



**National Council of
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Submission to the Ministry of Fisheries on the Proposal by Members of the Fishing Industry to Establish Benthic Protection Areas

Introduction

The National Council of Women (NCWNZ) is an umbrella organisation representing 38 nationally organised societies, with 32 branches spread throughout the country, to which women from some 150 societies are affiliated.

This submission has been written with comments from members of the Environment Standing Committee. It would have been desirable to have wider representation, but time to consult more widely was not available, since in fact NCWNZ learnt of this discussion paper by accident, one of its members being also a member of another body to which the paper was made available.

NCWNZ, as a body representing half of the population of New Zealand, many of whom have responded energetically when asked to comment on matters relating to management of that part of New Zealand which is submarine, feels it has a right and a duty to comment on this proposal to establish benthic protection areas. Women tend to be more conservative and cautious in their approach to using natural resources, and NCWNZ feels that the opinions of women needs to be added to a proposal for managing a commons in which we have an equal interest.

Background

NCWNZ has a history of interest in conservation matters in general, having been a supporter of the establishment of the Department of Conservation, to which it has subsequently made a number of submissions when asked to do so, and as part of the whole of New Zealand, the marine environment is of particular interest. At a national meeting in 1992, NCWNZ resolved to support the establishment of marine reserves, and earlier, in 1985, resolved to urge the government to expedite the ratification of the UN Convention on the Law of the Sea. NCWNZ members responded in large numbers to the consultation on Oceans Policy, and look forward to its development being resumed after the hiatus.

General Comments

NCWNZ commends the fishing industry for taking the initiative in developing this proposal, showing that the industry understands the need for protecting representative parts of the whole marine environment, and that it is desirable to set aside reasonably large areas for protection.

However, although the proposal to set aside almost one third of the Exclusive Economic Zone is handsome, the suspicion remains that the areas of which the benthic protected areas will be comprised are for some reason deeply uninteresting to the deep sea fishing industry, or that they are being offered in return for future immunity to government interference in the activities of the industry. It is stated that the proposed areas for protection have been chosen because they represent a wide variety of benthic environments, in line with the Marine Environment Classification, but could it be that the water in those locations is just too deep for dredging there to be economically rewarding, and the industry is sacrificing nothing in conceding those areas? On





page 3 of the document, point 9 of the Proposal specifically does not rule out practicing other forms of fishing in the less deep water above the sea bed, so the designated areas in top to bottom section are not totally uninteresting to the industry.

If an area is to be usefully protected, there should not be any fishing at all, as removal of mid depth and surface dwelling fish will impact on the biodiversity of the total ecosystem, so much interrelated are the actions and dependencies of the denizens of the various levels of water, including those on the seabed. The Poor Knights Marine Reserve shows the benefit of a total prohibition on fishing in a designated area; all organisms living within it thrive. For proper comparisons to be made between modified and unmodified areas, full protection is needed if the protection area is to be truly representative of its class.

Page 3, point 11

NCWNZ partly agrees with the analogy of land use in the matter of not closing areas that have already been affected by bottom trawling, but points out that through mismanagement of some land that was cleared for agriculture, long-term farming there has become unsustainable and the land has had to be abandoned anyway, whereas if it had been rested as soon as problems (such as erosion) started to show up, it might have recovered and been re-established as productive farmland. So, before a blanket decision not to close already trawled areas is made, it might be wise to assess the state of health of those areas, as some could benefit from even temporary protection.

Page 4, point 14

NCWNZ does not agree that the regulations that prescribe the existing seamount enclosures should be repealed nor incorporated into the Benthic Protection Areas (BPAs). The benthic environment is the seabed and the water immediately above it, and the benthos the plants and animals that live in that zone. Seamounts are not benthic; they are marino-montane, and should not be included in a discussion on benthic protection. They deserve their own separate protection regime, especially since it is made clear that if they stand in a BPA, trawling may be allowed in their vicinity, even though bottom dredging will be prohibited.

Page 5, point 18

NCWNZ feels that the industry is trying to engineer a quid pro quo, whereby the Minister will be pre-empted from making future decisions on establishing Marine Protected Areas (MPAs), on the understanding that the industry has made such generous concessions in its delineation of BPAs.

Page 5, point 20

NCWNZ appreciates that the industry wants certainty over its future prospects, and that the Accord could provide it with an assurance that the Minister does not intend to close to bottom trawling any areas other than those outlined in the Proposal, but believes that this clause is very limiting and inflexible. We suspect that even though a concession is made to the right of the Minister to make further closures in the event of future significant information coming to light, the industry would find very good reasons to dissuade the Minister from exercising that right. It is important that there be no constraints upon the ability of the Minister to make future closures if they are warranted.

