



Te Ohu Kaimoana's response to
Te Koiroa o Te Koiora: our shared
vision for living with nature

Te Ohu
Kaimoana




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Executive summary

1. This response comments on the New Zealand Biodiversity Strategy discussion document: Te Kōiropa o te Kōiropa. Our response is based on the matters we raised with you in March 2019. At that time, we identified several key priorities we consider need more deliberate attention in the revised New Zealand Biodiversity Strategy (NZBS). These include:
 - a. respect for the Te Tiriti o Waitangi, Treaty settlements and, associated rights as the basis of the Strategy
 - b. the need to match solutions to problems and risks by applying the appropriate tools. Amongst other things this would mean marine protection would be integrated through the regimes that manage different activities rather than be dealt with through a separate regime
 - c. empowering fisheries rights holders to exercise their responsibilities for managing the effects of fishing on marine biodiversity
 - d. strengthening the links between different regimes that manage different activities – such as land use and fishing – to ensure that cumulative effects on marine biodiversity are managed in an integrated way.
2. While there is scope for the proposals in Te Kōiropa o te Kōiropa to address these matters, they are framed such general terms that the problems to be addressed aren't clear, making it very difficult to develop a clear and targeted implementation plan.
3. The need for Treaty partnerships is recognised, but the government needs to work with Iwi to co-develop the implementation plan. We are encouraged by the acknowledgement that Treaty partners should be involved in governance. However, the document makes no reference to the Deed of Settlement and other Treaty Settlement obligations and appears to have little understanding of the marine and fisheries management regime – and its implications for the Settlement.
4. Further dialogue with Iwi is needed to develop an appropriate strategy for marine biodiversity. Terrestrial biodiversity is the primary focus of the document. We are concerned the fisheries management regime isn't well understood and more information and analysis will be necessary to ensure its role in biodiversity protection forms a part of the Strategy.
5. Definition of the "problem" is stated in very general terms, so that it isn't clear that the proposed solutions are appropriate. Problems and proposed solutions are stated in very general terms throughout the document. For example, proposals to establish MPAs do not clarify the objective to be achieved. If the problem arises from the effects of fishing, a more appropriate strategy should be developed through the Fisheries Act.
6. The Strategy needs to confront the need for regional councils to better manage the effects of land use on marine biodiversity. The Strategy identifies the need to manage land and sea in an integrated way and acknowledges the need to clarify the roles and responsibilities of regional councils. This process should concentrate regional councils' role on managing the effects of land use on fisheries habitats, rather than managing fishing activity.
7. The Global Biodiversity framework shouldn't undermine our management system. Aotearoa – New Zealand's input into the Global Biodiversity framework should ensure any agreed targets don't undermine our fisheries management framework and Deed of Settlement.

Feedback from Iwi

8. Feedback from Iwi on a draft of this response supports the key points we raise. Particular points raised by Iwi respondents include:
- a. the Māori view of resources includes the sustainability of all of the people, water, marine life, oceans, land, vegetation and animals
 - b. the Strategy needs to give effect to Treaty settlements, which contain partnership agreements and accords covering various matters including co-management of natural resources. These form part of the Biodiversity system and need to be resourced
 - c. the Strategy shouldn't prejudice the outcome of Treaty negotiations that are still in progress
 - d. governance and co-governance with iwi is vital and needs to operate at a national and regional level
 - e. a "whole-of-catchment" approach is required to meaningfully achieve restoration and protection of entire catchments including the marine environment, or as articulated by Maori more generally – "ki uta ki tai"
 - f. clear measures are needed to track progress
 - g. management action needs to be based on robust risk assessment and best available information.

Where to from here

9. Further collaborative work with Iwi is needed to further develop the marine biodiversity aspects of the Strategy to ensure it will be implemented in a way that supports the relationship between Tangaroa and Iwi, and the Māori Fisheries Deed of Settlement 1992.
10. The discussion document states that following analysis of feedback, a Strategy will go through cabinet and be released to the public. Iwi should be involved in development of the Strategy before it goes to Cabinet for approval.
11. We look forward to further discussion on the development of the proposals.

Ngā mihi,



Dion Tuuta
Chief Executive
Te Ohu Kaimoana

Introduction

12. Thank you for providing us with the opportunity to comment on the discussion document Te Koiroa o te Koiroa. Our response covers the following:
- a. Te Ohu Kaimoana’s interest in the document
 - b. Māori principles as the basis for our advice
 - c. Our preliminary views on what a Strategy should contain
 - d. First impressions of the document
 - e. More detailed responses on the different aspect of the proposals.

Te Ohu Kaimoana’s interest

13. Our interest in Te Koiroa o te Koiroa arises from our responsibility to protect the rights and interests of Iwi in the Deed of Settlement and assist the Crown to discharge its obligations under the Deed and the Te Tiriti o Waitangi.¹
14. We work on behalf of 58 Iwi organisations who are mandated and recognised under the Māori Fisheries Act² (MIOs) and 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.
15. MIOs have approved our Māori Fisheries Strategy and three-year strategic plan, which has as its goal “that MIOs collectively lead the development of Aotearoa’s marine and environmental policy affecting fisheries management through Te Ohu Kaimoana as their mandated agent”. We play a key role in assisting MIOs to achieve that goal.
16. We do not intend for this response to derogate from or override any response or feedback provided independently by Iwi, through their Mandated Iwi Organisations (MIOs) and/or Asset Holding Companies (AHCs).

¹ Our purpose, set out in section 32 of the Maori 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 Maori generally; and
- (b) Further the agreements made in the Deed of Settlement; and
- (c) Assist the Crown to discharge its obligations under the Deed of Settlement and the Treaty of Waitangi; and
- (d) Contribute to the achievement of an enduring settlement of the claims and grievances referred to in the Deed of Settlement.”

