Marlborough) or at the request of submitters (Bay of Plenty, Northland), have made decisions based on inadequate scientific information and analysis and with insufficient regard to the wider statutory regime for sustainable resource management in New Zealand. As a consequence, some councils have embarked on a course of action which is likely to be ineffective at maintaining coastal environmental quality and unnecessarily costly for ratepayers. Due to the Court of Appeal ruling several of these are being legally contested to get clarity. We wish for Council

to avoid the complications and costs of such a process by engaging with the fishing sector early to understand what integrated management should entail along the Otago coast.

15. The identification of any fishing-related adverse effects on marine biodiversity requires an understanding of:
 - contemporary commercial fishing methods and their environmental impacts,
 - the fine-scale distribution of commercial fishing effort, and
 - the existing controls on commercial fishing that are already in place in Otago.

16. In our experience, councils do not hold this information themselves and do not have the resources or expertise to get it. Therefore they should engage closely with fishing industry organisations and FNZ in order to develop an understanding of the nature of commercial fishing industry in their region, the range of controls and restrictions on fishing already in place and how adverse effects of fishing are avoided, remedied or mitigated under the FA.

17. Additional controls on fishing should be contemplated only where the Council can demonstrate that:
 - a type of fishing activity has an adverse effect on biodiversity values at a specific site,
 - other activities with similar effects will be controlled to a similar extent, and
 - the adverse effect cannot be dealt with under existing other legislation (such as the FA).

The RMA (and any replacement legislation) is unlikely to be the most appropriate tool to avoid, remedy or mitigate an adverse effect of fishing and should be used only when other opportunities for mitigation are not available.

18. RMA s.32 requires councils to prepare an evaluation report to examine whether a proposal under the RMA is the most appropriate way to achieve planning objectives. The report must identify *other reasonably practicable options for achieving the objectives and assess the efficiency and effectiveness of the provisions in achieving the objectives*. It must also contain a level of detail that corresponds with the significance of *the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal*. A proposal to prohibit an activity has significant effects and therefore demands a detailed analysis.

19. Any s.32 analysis of proposed controls on the coastal marine area must consider the FA as the most obvious and practical alternative for implementing controls on fishing to achieve the purpose of the RMA and the objectives of the RPS. It is a common – but false – misconception that the FA focuses solely on the management of fish stocks. The reality is that the FA is a purpose-built statute designed to avoid, remedy or mitigate all adverse effects of fishing on the marine environment.¹ The FA contributes to the protection of marine biodiversity as a result of management actions taken in order to:
 - Ensure sustainability, which includes avoiding, remedying, or mitigating any adverse effects of fishing on the aquatic environment (FA s.8); and

¹ Exceptions are the adverse effects of fishing-related noise and odour, which are managed under the RMA.

- Maintain associated or dependent species above a level that ensures their long-term viability, maintain the biological diversity of the aquatic environment, and protect habitat of particular significance for fisheries management (FA s.9).
20. In Otago, there are already existing FA mechanisms in place including the East Otago Taiapure and the Moeraki Maitaitai (see p 56 of the RPS). If Council needed to do s.32 RMA assessment on the benefits and costs of other proposals to control fishing, it would need to commission specialist advice to evaluate:
- The economic impacts of any proposal on fishing activity, export earnings, quota value (including the value of settlement quota), and flow-on effects to local communities (employment, supporting maritime industries etc); and
 - The sustainability impacts of displacement of fishing activity. When an area is closed to fishing, fishing effort and adverse effects in other areas will be intensified, leading to increased pressure on fisheries resources and on the region's indigenous biodiversity outside the identified sites. In our experience, councils fail to consider the adverse effects of displaced fishing effort on the sustainability of surrounding fisheries resources and on indigenous biodiversity. It defeats the purpose of the control if imposing a control on a particular area to protect biodiversity simply displaces the effect and undermines the health of the wider environment near the controlled area.
21. The FA provides a suite of operative mechanisms to implement these requirements, including sustainability measures (s.11), Fisheries Plans (s.11A) and a wide range of regulatory powers (s.297 and s.298). In addition, fishing industry organisations are always willing to work with others to manage any adverse effects of our activities, whether using FA provisions or non-regulatory approaches such as gear innovation, or the implementation of industry rules. We therefore encourage the Council to work alongside fishing industry organisations and FNZ to understand New Zealand's fisheries management regime and to give broad consideration to the most effective and efficient means of managing the adverse effects of fishing on marine biodiversity. This will deliver integrated biodiversity protection.
22. Specific objectives, policies and methods have been developed in the RPS to achieve integrated management, including the adoption of a *ki uta ki tai* (mountains to the sea) approach and discussions around the impact of land-based activities on the coastal marine environments (such as sedimentation). There is discussion on how Council must work with other councils on cross-boundary issues and the Minister of Conservation and the Minister for the Environment in the coastal marine area (p12). However, there is no policy or discussion about integration with Fisheries New Zealand and its responsibilities under the FA. The RPS refers to the importance of stakeholder involvement (including industry representatives). We would encourage Council to engage with industry as well as FNZ to achieve strategically effective integrated management.
23. Although the Council is precluded under s.30(2) from exercising its functions for the purpose of managing fisheries resources controlled under the FA, that limitation does not negate the Council's responsibility to consider fisheries resources as among the natural and physical resources for which the Council is required to promote integrated management. Specifically, when preparing a regional plan, the Council must have regard to regulations relating to the conservation, management, or sustainability of fisheries resources (s.66(2)(c)(iii)).