SECTION TWO

Letter of Intent, page 8, Minister's Response, point 5

NCWNZ suggests that the strongly self-congratulatory tone of this section be modified. Though we are sure that the Minister is indeed pleased with the initiative of the industry in developing this proposal, we think that it is only one part of a whole system of management of New Zealand's marine ecosystems and habitats, and the industry is bound to work alongside the government as well as to abide by the government's continuing directives.



THE ACCORD

Page 11, clause 2, Background.

The New Zealand Biodiversity Strategy, the UN Convention on the Law of the Sea and Part 2 of the Fisheries Act give a legal framework to avoiding over-exploitation of fisheries, to sustainable use of a resource, and to protection of biological diversity. NCWNZ accepts that the industry has taken into account all of these constraints, but feels that should the present Accord be agreed to, the Minister may in the future be limited in what he or she can do to extend the areas of benthic protection, and to establish Marine Reserve Areas where no fishing at all will be permitted. Under this Accord, fishing other than bottom trawling will continue above the benthic protected zone.

TRAWLING PROTOCOL WITHIN BENTHIC PROTECTED AREAS

Page 19, The Principles

NCWNZ believes the principles as outlined are sensible and admirable, but will be difficult to adhere to, as accidents with equipment can happen, and a protected zone beneath an unprotected one is very vulnerable to damage should there be a mishap in practicing a method of fishing that is permissible according to the Principles.

Again, allowing fishing above the protected areas does not offer full protection to ecosystems, since fishing upsets the balance of biodiversity.

Trawling within BPAs will be actively managed and monitored, with strict requirements and obligations put upon fishers, and buffer zones established for every BPA; NCWNZ agrees that these provisions are well-thought out and necessary, but in reality it is very difficult to enforce such requirements, as there is always temptation to sidestep absolute compliance with the rules, and there is often a shortage of enforcing agents.

Page 19, Technical Requirements

Once more, NCWNZ has doubts about how enforceable ensuring compliance with the technical requirements of monitoring trawling within BPAs will be. Ministry of Fisheries audits are a good idea, but there is always the occasional rogue capable of hoodwinking the auditor.

SECTION SIX – LEGISLATIVE AND POLICY CONTEXT

Page 24, Policy Context – New Zealand Biodiversity Strategy

Objective 3.6 of the Biodiversity Strategy is to protect a full range of natural marine habitats and ecosystems to effectively conserve marine biodiversity, using a range of appropriate mechanisms, with 2010 being the date in mind for getting 10% of the marine environment protected through establishing marine reserves in varied locations. It appears that the fishing industry's proposal will pre-empt this date, and the ability of the Minister to make unfettered decisions on where MPAs can be established will be limited because there are inviolably established BPAs all over the place. There must be much more emphasis on three-dimensional protection in the marine environment if objective 3.6 is to be fully respected.

Page 25, Marine Protected Areas Policy Statement and Implementation Plan

It is currently proposed that the MPA process would include implementation in offshore areas during the second half of 2006, which is already upon us, but NCWNZ wonders how it relates to the proposal under discussion.

Page 25, clauses 73-75

NCWNZ understands what is outlined in these clauses, but again is not sure what is meant by including them in the discussion paper.

**DEFINITION**

The Proposal. On page 3 of the consultation paper, a definition of the benthic environment is given as “essentially to include the seabed and any plant, structure or animal attached to the seabed.” On page 19, footnote 4, “benthic environment” is defined to mean “the seabed and any plant, structure or animal attached to it.” This is not the same as “to include the seabed and anything attached to it.” NCWNZ understands the benthic environment to be the sea floor itself and the animals and plants and animals that dwell on or in the water immediately above it, with the benthos being all the creatures that live in that environment, and which may or may not be attached to the sea floor. We think that there should be a clarification of which of the two given definitions is actually meant.

The definition as it stands does not fully protect those creatures which have a degree of mobility, and of which some may be unique to a very small area, that allows them to move either upwards or sideways outside of their BPA. Once outside, they will not be protected, which makes it possible that a creature unknown to science may be taken one step closer to extinction.

Conclusion

NCWNZ is pleased to see that the fishing industry has taken up the challenge to develop this proposal for protecting a significantly large area of New Zealand’s marine environment, and we commend the industry for the work and research that must have gone into its production. The benthos is certainly a very distinct section of New Zealand’s biodiversity and deserves protection; we hope that the industry will play a part in the research that is yet to be done into the identification of marine species and their networks of dependence, since it is in the industry’s interest to do so.

However, NCWNZ remains more in favour of establishing Marine Protected Areas, since they offer three dimensional protection in the marine environment, while Benthic Protected Areas are only two dimensional, no matter how extensive they are.

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Convener, Environment Standing Committee