² 56 mandated iwi organisations and 2 recognised iwi organisations

Our advice is based on Māori principles

17. Iwi have a unique and lasting connection with the environment. Te Hā o Tangaroa kia ora ai tāua (the breath of Tangaroa sustains us) is an expression of this connection. 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 (see Figure 1).
18. In essence, Te Hā o Tangaroa kia ora ai tāua highlights the importance of humanity's interdependent relationship with Tangaroa to ensure our mutual health and wellbeing.
19. Protection of the reciprocal relationship with Tangaroa is an inherent part of the Deed of Settlement agreed by Māori and the Crown in 1992, which settled Māori fisheries claims. The purpose of the Deed of Settlement was the sustenance of Māori identity through the full range benefits that fisheries provide.
20. The Deed of Settlement is an important and relevant part of modern fisheries management for Aotearoa. As a result, Māori rights in fisheries can be expressed as a share of the productive potential of all aquatic life in New Zealand waters. Māori rights are not just a right to harvest, but also to use the resource in a way that provides for their social, cultural and economic wellbeing.
21. Te Hā o Tangaroa kia ora ai tāua does not mean that Maori have a right to use fisheries resources to the detriment of other children of Tangaroa: rights are an extension of responsibility. It speaks to striking an appropriate balance between people and those we share the environment with.
22. In accordance with this view, "conservation" is part of "sustainable use", that is, it is carried out in order to sustainably use resources for the benefit of current and future generations. The Fisheries Act's purpose is to "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.
23. There has never been any disagreement by beneficiaries of the Deed of Settlement that quota rights secured under the settlement are subject to a responsibility to ensure sustainability – this requirement was a key reason for Māori and Iwi accepting the quota management system. Our ability to maintain a reciprocal relationship with Tangaroa depends in part upon appropriate implementation of the Act.

Figure 1: Te hā o Tangaroa kia ora ai tāua



Our preliminary views on a revised biodiversity strategy

24. In our March 2019 we provided you with our preliminary views on a revised New Zealand Biodiversity Strategy and what it should consider in addressing marine and fisheries biodiversity. The key points we raised are summarised below.

A revised strategy must respect the Treaty of Waitangi and Treaty settlements

25. The New Zealand Biodiversity Strategy 2000 reflected the Treaty as one of four main goals and committed to “active protection of iwi and hapū interests in indigenous biodiversity and to build and strengthen partnerships in conserving and sustainably using biodiversity”. It also acknowledged that “understanding and valuing the Maori world-view is an essential step towards a bicultural approach to biodiversity management”. Despite its inclusion in the Strategy, the goal has yet to be achieved.

Match solutions to problems and risks by applying the appropriate tools

26. Amongst other things this means marine protection should be integrated through the regimes that manage different activities rather than be dealt with by a separate regime. For example, the Fisheries Act requires maintenance of aquatic biodiversity. A great deal of work is being done to reduce fishing impacts on protected species and to better manage bycatch. We recognise there is more to be done to better implement these requirements, particularly to protect habitats of particular significance for fisheries management. A program to address these matters could be included in a revised Biodiversity Strategy.

Build on our rights-based system

27. An international study on MPAs, commissioned by Te Ohu Kaimoana, comments that discussions typically point to conditions generated by open access regimes and the “race for fish” as justification for MPAs. On the other hand, rights-based systems, such as the quota management system, result in different incentives for resource use than open access or traditional regulatory systems. They can respond to problems in a timelier and more effective way. Aotearoa’s quota management system provides rights-based incentives for sustainable management of fisheries resources. Building on these incentives would be a more effective way of protecting marine biodiversity.
28. For example, fisheries plans under the Fisheries Act provide the basis for Iwi and other rights holders to take responsibility for managing fisheries and the effects of fishing on aquatic biodiversity in a manner that responds to local circumstances. Priority should be given to strengthening this approach as part of a revised Biodiversity Strategy.

Strengthen the links between regimes that manage different activities affecting marine biodiversity

29. Integration of management regimes is necessary to account for the connection between terrestrial, freshwater and marine environments and the connections these environments share with people. Ki uta ki tai is a concept that’s included in many strategies and plans, however implementation is lacking. Management decisions continue to be focused on symptoms rather than sources.
30. Our March workshop with Iwi endorsed these preliminary views. Iwi were particularly concerned to exert more effective influence on the way regional councils manage land use, tourism impacts and protection of native fisheries.
31. A full copy of our March response can be found [here](https://teohu.maori.nz/wp-content/uploads/2019/03/Te-Ohu-Kaimoanas-preliminary-views-on-the-development-of-a-revised-New-Zealand-Biodiversity-Strategy.pdf)³.

³ <https://teohu.maori.nz/wp-content/uploads/2019/03/Te-Ohu-Kaimoanas-preliminary-views-on-the-development-of-a-revised-New-Zealand-Biodiversity-Strategy.pdf>

Te Koiora o Te Koiora – first impressions

Our preliminary views are reflected but only partially

Need for Treaty partnerships is recognized but the government needs to work with Iwi to co-develop the implementation plan

32. We are encouraged by the acknowledgement that Treaty partners should be involved in governance. However, the document makes no reference to the Deed of Settlement and other Treaty Settlement obligations and appears to have little understanding of the marine and fisheries management regime – and its implications for the Deed of Settlement.

Further dialogue with Iwi is needed to develop an appropriate strategy for marine biodiversity

33. Terrestrial biodiversity is the primary focus of the document. We are concerned the fisheries management regime isn't well understood and more information and analysis will be necessary to ensure its role in biodiversity protection forms a part of the Strategy.