24. The statutory provisions mentioned above all serve to illustrate that the RMA and the FA form an integrated management regime, with effectively designed statutory interfaces and complementary provisions to achieve very similar statutory purposes. We consider that the RMA obligation to achieve integrated management requires the Council to:
- Acknowledge the role of the fisheries management regime (including but not limited to the FA and Quota Management System (QMS)) in helping to achieve the purpose of the RMA;² and
 - Support (and certainly not undermine) the role of the QMS and other components of the fisheries management regime in achieving the purpose of the FA.
25. We also emphasise that duplication of the control of adverse effects of fishing on biodiversity under the RMA and FA is not integration. Duplication simply perpetuates jurisdictional confusion and generates unnecessary cost and inefficiency in the management of natural resources. A more effective way of achieving integrated management in relation to marine biodiversity would be for the Council to:
- Control the activities over which it has clear jurisdiction so as to avoid adverse effects on the values of the identified sites; and
 - If fishing is threatening the biodiversity values of a site, liaise with FNZ and fisheries stakeholder groups to identify appropriate mechanisms, which may be regulatory or voluntary, to protect the values of the sites from the adverse effects of fishing.
26. Councils embarking along the pathway of seeking to control fishing under the RMA typically give little consideration to the costs they are imposing on regional rate payers in relation to the development, implementation and enforcement of the proposals. As noted above, before considering imposing controls on fishing, the Council must commission research to justify any proposed controls in relation to the biodiversity values of each site, a risk assessment of threats to each site, a s.32 analysis of alternatives, and an analysis of the costs and benefits of the proposal (including adverse economic effects on fishing and adverse effects on fisheries sustainability arising from displacement).
27. It is not clear how the Council would monitor compliance with any controls on fishing. For example, does the Council have patrol boats? In contrast, FNZ has an entire compliance and enforcement regime at its disposal, including patrol boats, fisheries officers, observers on commercial fishing vessels, a comprehensive fine-scale commercial catch and geospatial reporting system, an investigative capacity, and a tiered penalty regime including significant penalties such as vessel forfeiture. A high proportion of the costs of this regime are recovered directly from the fishing industry through a statutory levy system. The tax payer does not bear the cost of commercial fisheries compliance services. Enforcing RMA controls in the coastal marine area will fall directly on Otago ratepayers.

² In order for the QMS to operate effectively and achieve sustainable management of fish stocks, quota rights must be secure from interference (other than for purposes which the courts have found to be legitimate, such as ensuring fisheries sustainability). Any unjustified actions taken under other legislation such as the RMA which interfere with the security of quota rights will jeopardise the effective operation of the QMS and, therefore, the sustainable management of fisheries resources under the FA. Such actions would be incompatible with the Council's obligation to achieve the purpose of the RMA.

