

TE OHU KAIMOANA



MĀORI FISHERIES TRUST

12 November 2012

Submission to the Department of Conservation (DoC) and the Ministry for Primary Industries (MPI) on the:

Review of the Māui¹ Dolphin Component of the Hector's and Māui Dolphin Threat Management Plan

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¹ Consistent with Te Reo we use the term Māui dolphins rather than Māui's dolphins.

Key Points

1. The consultation timeframe is inadequate for proper consideration by iwi
2. There is insufficient information to justify the management measures proposed in Taranaki
3. There is an urgent need to improve processes and methods to collect DNA samples
4. We urgently need information about Maui dolphins' range and interbreeding potential with Hector's dolphins
5. Managed access to winter fishing should be provided for in Taranaki
6. We do not support the extension of the Marine Mammal Sanctuary.

Introduction and Background

This submission from Te Ohu Kaimoana responds to the consultation paper entitled "Review of the Maui's dolphin Threat Management Plan Consultation Paper" released by the Department of Conservation (DoC) and the Ministry for Primary Industries² (MPI) on 24 September 2012.

The purpose of Te Ohu Kaimoana is to advance the interests of iwi individually and collectively, primarily in the development of fisheries, fishing and fisheries-related activities in order to:

- ultimately benefit the members of iwi and Māori generally
- assist the Crown to discharge its obligations under the Deed of Settlement and the Treaty of Waitangi
- contribute to the achievement of an enduring settlement of the claims and grievances referred to in the Deed of Settlement.

Te Ohu Kaimoana has an active interest in Māui dolphins. We want to see them thrive so that their viability is assured. We also want to see our seafood sector survive and thrive. This is possible if sensible and effective measures are established to collect useful information to help develop a targeted population rebuild strategy. We have submitted on past proposed measures³ to manage risks to Māui dolphins. We have again engaged iwi⁴ in the development of this submission by providing them with a draft summarising the issues and options, seeking their comments and suggestions, and attending hui to discuss this submission. However that does not remove obligations on the Crown to consult with all iwi and other stakeholders in the appropriate manner and to the required standard.

² Previously referred to as the Ministry of Agriculture and Forestry (MAF) and the Ministry of Fisheries (MFish).

³ Our previous submissions can be found on our website <http://teohu.maori.nz/> and include:

- Submission on the *Interim Extension of the Marine Mammal Sanctuary and Seismic Survey Regulations to Manage the Risk of Māui Dolphin Mortality* (27 April 2012)
- Submission on the *Interim Set-net Measures to Manage the Risk of Māui Dolphin Mortality* (11 April 2012)
- Submission on the *Reconsideration of Measures to Manage Fishing Related Threats to Māui's and Hector's Dolphins* (12 October 2010) and
- Submission on the *Hector's and Māui's Dolphin Threat Management Plan – draft for public consultation* (24 October 2007)

⁴ We attended and discussed these points at a hui for Taranaki Iwi held at the Te Atiawa office in New Plymouth on Friday the 26th of October 2012 and at the Te Tai Hauāuru Iwi Forum hui held on the 7th of November at Pungarehu Marae, Wanganui.

History of management measures established to date

Commercial and amateur set net controls were first introduced to the West Coast of the North Island (WCNI) in 2003 (See Map 1).

The Minister approved the ban on set-netting to help avoid Māui dolphin entanglements with set nets. The set net prohibition was established:

- between Maunganui Bluff (Northland) and Pariokariwa Point (north of Taranaki) - out to 4 nautical miles (nm) and
- inside the entrance to the Manukau Harbour.

As a result set-netting on the WCNI was confined to inside harbours, offshore (outside 4 nm), and to the north and south of the closed area.