Definition of the "problem" is stated in very general terms, so that it isn't clear that the proposed solutions are appropriate

34. Problems and proposed solutions are stated in very general terms throughout the document. For example, proposals to establish MPAs do not clarify the objective to be achieved. If the problem arises from the effects of fishing, a more appropriate strategy should be developed through the Fisheries Act.

The Strategy needs to confront the need for regional councils to better manage the effects of land use on marine biodiversity

35. The Strategy identifies the need to manage land and sea in an integrated way and acknowledges the need to clarify the roles and responsibilities of regional councils. This process should concentrate regional councils' role on managing the effects of land use on fisheries habitats, rather than managing fishing activity.

Part 1: “NZ needs a renewed strategy for nature” – Wāhanga tahi: E hiahia ana a Aotearoa he rautaki taiao whakahou

Use of the term “nature” reflects different values and philosophies

36. We note the use of the term echoes the vision of the Convention on Biological Diversity: “Living in harmony with nature by 2050”. Te Koiora o te Koiora places the term “nature” at the centre of the proposals rather than ‘biodiversity’. It uses the terms biodiversity and nature when considering the wider processes, functions and connections of the natural environment.⁴ As the document explains:

“Nature signifies a more holistic way of looking at the living environment – beyond biological diversity to a focus on re-establishing ecological processes, strengthening resilience and restoring connections between species, including humans, ecosystems and the environment. By this definition, people are a key part of nature.”⁵

37. The first section of the document provides several perspectives about nature and humans. They reflect different values and philosophies about the environment along a spectrum. At one end, humans are an integral part of nature, on which they depend. For example, it recognises the spiritual connection between Māori and the land and seas, “underpinned by the ethos of kinship, reciprocity and interconnectedness”. However, in contrast, at the other end of the spectrum, nature has value for its own sake: “nature is important for its own sake and has a right to exist regardless of any benefits humans may get from it”.

While Iwi accept their rights come with responsibilities to manage fishing within environmental constraints, they do not accept reallocation of their rights to other uses

38. This value spectrum from nature being integral to human existence, to having value for its own sake, is a core tension in environmental management, particularly in the marine environment. Robust problem definition is required to determine whether the objective of a desired course of action is to manage the effects of particular activities on the environment or re-allocate environmental resources to other values and uses – for example to recognise that people value these resources for their own sake.

39. Depending upon the objective, different responses will be required, that recognise the rights and responsibilities of Iwi, hapū and whanau to use marine resources.

⁴ p7

⁵ p7

The document overlooks the different aspects of biodiversity that are important to Aotearoa

40. The objectives of the Convention on Biological Diversity are: “the conservation of biological diversity, the conservation of its components and the fair and equitable sharing of the benefits arising out of the utilisation of genetic resources”. By focussing on the term nature, the document overlooks aspects of biodiversity that are important to Aotearoa, including exotic and genetic biodiversity.

The Strategy needs to incorporate the government’s response to “flora and fauna” claim – Wai 262

41. In August 2019, the Government released its first ever response to the issues raised by the Wai 262 claim and the Waitangi Tribunal report, Ko Aotearoa Tēnei. The claim relates to:

te tino rangatiratanga o te Iwi in respect of indigenous flora and fauna me ō rātou taonga katoa (and all their treasures) including but not limited to mātauranga, whakairo, wāhi tapu, biodiversity, genetics, Māori symbols and designs and their use and development and associated indigenous cultural and customary heritage rights in relation to such taonga.

42. We understand the government proposes to create three new ministerial groups to cover specific areas including taonga works, taonga species and the protection of taonga internationally. Each group will look at how existing legislation - relevant to each focus area - might need to be amended. We recommend that the New Zealand Biodiversity Strategy incorporate this as a foundation to its development.

Problems are stated very generally and priorities for action are not clear

43. The document provides statistics showing the status of terrestrial and marine indigenous biodiversity. In the case of marine biodiversity, the document states “90% seabirds, 80% shorebirds, 26% of marine mammals, 95% of sharks, rays and chimeras (ghost sharks) and 80% of marine invertebrates are threatened or at risk of extinction”.⁶ However, there is no assessment of how these threats are being managed and what more needs to be done. Nevertheless, there are several initiatives underway to address impacts on indigenous species including the National Plan of Action on Seabirds. Assessments like these will be important to identify priorities for action and create a baseline to measure progress against.

44. Five key pressures are identified: land use, pollution, pests, weeds and diseases, fishing impacts and climate change. Again, they are stated very generally and aren’t new. However, no information to identify the kind of efforts that have been made to address these issues, where those efforts are making progress and where not. This is an important part of problem definition and would help to identify gaps and priorities.

⁶ p13

45. Impacts of fishing are identified as one of the five key pressures:

The full ecological impact of commercial, recreational and customary fishing on estuaries and coastal, open ocean and freshwater ecosystems is not clearly known. Commercial and recreational fishing can impact biodiversity when targeted populations are reduced below sustainable levels, when by-catch occurs (when unintended species such as other fish, marine mammals or sea birds are caught) and through loss of habitats.⁷

46. This very general statement makes no reference to the current status of fish stocks, what is being done to reduce bycatch or to manage the effects of fishing on protected species. There is no sense of the scale of impact on biodiversity, which is never static and no sense of where we need to place our efforts.

47. Information on these efforts was collated as part of New Zealand's country report to the Convention on Biological Diversity. Information can also be found in numerous reports generated by Fisheries New Zealand and the fisheries sector. Further analysis would be very helpful in defining where our efforts in managing fishing impacts is best placed, based on an understanding of existing efforts.

Drivers for biodiversity loss need to be properly analysed

48. Two main drivers of biodiversity loss are identified:

- decision making and economic systems failing to account for the value of nature
- legal and regulatory frameworks are not achieving enough.