28. One area where the fishing industry and Council can work more effectively together for a common purpose, is in the protection of habitat of particular significance for fisheries management (HPSFM). Section 9 of the FA requires decision-makers under that Act to take account of the principle that HPSFM should be protected. RMA s.66 requires councils to have regard to any HPSFM that has been identified pursuant to a fisheries plan approved under s.11A of the FA or is protected from fishing-related threats using fisheries regulations. New Zealand Coastal Policy Statement Policy 5 requires councils to consider effects of activities on land or waters in the coastal environment held or managed under 'other Acts for protection purposes' (i.e., including HPSFM). Fishing industry organisations are very interested in working with Council and other regional stakeholders to help protect HPSFM that have been identified under the FA from the adverse effects of activities managed under the RMA.

Conclusion

29. The fishing industry supports an integrated management regime that provides for the sustainable use and management of marine resources and the effective protection of marine biodiversity from the adverse effects of proven threats. If the Council is serious about protecting the region's marine biodiversity, the Council should engage with the fishing industry, and with Iwi, FNZ and other fisheries stakeholders, to develop an informed understanding of the most appropriate mechanisms to manage any identified adverse effects of fishing on marine biodiversity.
30. We would welcome the opportunity to discuss these matters in more detail with you.

Response lodged by -



Kate Hesson, Executive Officer of Otago Rock Lobster Industry Association Inc, Director of NZ Rock Lobster Industry Council

On behalf of: Otago Rock Lobster Industry Association Inc and PauaMac 5 Incorporated

Dated: 1 September 2021

Attachment: Appendix regarding Marine Spatial Planning

Proposed Otago Regional Policy Statement 2021

Information for Submitters

Submissions must be in the prescribed form (Form 5) specified by the Resource Management Act and must be received by Otago Regional Council **by 3 pm Friday 3 September 2021**

Privacy: Be aware that **all submissions are considered public**, including your name and address which will be uploaded to ORC website as part of this process. The Council and further submitters will use your name and contact details for correspondence in relation to the making of the Regional Policy Statement.

LODGE A SUBMISSION MANUALLY (*USING FORM BELOW*)

A template complying with the requirements of Form 5 is provided below. Once completed, please forward to ORC by one of the following:

Email: rps@orc.govt.nz Submissions in MS Word or other editable format are preferred, if possible

Post: Otago Regional Council, Private Bag 1954, Dunedin 9054. Att: ORC Policy Team

Hand Delivery at

Dunedin: Otago Regional Council Office, 70 Stafford St, Dunedin, Att: ORC Policy Team

Queenstown: Terrace Junction, 1092 Frankton Road, Queenstown, Att: ORC Policy Team

Alexandra: William Fraser Building, Dunorling Street, Alexandra. Att: ORC Policy Team

INQUIRIES

Email: rps@orc.govt.nz

Phone: ORC Call Centre: 0800 474 082, Monday - Friday, 8am-5pm

NOTES TO PERSON MAKING A SUBMISSION

If you are a person who could gain an advantage in **trade competition** through the submission, your right to make a submission may be limited by [clause 6\(4\)](#) of Part 1 of Schedule 1 of the Resource Management Act 1991.

Please note that your submission (or part of your submission) may be **struck out** if the authority is satisfied that at least 1 of the following applies to the submission (or part of the submission):

- it is frivolous or vexatious:
- it discloses no reasonable or relevant case:
- it would be an abuse of the hearing process to allow the submission (or the part) to be taken further:
- it contains offensive language:
- it is supported only by material that purports to be independent expert evidence but has been prepared by a person who is not independent or who does not have sufficient specialised knowledge or skill to give expert advice on the matter.

Go to Written Submission Form on next page

Written Submission on Proposed Otago Regional Policy Statement 2021

(Submissions must be received by Otago Regional Council by 3 pm Friday 3 September 2021)

To: Otago Regional Council

1. **Name of submitter** *(full name of person/persons or organisation making the submission. Note: The submissions will be referred to by the name of the submitter)*

Kate Hesson on behalf of Otago Rock Lobster Industry Association Inc and Pauamac 5 Incorporated

2. This is a submission on the **Proposed Otago Regional Policy Statement 2021**.
3. I ~~could~~/**could not** *(Select one)* gain an advantage in trade competition through this submission. *(See notes to person making submission)*
4. I ~~am~~/**am not** *(Select one)* directly affected by an effect of the subject matter of the submission that
- adversely affects the environment; and
 - does not relate to trade competition or the effects of trade competition *(See notes to person making submission)*
5. I ~~wish~~/**do not wish** *(Select one)* to be heard in support of my submission
6. If others make a similar submission, I ~~will~~/**will not** *(Select one)* consider presenting a joint case with them at a hearing