The closed area was intended to protect Māui dolphins within their range as determined by information on:

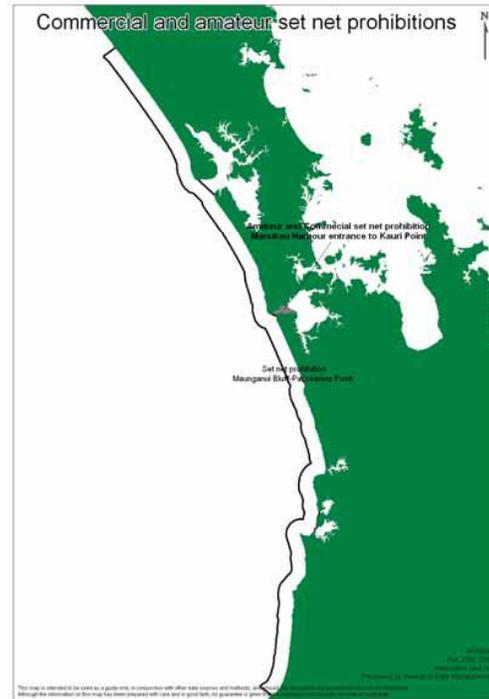
- Stranding's (e.g. dead dolphins washed ashore and dolphins recovered entangled in nets),
- Verified public sightings⁵, and
- Aerial and Boat-based surveys.

In 2006 and 2007 MFish and DoC consulted on further measures to mitigate the impacts of fishing on Māui dolphins while they developed a Threat Management Plan (TMP) which is the subject of this submission.

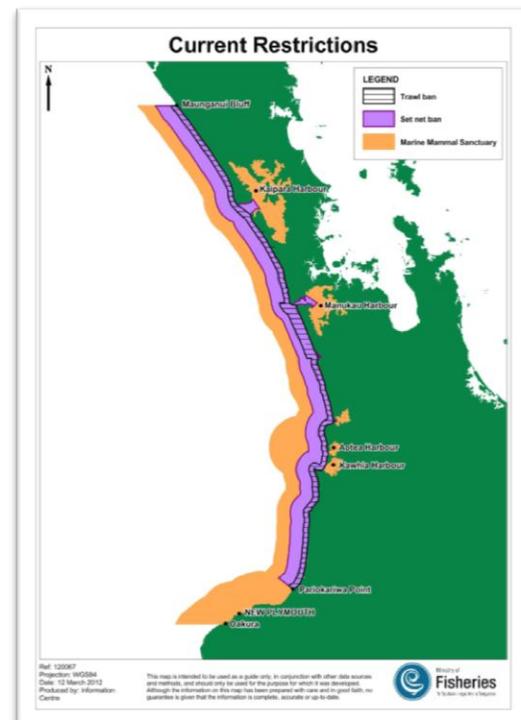
In August 2008 this resulted in:

- an extension to an earlier interim set net ban out to 7nm,
- a trawl ban out to 2-4 nm and
- the establishment of a Marine Mammal Sanctuary (see Map 2).

A sanctuary is defined⁶ as an area that is important to a particular species of marine mammal for feeding, breeding and other important life history behaviors.



Map 1. Set net ban first established 2003.



Map 2 Set-net ban extended (purple) in 2008

⁵ The prohibition extended 30 km to 40 km north and south of the verified sightings at the time.

⁶ Paragraph 6 -DoC 2012 consultation document.

In March 2012, MPI consulted again on a further extension to the set-net ban following two January events:

- an unidentified dolphin capture in a commercial set net and
- a new estimate of the total population size that appeared to be smaller than earlier estimates.

The proposed extended set net ban would start at Pariokariwa Point (north of New Plymouth) and extend southward to Hawera (See Map 3).

In the meantime a dispute over the identification of the dolphin capture followed as there was no way of determining its sub-species identity without a DNA sample and none had been taken.