To make progress, it will be necessary to understand where we are now and how these and other possible drivers should be tackled

49. We agree there will be underlying drivers of pressures on the environment, and economic and regulatory frameworks are likely to be contributors, including failure to deal with externalities, and poor implementation and integration of regulatory frameworks. However we are concerned that an apparent lack of understanding of the role of the Fisheries Act in management of biodiversity will drive inappropriate strategies for marine biodiversity and undermine Te Hā o Tangaroa kia ora ai tāua and the Deed of Settlement.

50. The document makes several observations about the regulatory framework for biodiversity. It identifies that there is a "considerable amount of legislation including the Conservation Act, Wildlife Act and Resource Management Act". These Acts and others, including the Reserves Act, QEII National Trust Act, Marine Reserves Act, Native Plants Protection Act, Wild Animal Control Act, Biosecurity Act and Trade in Endangered Species Act, are described in Appendix 1 of the document.

51. While the Fisheries Act is a key piece of legislation for managing fishing effects on aquatic biodiversity, it is only included in a list of "Other Acts". This suggests the statements in the document about problems with the existing regulatory regime are not clear or understood.

⁷ p14

Analysis of the Biodiversity Strategy 2000 and Biodiversity Action Plan 2016 – 2020 would provide a clearer basis for action on marine biodiversity

52. In the section: The journey since 2000 – Te haerenga mai rāno i te tau rua mano, the document makes general observations about the Biodiversity Strategy 2000, and some of the positive initiatives that have happened since. However, it states that “it has been hard to track our progress against the current strategy”. A review carried out in 2005 “found that the strategy’s targets were difficult to measure progress against and that we didn’t have the right monitoring and reporting systems set up to do so”.⁸
53. Despite this, the Biodiversity Strategy 2000 confirmed several objectives and actions for marine biodiversity. Two actions in particular continue to be important for the management of fishing effects on marine biodiversity:
- Ensure implementation of the purpose and principles of the Fisheries Act 1996, including programmes to sustain or restore harvested species and associated and dependent species to ecologically sustainable levels, and integrate marine biodiversity protection priorities into programmes for sustainable fisheries use, such as fisheries plans, using an ecosystem approach (Objective 3.4, Action (a))
 - Identify the coastal and marine species and habitats most sensitive to harvesting and other disturbances and put in place measures to avoid, remedy or mitigate adverse effects from commercial, recreational and Maori customary fishing activities. (Objective 3.4, Action (b)).⁹
54. While these actions don’t contain performance measures, they still resonate today. The draft “summary of the Draft Convention report on Biological Diversity National Report”, which we commented on late last year, provided a fair assessment against Aichi Target 6¹⁰, which seeks to achieve a similar objective as the above actions.
55. The document states wider threats haven’t received enough attention including threats to the marine environment. This is a general statement and the nature of these threats is not made clear.

We need to understand what is needed to enable everyone to play their part in the Strategy

56. The section: Developing a new biodiversity strategy – Whakawhanake i te rautaki rerenga rauropi hou proposes the key aim of the new strategy is to provide direction and guidance for our “biodiversity system” and contribute towards the global response to biodiversity decline. Implementation will require collaboration and sharing of knowledge.

⁸ p19

⁹ New Zealand Biodiversity Strategy, February 2000, p66

¹⁰ Aichi Target 6 states: by 2020, all fish and invertebrate stocks and aquatic plants are managed and harvested sustainably, legally, and applying ecosystem based approaches, so that overfishing is avoided, recovery plans and measures are in place for all depleted species, fisheries have no significant adverse impacts on threatened species and vulnerable ecosystems and the impacts of fisheries on stocks, species and ecosystems are within safe ecological limits.

57. The biodiversity system is described as including Treaty partners, communities, government, research agencies, business and environmental non-government organisations and is underpinned by te Tiriti o Waitangi. The document proposes all parties have a responsibility to manage and enhance biodiversity and can all be part of the solution.
58. We agree with this general approach but further engagement with Iwi and other fisheries rights-holders will be needed to understand how they can be supported to play their part. Iwi face many challenges including the need to build capacity, work with their hapū to integrate management of their customary fishing rights including commercial and non-commercial and work with the wider fisheries sectors to develop appropriate management initiatives.
59. In addition, the commercial sector needs greater support (including regulatory support) for collective action to develop binding fisheries plans – particularly to respond to local or fine scale management.

Part 2: Proposals for a strategy – Wāhanga tuarua: Marohi Rautaki

We support the concepts in the Poutama Framework, but some of the details need further explanation

60. Part 2 of the document sets out a strategy framework including vision, values and principles, long term outcomes and implementation. The document uses the poutama framework - intended to reflect a Te Ao Māori world in a contemporary setting - to organise these aspects.

The pathway to the vision is seeded by values that interact and link human potential to lofty sustainability goals. Each step upward in the poutama framework reflects growth, maturity and periods of review, evaluation and implementation, where traditional knowledge and science interact simultaneously to create knowledge systems and tools to fuel achievement.

61. We support the concepts of whakahau, tiaki, and wānanga and the values stated at the bottom of the framework. We also support the idea that action should be taken, reviewed and adapted over time. It is consistent with the concept of rahui, where access to resources is prohibited until they are ready to be used again.
62. The challenge is to develop an implementation plan that reflects these concepts and achieves measurable outcomes. Some of the specific outcome and goal statements, also covered later in the document, need further clarification. We make further comments on these matters later in this response.