7. **Submitter Details**

- a. **Signature of submitter** *(or person authorised to sign on behalf of submitter)*

- b. **Signatory name, position, and organisation** *(if signatory is acting on behalf of a submitter organisation or group referred to at Point 1 above)*

Name: Kate Hesson

Executive Officer of Otago Rock Lobster Industry Association Inc and

Consultant to Pauamac 5 Incorporated

- c. **Date**

1 September 2021

Address for service of submitter *(This is where all correspondence will be directed)*

d. Contact person (name and designation, if applicable)

Kate Hesson

e. Email:

katehesson@gmail.com

f. Telephone:

021 02415819

g. Postal address (or alternative method of service under [section 352](#) of the Act):

538 Highgate Maori Hill Dunedin 9010

8. My submission is:

Column 1	Column 2	Column 3	Column 4
<i>The specific provisions of the proposal that my submission relates to are: (Please enter the relevant objective, policy, method, or 'other' provision reference where possible. For example, 'AIR-01'.)</i>	<i>I support or oppose the specific provisions or wish to have them amended. (Please indicate "support" or "oppose" or "amend")</i>	<i>The reasons for my views are:</i>	<i>I seek the following decision from the local authority: (Please be as clear as possible – for example, include any alternative wording for specific provision amendments.)</i>
<i>Please see our submissions and the appendix as attached for the full discussion. We have used the following as a reference schedule to them.</i>			
SRMR-17	Oppose the references to <i>overfishing</i> and <i>downward trends in fish and crayfish catches</i>	There is credible evidence to suggest otherwise – at least for certain species See para 7 of the attached submissions.	To consult with more stakeholders who can provide additional evidence to give Council a well-rounded view.

SRMR-17 SRMR-18	Support references to <i>the extent of impacts on marine species and environments is not well understood and threats to [Otago's coast] are not always understood and not always well managed</i>	More understanding and knowledge will be gained by Council consulting with commercial, customary, recreational fishers plus Fisheries NZ (MPI). See para 7 and 8 of the attached submissions.	To consult these stakeholder groups before the RPS is finalised and during the development of any controls that will affect the coastal marine area, directly or indirectly.
Examples: CE-P5 CE-M2 and CE-M3 Table 2 CE-M2 (4) NFL – O1	Support protecting significant habitats in the coastal environment, provided that the fishing sector is consulted in the process and that spatial mapping as a tool for the marine environment is balanced against alternative methods and supported by robust analysis	More understanding and knowledge will be gained by Council consulting with commercial, customary, recreational fishers plus Fisheries NZ (MPI). This is better than only using a desktop analysis as you will be dealing with actual water users (or their representatives). Mapping is problematic for the marine environment. Instead, we support the need for marine strategy development to provide a high level vision and non-statutory integration of goals and principles across marine statutes. See para 9 and the Appendix to our submissions.	As above
Page 7	Support the reference to commercial fishing ramps but note that there is other important fishing infrastructure and access points to be protected/noted	There do not appear to be any policies relating to this (or any other) industry infrastructure. We note that, for example, many accessible beaches are used as launching areas. More understanding and knowledge will be gained by Council consulting with commercial, customary, recreational fishers plus Fisheries NZ (MPI). See Para 10 of our submissions.	As above

Page 56	Support the acknowledgement of Kai Tahu's fishing rights but note that their rights/interest extend to recreational and commercial.	More understanding and knowledge will be gained by Council consulting with commercial, customary, recreational fishers plus Fisheries NZ (MPI). See Para 11 of our submissions.	As above.
The concept of 'integrated management'	Support this is an approach to managing the adverse effects of the environment but note that the concept should be broadened than is currently set out in the draft RPS	See Para 12 - 28 of our submissions.	As above

Appendix to Submissions of Otago Rock Lobster Industry Association & Paumac 5 Incorporated on Marine Spatial Planning

Marine spatial planning (MSP) is defined in UNESCO guidelines as:

a public process of analysing and allocating the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic and social objectives that are usually specified through a political process.

The process of MSP differs from 'zoning' which is a regulatory measure sometimes used to implement MSP through a zoning map and rules for particular areas.