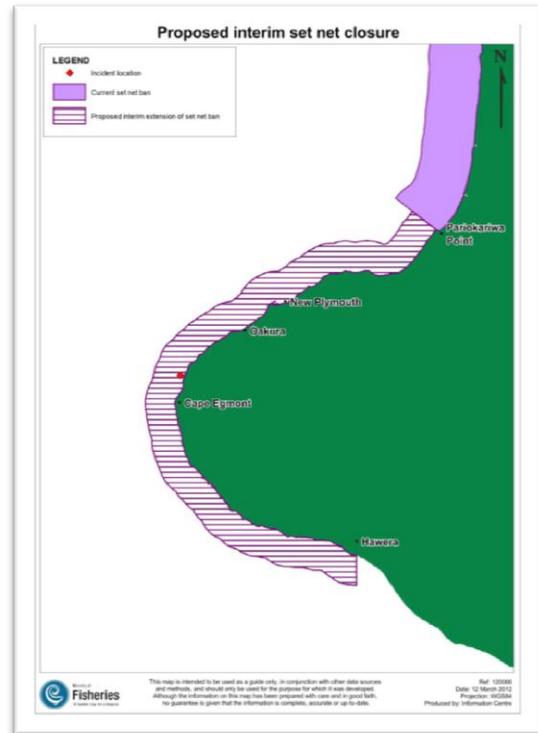
A further dispute over the new population estimate emerged because the method used to establish the new estimate was not directly compatible with the previous method.

The resulting 2012 decisions included:

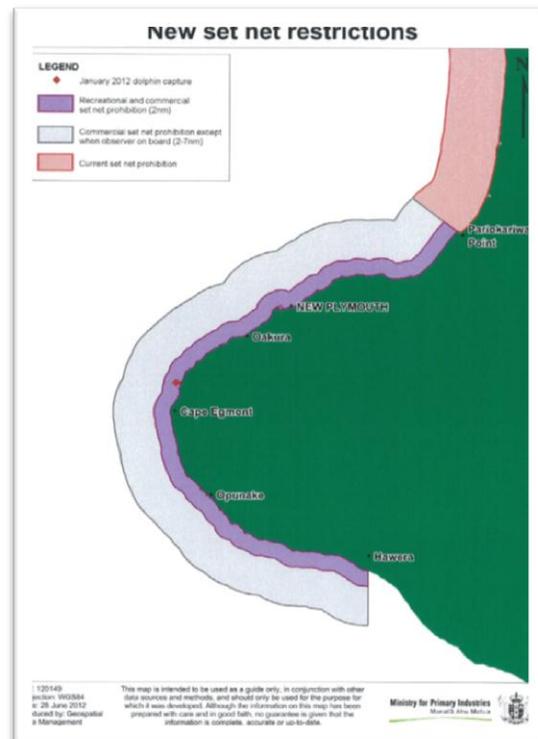
- an interim extension of the set net ban south to Hawera and out to 2 nm and
- an interim extension to the set net ban from 2 nm out to 7 nm without an observer onboard but an ability to fish this zone with an observer onboard and Government meeting the observer costs

Observers are to collect fishing information and report dolphin sightings to DoC so that biopsy or DNA samples can be taken to determine the identity of any dolphin located to the sub-species level.

The above measures are to remain in place “to inform management going forward”, until 2015 with the Government paying for the cost of the observers until 2013.



Map 3 Proposed extensions to the set net ban.



Map 4. Resulting set net ban extension 2012

Soon after MPI concluded its consultation on set netting DoC released a further consultation paper with proposals to:

- extend the Marine Mammal Sanctuary from Oakura (Taranaki) to Hawera and out to 12 nm (See Map 5) and
- create additional seismic survey regulations for this area.

The Minister of Conservation's decisions on these proposals were pending at the time this most recent consultation paper was released. It appears that DoC has decided to re-consult on the Marine Mammal Sanctuary and seismic survey measures within a much broader range of options (summarized in the next section of this paper).

Note: the consultation paper points out on page 7 that while "fishing restrictions could be put in place within a Marine Mammal Sanctuary under the Marine Mammals Protection Act 1978, for the purpose of the TMP it has been agreed by the Ministers of Fisheries and Conservation that fishing restrictions will be considered under the Fisheries Act 1996, which has stronger penalties and more capability for enforcement".