¹¹ pp 20 - 22

The Vision needs to convey the idea that we are part of nature and biodiversity: we depend upon biodiversity for our cultural, social and economic survival

63. The document proposes a vision that by 2070:

Nature in Aotearoa is healthy, abundant, and thriving. Current and future generations connect with nature, restore it and are restored by it.

64. The vision conveys the idea that nature is separate from people. While people may restore and be restored by it, there is no sense here that people depend upon it for their survival.

65. Our vision for marine biodiversity would encapsulate the concepts contained in Te Hā o Tangaroa kai ora ai tāua. This reflects the idea that people are a part of nature and biodiversity, share a common ancestry with other animals and plants and have a responsibility to look after them in order to maintain their relationship. Similar concepts could be conveyed for other atua including Tane (atua of the forests), Rongo (atua of cultivation) and Haumietiketike.

66. Recognition of these relationships – particularly for human survival, is important if people are to be empowered to act.

We agree with the values and principles but the way they are reflected in management is key

67. Overall the values appear sound. Some need clarification:

- “Mana motuhake – we respect each other and recognise sovereignty and autonomy”. It is not clear whether this value is a reference to Articles 1 and 2 of the Treaty and whether the parties involved are intended to be the Crown and Māori. If so, it should be stated more explicitly. If not, the Treaty and partnership should be built in as a key principle or goal.
- Kaitiakitanga is a value we support, but it should be clear it is exercised by Iwi, hapū and whanau within Te Ao Māori.

68. The principles also appear sensible and echo those set out in the New Zealand Biodiversity Strategy 2000, which we consider to be sound. However, some have been recast and others have been omitted.

69. We note the principle of “courage” which states “innovative approaches are encouraged, and action is not delayed due to a lack of complete information, especially where significant or irreversible damage could occur or species are at risk of extinction” is similar to Principle 12 – Precautionary decision-making although it uses different wording.

70. There are several principles from the NZBS 2000 that should be included in the updated strategy alongside those proposed:

- Principle 2 – the Treaty of Waitangi:
The special relationship between the Crown and Māori as reflected in the Treaty of Waitangi should be recognised and provided for in the conservation and sustainable use of biodiversity, including kaitiakitanga, customary use and mātauranga Māori.
- Principle 11 – Management Actions
Biodiversity management requires a comprehensive approach that recognises all levels of biodiversity (ecosystem, species and genetic). Management actions should identify, and prevent and mitigate the causes of biodiversity loss and in doing so should:
 - i. Address all key threats
 - ii. Be based on the best and most current information and knowledge available
 - iii. Be adaptive, aiming for continual improvement as knowledge is gained
 - iv. Be focused on the priority needs
 - v. Be cost-effective.

71. Principle Two would provide the foundation for developing the marine biodiversity aspects of the Strategy, and reinforce some of the proposals, for example relating to Treaty partnerships and customary harvest of indigenous species.

72. Although Principle Eleven seems to be common sense, we consider it is vitally important to include in the updated strategy as a discipline on decision-making. Risk assessment is an important part of management, and the most appropriate and cost-effective tools should be applied in management.

The proposed outcomes are stated too generally to provide us with a sense of where we are now and how we might measure progress towards something better

73. We support the idea that people should be empowered to act, that people should act to protect and restore nature/biodiversity and that certain behaviours may drive better results. However, the outcomes explained in the text don't convey clearly what is being referred to. For example, we need to understand what risks we are protecting biodiversity from and where our restoration efforts are best placed.

74. To understand whether the strategy is to succeed we need to know where we are starting from and measure progress against clear indicators. The outcomes don't provide enough specificity to tell us when we have achieved them. They are couched more at the level of a vision.

The rationale for several goals needs clarification

75. The document contains three sets of goals to be achieved by 2025, 2030 and 2050, so it will be important that progress towards achievement of the goals can be tracked. Some of the goals are couched in such a way that progress can be measured but others are no so clear. For example, the goal “achieving biodiversity outcomes is a part of standard farming practice” requires a process to determine the specific outcomes to be achieved. For some that can be measured, baselines will be needed. For example, if we are to achieve the goal: “no further decline in the number and extent of coastal and freshwater wetlands” we need to know their current status. Overall, indicators will need to be developed to measure progress.
76. The goals are heavily weighted towards terrestrial biodiversity however there are some that refer to or can be applied to the marine environment.

The objectives of “Marine Protected Areas” need to be clarified

We support an integrated approach to marine protection, based on risk assessment and protection of relevant areas from threats

77. One of the goals in the document is “Marine Protected Areas are established in priority areas, and priority risks being actively managed. Indicators are demonstrating positive changes”. We support the idea of establishing priorities based on robust risk assessment and using the best available information. Clear objectives are needed and measurable indicators to track progress towards the objectives. However, the definition and objective of Marine Protected Areas isn’t clear from the way this goal is worded.

The objectives of Marine Protected Areas need to be clarified

78. The approach taken by previous governments to implementing marine protection initiatives treats marine protection as something distinct from the protection that may be applied through activity focussed management regimes. It applies protection tools without any deliberate process to explore the risks to biodiversity of different activities that occur in the areas concerned, objectives for management or to consider appropriate tools to achieve those objectives.

79. As we commented in our March response, an international study commissioned by Te Ohu Kaimoana echoes these concerns. Based on a review of the international literature, the study makes several findings about MPAs which identify:

- the vagueness and variation in definitions of MPAs
- lack of generally understood criteria for their establishment
- lack of cost-benefit and trade-off analysis
- lack of integration with national laws and indigenous rights
- lack of compensation to affected users – with very limited exceptions
- undefined baseline assumptions: open access fisheries and the race to fish with resulting human degradation of biological systems is typically the justification for MPAs. Rights-based systems result in different incentives for resource use than open access regulatory systems, and these can respond to problems in a timelier and more effective way.¹²

Thus, there are several important questions to be addressed.