MSP Queried

Proponents of MSP present it as a conceptually simple, neutral, and rational way of organising marine space and managing interactions between marine users. Although literature on MSP is extensive, it includes almost no critical analysis of the methodology or its outcomes. However, some critics point out that MSP is neither neutral nor rational, but instead entails inherent risks and biases – it has been described as a *power-laden arena wherein actors compete to imprint their agenda on specific spaces*.

The critical difference between MSP and other strategic, integrative planning processes is the emphasis on space, meaning that 'problems' are defined spatially and so are solutions. MSP may therefore be helpful in addressing conflicts between incompatible spatially exclusive activities (e.g., keeping shipping lanes away from marine farms) but it cannot address non-spatial conflicts (e.g., competing demands for a share of available fish take) and is poorly suited to providing for activities that do not require exclusive access to space (e.g., fishing).

MSP is derived from terrestrial spatial planning approaches and questions have been raised about its applicability in marine environments given the variable scale and highly dynamic nature of oceanic processes, marine species and ecosystems (and marine resource users). MSP has a poor track record of dealing effectively with change and environmental or socio-economic variability.

Proponents of MSP typically do not acknowledge the spatial attributes of commercial and customary fishing rights and fail to recognise that these attributes mean that rights-based management regime such as the Quota Management System do not fit comfortably into an MSP paradigm. In particular, the non-exclusive spatial attributes of ITQ, the dynamic distribution of fish and fishing effort within QMAs and over time, the failure of fish to confine themselves to administrative boundaries, and the tight relationship between spatial access, quota value and sustainability, mean that fishing effort cannot readily be 'redistributed' to achieve politically-determined objectives without threatening the basis of the QMS and, therefore, the Treaty Settlement.

An additional risk is that, because MSP is a costly and time-consuming process, a focus on MSP will divert resources away from making necessary tangible improvements to marine management regimes (e.g., continuing to improve the implementation of environmental provisions in the Fisheries Act). Furthermore, all of the 'benefits' commonly attributed to MSP can be achieved using alternative strategic planning processes which do not restrict solutions to 'drawing lines on maps'.

A further risk is that of 'displacement'. If defined areas are closed off to fishing or similarly restricted, then the fishers go elsewhere to fish putting more stress on habitats outside the defined areas.

Alternative to MSP

- Instead of MSP, we support the need for marine strategy development (an 'oceans policy') to provide a high level vision and non-statutory integration of goals and principles across marine statutes (acknowledging that there are already controls in place under the Fisheries Act etc);
- We support a strategic marine planning process that is not focused on simply allocating marine space, but is based on risk assessment (including risks arising from terrestrial activities and international risks as climate change and ocean acidification) and ensuring that adverse effects of all activities are effectively managed under sector-specific legislation by appropriately-resourced authorities. The strategy should foster management approaches that reflect the dynamic nature and shifting scale of marine ecosystems, and enable responsive, adaptive management;
- The RMA and related planning instruments are not needed to control fishing. To the extent that fishing has an adverse effects on the marine environment, the Fisheries Act, which is the accepted framework for managing in shore fisheries, has all the sufficient, workable controls and tools;
- The fishing industry supports marine protection which involves the proper management of activities that have adverse effects on fishing and the habitats and ecosystems which support the abundance of fisheries and the broader marine environment;
- Where new activities or designations of marine space affect fishing, a process is needed to ascertain the potential impact. Where that impact is material, the new activity should be modified or controlled to avoid, remedy or mitigate that impact.

James Adams

From: Kate Hesson <kate@katehesson.com>
Sent: Wednesday, 1 September 2021 2:45 p.m.
To: RPS
Cc: Kate Hesson; Sam Thomas
Subject: Submission on RPS
Attachments: form-5-written-submissions-form-on-proposed-otago-rps-2021.docx; Appendix to Submissions - Marine spatial planning .pdf; Otago RPS SRE Submission Final.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Submission - Sector stakeholder

Please find attached the following submission on the draft Regional Policy Statement:

- Prescribed form
- Submission
- Appendix
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-
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Please note that these attachments form our entire submission and replace the email query I made in August regarding the form of submission to make. I have used the prescribed form and referred to our full submission and appendix as being attached.

Please contact me if you require any further information,

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Director, Hesson Consultancy Limited
Tel: 02102415819
Linkedin:<https://www.linkedin.com/in/kate-hesson>
www.katehesson.com