Map 5. Proposed extension to the MMS

Summary of proposed fisheries management measures

The key issue that appears to be driving fishing related proposals in the consultation paper is the lack of reliable information on the distribution of Māui dolphins (e.g. its southern extent in Taranaki, inside harbours (i.e. Manukau) and distance offshore). The proposed options reflect this and include:

Commercial and Amateur Set Netting Ban (Southern extent in Taranaki)	
Option 1 Status quo	Keep existing management,(which includes the interim measures)– see maps 2 and 4
Option 2	Keep existing management but require observer services costs to be cost-recovered from industry beginning 1 October 2013
Option 3	Extend the Taranaki set net ban from 2nm to 4 nm offshore down to Hawera, and prohibit use of commercial set nets between 4 – 7 nm without an observer on board with observer costs met by industry
Commercial and Amateur Set Netting Ban (Inside Northern harbours)	
Option 1 Status quo	Keep existing management – see map 2
Option 2	Improve management on Māui dolphin distribution and set net activity in the west coast North Island harbours, focusing on the Manukau Harbour
Option 3	Extend the existing set net ban further inside the entrance of the Manukau Harbour
Commercial Trawling Ban (Off-shore extent)	
Option 1 Status quo	Keep existing management – see map 2 and 5
Option 2	Put in place extensive monitoring ⁷ coverage in the commercial trawl fishery between 2 and 7 nm offshore from Maunganui Bluff to Pariokariwa Point
Option 3	Extend the trawl ban from 2 to 4 nm offshore from Kaipara Harbour to Kawhia Harbour and put in place extensive monitoring coverage in the trawl fishery between 2 and 7 nm offshore from Maunganui Bluff to Pariokariwa Point

In addition, while the consultation paper outlines a current agreement between the Ministers of Conservation and Fisheries to manage fishing under the Fisheries Act 1996 for the purpose of the TMP, that may not always hold true in the future. Therefore any proposed expansion of the existing Marine Mammal Sanctuary will carry with it the potential for future fishing regulations and this should also be considered.

Marine Mammal Sanctuary (on the West Coast of the North Island)	
Option 1 Status quo	Keep existing Marine Mammal Sanctuary – see map 2
Option 2	Extend the MMS south to Hawera and offshore to 12 nm

⁷ Extensive monitoring means placing observers' onboard fishing vessels in the areas indicated.

Key Points Expanded:

The consultation timeframe is inadequate for proper consideration by iwi

1. The process and timeframe are too short for Te Ohu to be able to work with all iwi who have an interest in this issue or for all iwi to be able to communicate with their hapū and among themselves to explore the issues.
2. Given the two hundred page consultation document and the fifty page risk assessment it is unrealistic to expect iwi to be in a position to comprehend, discuss among themselves and shape a response within the timeframe. Despite this we have done our best to work with iwi from Taranaki and the southern west coast of the North Island to develop this submission.

There is insufficient information to justify the management measures in Taranaki

3. Nobody wants to see dead Maui dolphins or the extinction of Maui dolphins. The Taranaki community is certainly feeling the pain from current measures (i.e. job losses and flow on effects for families and friends). The local fishing industry does not want to have their activities result in the death of a single dolphin or the extinction of Maui dolphins. However the set net ban is causing a great deal of frustration given the lack of any confirmed Māui dolphins in the area. Clearly if there were Maui dolphins present in the Taranaki area and they were being caught in set nets then these risks would need to be mitigated.
4. It is not insignificant that a kaumatua⁸ attending the Pungarehu Marae hui to discuss this issue pointed out that never in his 82 years had he ever heard any korero (talk or stories) about these dolphins among the Taranaki Iwi. Certainly one would expect that the iwi would know if there had ever been any Maui dolphins resident in the area. In addition an iwi representative⁹ pointed out that the Threat Management Plan stated (see page 21 of the TMP consultation document) that there had only ever been one confirmed Maui dolphin sampled south of the Raglan Harbour since 1989.
5. We consider that the proposed fishing restrictions support unjustified perceptions that there is a problem with Maui dolphins being caught in set nets in Taranaki. There has never been a single confirmed case of this occurring. Of course the Taranaki community does not want to see Maui dolphins die as a result of set netting but the basis upon which the current measures are formed are extreme and unwarranted.

⁸ Jim Cunningham pers com.

⁹ Bill Carter pers com.