Are MPAs intended to be a flexible tool for managing the effects of activities on marine biodiversity?

80. By integrating marine protection across management regimes the objectives for marine protection become clear, monitoring programmes can be put in place and corrections made along the way. An MPA should be defined as an area protected under relevant legislation to manage the effects of an activity on marine biodiversity. An MPA policy would address how the cumulative effects of activities might be managed under different regimes and ensure protection initiatives are integrated.

Are MPAs about re-allocating marine resources to different uses and values?

81. Where areas are to be designated as “no-take” areas outside the framework of the Fisheries Act (and therefore not required to achieve its purpose), they re-allocate an area to non-extractive uses. As already noted, while Iwi accept that their rights also sit alongside responsibilities to manage fishing within environmental constraints, they do not accept re-allocation of their rights to other uses. The objectives of such areas need to be agreed with Iwi. Any adverse effects on existing users including Iwi and other fisheries users would need to be avoided, remedied or mitigated.

We need practical strategies to address unwanted catch

82. The document proposes that “by 2050, bycatch of seabirds, corals, and marine mammals is reduced to zero”. We don’t consider this goal is realistic or even necessary if we are to find an appropriate balance between conservation and sustainable use. Sustainable use must be based on appropriate conservation of ecosystems, habitats and species but absolutes such as “zero-bycatch” – promoted by NGOs here in New Zealand, are not helpful.

¹² Libecap, G D, Arbuckle, M and Lindley, C: (in prep) An Analysis of the Impact on Māori Property Rights in Fisheries of Marine Protected Areas (MPA) and Recreational Fishing Outside the Quota Management System (QMS): Output 1: Marine Protected Areas and Ecosystem-Based Management – A Critical Global Overview. See a more detailed summary of key findings in our attached response to DOC – pp 12 – 14. See further discussion in Appendix 2 of this response.

83. Iwi and the fisheries sector have been making strenuous efforts in various fisheries to reduce unwanted catch such as fish, seabirds and marine mammals. These efforts are focused on ensuring the species concerned remain viable – or are restored to viable levels – so that they can continue to function within the ecosystems of which they are a part.
84. These efforts are consistent with approach taken by the NOAA Fisheries (National Oceanic and Atmospheric Administration for Fisheries) in its “National Bycatch Reduction Strategy”. The goal of this Strategy is to “guide and coordinate NOAA Fisheries’ efforts to reduce bycatch and bycatch mortality in support of sustainably managing fisheries and recovering and conserving protected species”. The objectives of the Strategy are:
- Monitor and estimate the rates of bycatch and bycatch mortality in fisheries to understand the level of impact and the nature of the interaction.
 - Conduct research to improve our bycatch estimates, understand the impacts of bycatch on species and community dynamics, and develop solutions to reduce bycatch and bycatch mortality.
 - Conserve and manage fisheries and protected species by implementing measures to reduce bycatch and its adverse impacts.
 - Enforce fishery management measures, including those aimed at reducing bycatch and bycatch mortality, to ensure compliance with applicable laws.
 - Communicate to develop a common understanding of bycatch, to share information on our efforts to address bycatch, and to identify areas where we can improve.
85. Further information about the NOAA initiative can be found [here](#).¹³
86. This approach translates easily into our system in Aotearoa as much of the work being done by the fisheries sector is aligned with it. While it is entirely appropriate that we aspire to harvest no by-catch, this is a more practical and realistic approach to getting there. We recommend that as a first step, all the efforts being taken to reduce unwanted catch should be collated to determine further priorities for action.
87. Further brief comments on the goals are set out in Table 1 (next page).

¹³ <https://www.fisheries.noaa.gov/national/bycatch/national-bycatch-reduction-strategy>

Table 1: Comments on selected goals

| Goals | Comments |
|---|---|
| By 2025 | |
| <p>Marine ecosystems mapped and evidence-based priorities for protection and management established</p> | <p>Questions to be addressed include the scale at which ecosystems will be mapped and what particular aspects will be mapped. Is it intended to cover the whole EEZ?</p> <p>From a fisheries point of view, a practical approach could involve development of Fisheries Ecosystem Plans based on identification of ecosystems that support fisheries and which are in turn affected by fishing. This plan could be supported by mapping of the relevant components which might include fish stocks, relevant habitats, associated species and their range, and species caught as bycatch – drawing on available data and information to start with. The purpose of these plans would be to identify priorities for management, including protection of the ecosystem from threats. Examples of this approach are referred to in other jurisdictions.¹⁴</p> <p>The mapping exercise and resulting plans could be used to work with non-fisheries agencies to identify what kind of activities they may need to manage to protect these ecosystems – particularly inshore coastal ecosystems affected by land use.</p> |
| <p>Threats from climate change comprehensively integrated into species management plans and strategies</p> | <p>We agree threats from climate change will need to be integrated into species management plans and strategies. The question remains: how will this be achieved and what approach will be taken? This area will require greater research attention, particularly in the marine environment, to ensure management action is based on adequate risk assessment and best available information.</p> |
| <p>Tangata whenua meaningfully engaged by government in decision-making about the whenua, awa and moana with which they associate</p> | <p>We support the intention of this goal. Successful implementation will rely on an agreed understanding of what is meaningful. The process will need to recognise that Iwi have multi-layered interests in the marine environment, reflect through individual Iwi Treaty settlements and the Fisheries Settlement.</p> |
| <p>Tikanga concepts applied widely in biodiversity management</p> | <p>We agree with the intent of this goal. We particularly support use of such concepts as rahui in the marine environment, which protect aquatic resources until such time as they can be used again.</p> |

¹⁴ See for example Levin, Phillip S et al: Building effective fishery ecosystem plans: Marine Policy 92 (2018) 48-57

| | |
|---|---|
| By 2030 | |
| Marine Protected Areas established in priority areas, and priority risk being actively managed. Indicators are demonstrating positive changes | We have set out our views about marine protection in our previous responses on biodiversity and marine management and our views on this goal depend upon what is meant by "Marine Protected Areas" (see above). |
| Plans identify mahinga kai species and put in place management to enable cultural take | We support the intent of this goal. It is not clear who is developing the plans but we envisage they'd be developed by Iwi, hapū and whanau based on a partnership approach with relevant government agencies. |
| By 2050 | |
| Overall, the net extent of indigenous ecosystems is increasing | It is not clear what "net extent" means. This appears to target terrestrial ecosystems, taking into account marine ecosystems are indigenous. |
| Populations are increasing for all our threatened species | If this goal relates to species that are threatened currently, perhaps include the word "stable" alongside increasing to convey the sense that over the next 30 years we would like to see populations increase to the point they are no longer threatened. |
| Bycatch of seabirds, corals, and marine mammals is reduced to zero | While it is entirely appropriate for the fishing sector to continue to improve its practices to reduce bycatch, this goal is not practical. The more important issue is to ensure any impact does not undermine the viability of species or ecosystem function (see above). |
| Mahinga kai, cultural take and sustainable use of our indigenous species is taking place | We support this goal. |
| Every business is helping to restore nature | This is a very general statement. Does it only apply to restoring biodiversity in degraded areas or systems and when will we know that nature have been restored to a desirable level? |

The five system shifts to support change – Kia rima ngā pūnaha tīkanga hei tautoko i ēnei kaupapa

88. The document identifies five system shifts that are proposed as the most important areas to “get right in the next five years”. Central to the proposed approach is the first shift: “getting the system right”. The four other shifts are:

- empowering kaitiakitanga and mātauranga Māori
- communities are empowered to take action
- connecting ecosystems from mountains to the sea
- innovating for the future.

Shift 1: It is important to get the system right – but the criteria needed to ensure it is fit for purpose need to be agreed

89. The discussion document states the current biodiversity system isn’t working as well as it should, and it fails to tackle issues at the scale needed to address the ongoing and cumulative loss of indigenous biodiversity. The biodiversity system – as outlined in the document, includes “legislation, governance and leadership, people and organisations (and their roles and responsibilities) including iwi partners, community organisations, philanthropists, farmers, landowners and fishing companies – “everything and everyone that delivers something for biodiversity”.

90. Aside from delivering on several initiatives already in train (including a National Policy Statement on Indigenous Biodiversity and freshwater policy reform), the priority actions focus on sorting out responsibilities for biodiversity over the next 1 – 2 years and reviewing resource legislation over the next 3 – 4 years to ensure it is “fit for purpose, enabling and consistent”. These processes are proposed to be managed by an interim governance structure – to be established immediately.

We are concerned about how this will treat marine biodiversity and legislation such as the Fisheries Act, given the significance of the Fisheries Act in managing the effects of fishing

91. It is unclear who will be involved in the new governance structure, what their terms of reference will be, or what opportunities there will be for input into the review of responsibilities or its recommendations.

92. As part of the Māori Fisheries Strategy, Iwi have signalled they wish to work in partnership with natural resource ministers through a Marine Natural Resource Forum. The Forum would review the formulation of any changes to legislation that affects the management of the marine environment (and therefore Māori rights).

93. Iwi have also emphasised that in the case of their own individual settlements, partnership or co-governance arrangements have also been agreed for environmental management in their own rohe. As all of these arrangements are part of the Biodiversity System, it is vital that the principles and criteria for reviewing the system and legislation are clear and agreed through these partnership processes.

94. The information supporting shift 2 suggests there is support for this approach, but it is not stated explicitly in Shift 1.

Shift 2: We support the emphasis on partnership: Te Ao Māori – he hononga, he kaitaikitanga, he mātauranga Māori anā hoki

We support the statement that a partnership with the Crown should reflect aspirations to “co-manage, co-design and management nature” along with associated priority actions

95. We are encouraged by the priority actions focussing on Treaty partners, governance structures, ensuring key legislation recognises and provides for kaitaikitanga and mātauranga Māori and support for Māori to contribute to “international conversations and agreements”.

The Crown should be mindful of the multi-layered rights and interests of Iwi when developing partnerships

96. When forming partnerships to further develop and implement the strategy, the Crown should be mindful of the multi-layered interests of Iwi, hapū and whanau, particularly in light of Treaty settlements. The settlement process has delivered a pan-Iwi Treaty settlement of fisheries claims through the Deed of Settlement as well as many individual Treaty settlements. All these settlements are part of the Biodiversity System. They contain obligations that must be adhered to as policies on biodiversity management are developed.

97. Partnerships should be structured to ensure the relevant Treaty parties are represented through mandated entities or directly involved. As far as policies that involve or affect fisheries, Iwi mandated under the Maori Fisheries Act represent the fisheries settlement interests of their Iwi. Appropriate partnership arrangements representing or involving these entities should be central to the development of policies about marine biodiversity.

Shift 3: We need to identify what is needed to empower Iwi and business to take action

Iwi and the primary sector, particularly the fisheries sector, must be involved in the development of the Strategy

98. The document identifies the need to incentivise resource owners and landowners to protect and restore nature. The idea of incentivising resource owners is mentioned in this system shift and the discussion document suggests a similar shift is needed in the marine environment.

99. These kinds of approaches can only be enhanced through lessons learnt about the effects of fishing, responding through collective action to mitigate those effects and adapting those responses over time. The ability for the commercial fisheries sector to take collective action is key. Existing legislative barriers need to be removed to enable Iwi and other rights holders to take collective responsibility.