There is an urgent need to improve processes and methods to collect DNA samples

6. Te Ohu and Iwi are particularly unhappy with the poor quality of information about Maui dolphin that has been collected by the Crown over the years. Given the current low population estimates for Māui dolphins, Iwi are frustrated by the assumptions drawn from the scant information that does exist (i.e. the assumption that the January 2012 mortality was a Māui and not a Hector's dolphin given the knowledge that Hector's dolphins are known to be present in the Māui dolphin population etc.). Iwi want hard facts not estimates and assumptions.
7. We are aware that the fishing protocol (established to deal with dolphin encounters by the Crown and fishers) has now been changed to allow for DNA samples to be taken in the unlikely event that a Maui dolphin is present in Taranaki. However, we are dismayed to know that there are inadequate processes to allow samples to be taken of any live animals that come within close range to a boat because of insufficient equipment and trained staff. Therefore, we recommend that the sampling processes be simplified by reverting to earlier procedures that are less invasive and can be more readily employed by a wide number of fishers and DOC staff (i.e. use of a scrubber/swab). This would not exclude the use of more sophisticated sampling equipment such as dart guns where available.
8. We recommend that in addition to the dart gun method, scrubber kits are provided to every vessel and skippers trained to use them to the required standard. The dart gun method should also be used throughout the entire range of Maui dolphins not just in Taranaki. This is because the dart gun method provides more useful information on movement and health status whereas the scrubber method provides less but still useful information about sub-species identification.
9. Te Ohu and Iwi do not consider that the Ministry should use the Risk Assessment panel's conclusions when considering this issue. It can easily be seen that the conclusions from the majority of the panel are out of step with other statements in the TMP and of themselves do not appear to make sense. Their overall conclusion of the expected annual mortality is vastly different to DoC statements of 3% and suggests that the population would be decimated within 5 years.
10. For example:
 - The consultation document sets out on page 19 that the Maui dolphin population is declining at 3% per annum which we take to be inclusive of natural mortality. On this basis you would expect that the population would decline by 8 dolphins over the next 5 years – a loss of slightly less than 15%. It also suggests that using these figures on the same basis, the total population 4 years ago in 2008 to get to the current population of 55 would calculate at 62.
 - However the science risk assessment panel as reported on page 35 suggested that it considered mortality levels from fishing to be between 1 and 8 with a median of 5 – this would translate into a loss of 25 over 5 years –

a reduction of 45% of the population. Further down that page they suggest that the population will decline at 7.6% per annum (i.e. 2.5 X the rate suggested on page 19). This figure, if applied for 5 years, would mean a loss of at least 16 dolphins or 30% of the population. It also suggests that using these figures on the same basis, the total population 4 years ago in 2008 to get to the current population of 55 would calculate at 72.

11. We reject the risk assessment conclusions completely and are not convinced that the expert panel assessment or more precisely their perceptions of risks to Maui dolphins is sufficiently robust.
12. Further, we have been informed¹⁰ that the process for rating the risks meant that:
 - o where there was evidence and information available a rating could be applied and was vigorously debated
 - o however where there was little or no evidence a rating was low yet more information could have been sourced from others not present (i.e. the Taranaki Regional Council, Agricultural experts on Brucellosis or overseas information on predation).
13. Overall Te Ohu and iwi can only conclude that the approach to information collection to date has been too little and possibly too late. If there is any hope we strongly recommend a complete rethink on the approach which to date has still been too focused on fishing and not enough on the dolphin itself, or other risks.

We urgently need information about Maui dolphins' range and interbreeding potential with Hector's dolphins

14. The Crown needs to be more proactive in finding ways to get better information on the dolphin itself instead of continuing to count dead dolphins and restrict fishing via area closures etc to minimise any chance of mortalities being above the potential biological removals (PBR¹¹) method. These measures only estimate how many dead dolphins the population can cope with before it starts to decline but with the current low population, predation and the reported level of disease it doesn't help the population to rebuild or overcome risks overall.
15. We acknowledge that the present consultation document contains options to address risks that are wider than fishing. This is a refreshing change. However, we continue to see very little proactive investment in technologies or science that will help us to understand the home range of the dolphin and its daily and seasonal distribution as well as its genetic make-up and therefore its potential interbreeding compatibility with Hector's dolphins.