Increasing education and awareness needs to include educating and raising awareness of Te Āo Māori and tikanga

100. This is just one way in which communities and business can be empowered to integrate Te Āo Māori respectfully and meaningfully in biodiversity focused work.

Shift 4: We support management based on “Ki uta ki tai” — but the priority actions do not reflect this approach

A holistic approach to managing Aotearoa’s biodiversity means we shouldn’t shy away from dealing with the difficult issues

101. We agree that ecosystems should be managed in a “joined-up way, across boundaries in the places that we live work and play”. However, while the document refers to management actions “including priorities for marine protection,” it does not identify the need to protect the marine environment from the effects of land use.

103. The need to address land-based pollution of the marine environment has been recognised for years. But there has been a lack of progress. We acknowledge the Government is progressing reform of the management of freshwater. The recent WAI2358 Report which, among other things, recommends the values of Te Mana o Te Wai be incorporated into the Resource Management Act and the National Policy Statement for Freshwater Management, need to be incorporated into this reform.

104. Part of the solution also needs to involve clarifying the roles and responsibilities of respective agencies so that the Fisheries Act and Resource Management Act work in a more integrated manner. This process needs to concentrate regional councils' role in managing the effects of land use (including effects on freshwater) on fisheries habitats, rather than managing fishing activity.

The methodology for mapping the marine environment and identifying management actions needs to be formalised and agreed upon with Iwi

105. Mapping the marine environment is a broad and challenging project with wide scope and it is not made clear how it will be achieved. Please also refer to our comments in Table 1.

106. If the mapping framework is to be adequate it will be necessary to work with Iwi to respectfully weave in mātauranga Māori. The development of the framework will need to be formalised and agreed with Iwi, along with priorities for protection.

Managing ecosystems at a large scale doesn't mean it is necessary to apply one management tool to a large area

107. The Strategy proposes completing marine protection initiatives in the Hauraki Gulf, Kermadec Islands and Southern South Island. The Kermadec proposal in particular takes a blunt approach to managing a large area with one "no-take" marine protection tool that isn't tailored to manage risks to biodiversity. Marine protection proposals such as these would best be left until after a marine protection framework and priorities have been agreed.

The sustainable use of indigenous flora and fauna is an integral part of the Biodiversity Strategy

108. The one billion trees project creates an opportunity to reduce the adverse effects of land use on the marine environment, for example through catchment planting. However careful thought needs to be given to production forestry and how harvesting can be managed without increasing those adverse effects.

Shift 5: Innovation in science, technology and monitoring is important and should be carried out in collaboration with Māori

Innovation and scientific advances should be undertaken alongside Iwi

109. We agree that harnessing the power of technology, data and science will transform the way we manage biodiversity. Respectfully working with Iwi and harnessing mātauranga Māori is an important part of this process. Such knowledge is not frozen in time, but also evolves in light of experience and can be applied equally alongside technology, data and science as part of the transformation. In addition:

- a. particular information and data can be a taonga and should be treated as such
- b. we agree support for development of mātauranga Maori research given it is done in a respectful manner with prior, informed consent and meaningful involvement of the knowledge holders, along with capability development.

110. The review of prioritisation systems carried out by DOC and regional councils needs to be done in partnership with Māori. However, we are not sure what is envisaged by a “roll out of a coordinated prioritisation system for ecosystem-based management...”

Science and mātauranga Māori need to inform management

111. Data and evidence needs to be gathered in a way which can be used to answer many questions about the future of Aotearoa’s biodiversity. This data should assist with ongoing monitoring. Use of a standardised approach to data collection may be useful in order to get a national picture of the status and trends of different aspects of biodiversity. However, we acknowledge this may be difficult depending on the number of variables involved.

We support a review of current biodiversity monitoring

112. It should be noted that the information from this review may have been able to inform how this discussion document could improve on biodiversity monitoring. The review will involve the Biodiversity Collaborative Group. We support the collaborative group having equal representation of Māori.

International context: Wāhanga tuatoru – He ao horopaki

113. In March 2019, we provided comments to the Secretariat for the Convention on Biological Diversity on matters we consider to be fundamental to ensuring the Convention supports Māori in the exercise of their fishing rights within New Zealand’s fisheries management system.

114. In doing so, we acknowledged the obligations of the Convention in relation to indigenous peoples, and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which support indigenous world views including Te Hā o Tangaroa Kia Ora Ai Tāua. More specific matters we raised included:

- The obligations of the Crown to Māori under the Deed of Settlement, which are integral to our fisheries management system
- The need for marine protection initiatives agreed at the international level to support and not undermine the way our fisheries regime provides for protection of aquatic biodiversity from the adverse effects of fishing
- New Zealand’s rights and responsibilities-based approach to fisheries management, which creates the incentive for rights holders to take responsibility for managing the effects of fishing on all

aquatic biodiversity

- Support for international initiatives that encourage greater integration between management of land, fresh water and the marine environment, in a way that is appropriate for each coastal State.

115. We made specific comments on the target-based approach to establishing marine protected areas based on percentage area protected. The inclusion of an arbitrary percentage target such as 10% needs to be reconsidered. This type of approach creates perverse incentives for countries to find the easiest way to achieve it, in some cases designating large areas that do not need further protection as no-take areas, just to meet the target. This can also mean that areas containing biodiversity that is at risk do not receive the attention they need.

116. A copy of our response to the Secretariat can be found [here](#)¹⁵.

¹⁵ <https://teohu.maori.nz/wp-content/uploads/2019/06/Convention-on-Biological-Diversity-Response.pdf>

Te Ohu
Kaimoana