¹⁰ Sam Tamarapa pers com. Note Sam attended the Risk Assessment workshop.

¹¹ The PBR is the maximum number of animals, not including natural mortalities that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population.

16. While satellite tags are a concern to DoC because it considers that deployment may pose risks to Māui dolphins (during capture and attachment), this should not require the idea to be abandoned. Research conducted¹² in Akaroa on Hector's dolphins (smaller than Maui dolphins) already shows that purpose built satellite tags have been successfully deployed and results very useful in understanding the movements of Hector's dolphins. In addition it was demonstrated that there were no ill effects on the dolphins caused by the use of these satellite tags. Technology has advanced considerably in the last 6 years. We consider that if the Crown is reluctant to use proven methods and technologies because of their extremely cautious approach then it should take more strenuous efforts to encourage the development the technology specifically for Māui dolphins - rather than leaving it up to chance that the technology will evolve on its own.
17. The Crown should urgently tender a contract to develop satellite technology specifically for Māui dolphins if it considers that the proven and tested technology is inadequate despite evidence to the contrary. Consideration would need to be given as to the purpose of any tag including frequency of signaling if this would have an effect on the size (and therefore obtrusiveness) of the tag. Testing on the efficacy and acceptability or risk can then be tested on Hector's dolphins whose population number is much higher and therefore the risk to its population number is much lower.
18. The Crown should also be proactive in testing for and addressing disease such as Toxoplasmosis and Brucellosis which seems to be prevalent in the Māui dolphin population. More work is clearly needed to investigate the source (i.e. cats, cows, birds and other pests are all possible source organisms) and vectors (i.e. bacteria) of these diseases perhaps jointly with councils who are responsible for monitoring water quality and discharges.

Managed access to winter fishing should be provided for in Taranaki

19. We did not support the extended set net measures because of the absence of evidence to show that Maui dolphins are present in South Taranaki. Despite that position we consider that the Crown should now provide "managed access" to fish only in the winter months while further observation and information is collected. Any costs incurred through observer coverage or mitigation testing should be borne by the Crown until such time as Maui dolphins can be shown to be present in the south Taranaki set net ban area.
20. "Managed access" means having an observer on board set net vessels while testing and verifying the effectiveness of mitigation measures. Mitigation measures might include pingers or limited seasonal access. If the Crown wishes to have observers on

¹² 1 June 2005 report for Hector's dolphin (*Cephalorhynchus hectori hectori*) satellite tagging, health and genetic assessment project. <http://www.doc.govt.nz/publications/conservation/native-animals/marine-mammals/hectors-dolphin-cephalorhynchus-hectori-hectori-satellite-tagging-health-and-genetic-assessment-project/>

board to verify that there is no Maui dolphins present we understand that the fishers are more than willing to carry them onboard. We have noted that the local fishing industry have pointed out that it is impossible to test and verify the effectiveness of mitigation measures in areas where they are not allowed to fish so in this regard we consider that managed access should be provided for within the 2 and 7 nm seaward boundary.

21. It is our understanding that in the highly unlikely event that a Maui dolphin did turn up in Taranaki it would most likely occur when the water is warmer in the summer months of late December January or February. This provides a sound basis for fishers to limit their usual fishing activity to the winter months as a mitigation measure against the adverse impacts of current or ongoing measures, and the potential for dolphin captures. Key species that are targeted in South Taranaki during the winter include warehou and rig. We would expect that fishers, while undertaking fishing in this limited period, employ a range of measures including the use of acoustic pingers. Pingers could initially be tested in the Hector's dolphin population to determine its usefulness for mitigating entanglement of Maui dolphins in set nets.
22. Despite the Crown's "precautionary approach" and the subsequent actions in Taranaki, Te Ohu and Iwi do not agree that the current set net ban or more extreme proposed measures are justified given the highly unlikely event that a Maui dolphin might turn up in Taranaki. In this context we consider that managed access to dolphin friendly fishing opportunities should be provided for.

We do not support the extension of the Marine Mammal Sanctuary

23. Until such time as it can be proven that Maui dolphins inhabit the south Taranaki area we reject any proposal to extend the Marine Mammal Sanctuary.