

Submission on the Fisheries Amendment Bill

To: The Primary Production Committee

04 May 2026

1. A Strategic Retreat is Not a Solution

Stet acknowledges the Government's recent decision to withdraw the clause that would have removed minimum size limits for commercial fishers. While this is a welcome tactical backdown, it does not fix the fundamental flaws of the Bill. The remaining provisions still facilitate a "step in the wrong direction" by siloing environmental considerations, creating a transparency black hole through OIA exemptions, and limiting the democratic right to judicial review.

2. Ecosystem Damage and Unaccounted Externalities

The Bill fails to address the historical and ongoing damage caused by unsustainable management that ignores Ecosystem-Based Fisheries Management (EBFM).

- **2.1** We draw a direct line between the historical mismanagement of Kūtai / Green-lipped mussel (*Perna canaliculus*) and the current state of Tīpa / Scallops (*Pecten novaezelandiae*). The collapse of Kūtai reefs due to over-harvesting—once covering over 600km² of the Hauraki Gulf—now costs millions in restoration; a cost borne by the public and philanthropy rather than the industry that profited from the extraction. Tīpa are going the same way, with the national closure of the scallop fishery serving as the final siren. This Bill represents a systemic failure to take a precautionary approach or transition to sustainable fishing methods, and it provides no mechanism to fund research on how to restore fisheries collapsed by private companies.
- **2.2** The Bill fails to internalise the commercial externalities of overfishing. For example, the overfishing of Tāmure / Snapper and Kōura / Rock Lobster has led to "kina barrens," causing over \$20 million of damage in the Hauraki Gulf High Protection Areas alone¹. By introducing Clause 12A—which effectively redefines sustainability measures—the Bill allows the Minister to bypass environmental considerations once "pre-set decision rules" are active under the new Section 11AAA. This creates a "subsidy of silence," legislating a framework where the philanthropic sector must continue to fund the restoration of environmental damage that the industry is no longer legally required to account for.

"Had these restrictions been in place when we began our efforts, our legal challenges would have been curtailed, and the shift in Fisheries NZ's approach may never have occurred." - Reto Blattner de-Vries, Environmental Law Initiative²

- **2.3** While the Bill uses the term "return to sea," in many cases, this is a euphemism for the disposal of dead biomass. A prime example of concern are Sharks and Rays (*Chondrichthyes*). Under Clause 14 (Section 72A), the Minister can permit the "return or abandonment" of species if there is an "acceptable likelihood of survival". The reality is that many of these species have extremely low survival rates once they have been hauled up from depth in a trawl net or entangled for hours. By creating this legal framework for "abandonment" under Section 72A(2), the Bill effectively normalises bycatch. Instead of incentivising "spatial avoidance"—staying away from known high-bycatch areas—the Bill provides the industry with a legal mechanism to "dump" the problem back into the ocean, shifting the focus from prevention to disposal and marking a significant step backward for ecosystem health.
- **2.4** The current Bill's move toward "pre-set rules" (Clause 5) and the expansion of "fisheries services" to include the provision and storage of electronic data (Clause 4) replicates the exact management failure that led to the 2022 Tīpa collapse. By shifting to "pre-set decision rules" under the new Section 11AAA, the Bill risks locking in unsustainable harvest levels based on industry-reported data rather than independent surveys.

3. The "Siloing" of Environmental Matters (Clause 12A)

STET is deeply concerned by the legal siloing of environmental protections.

- **3.1** Clause 12A (Section 21(2A)) creates a state of "legal blindness" by allowing the Minister to ignore environmental matters if they were deemed to be "allowed for" when a pre-set rule was first established. This is a direct rejection of the precautionary approach required under international law. As illustrated in Appendix 2, factors such as sediment

¹ <https://www.nzherald.co.nz/nz/hauraki-gulf-restoration-26m-plan-backs-19-new-protected-areas/CBBJYM7WH5AUBNKJW6QCPSMAT4/>

² <https://www.nzherald.co.nz/northern-advocate/news/can-the-crayfish-closure-stop-kina-barrens-reto-blattner-de-vries/HPHYOENAEBH13HISCMBHAZHIXM/>

pollution and rising sea surface temperatures are dynamic and compounding; by "locking in" decision rules, the Bill prevents the management system from responding to the rapid habitat degradation that renders "pre-set" harvest levels suddenly unsustainable. This undermines Section 9 environmental principles.

- **3.2** The Bill allows the Minister broad discretion to set catch limits for poorly studied populations without robust ecological data. By failing to specify clear biological thresholds for sustainability risks in these "low-information" scenarios, the framework invites subjective interpretation and industry influence rather than evidence-based decision-making. By requiring that Total Allowable Catch (TAC) settings for these stocks be merely "not inconsistent" with the objective of managing the stock at Maximum Sustainable Yield (MSY), the Bill uses a double negative to create a massive legal loophole. This language effectively renders the sustainability objective redundant, as an "extremely wide array of TAC options" can be set without being explicitly prohibited.
- **3.3** Much of the "automated" management relies on fisher-reported data, which is inherently susceptible to industry bias. Without independent stock assessments, self-reported data may be manipulated to justify maintaining high catch limits even when a population is in decline.

4. Camera Footage and OIA Exemptions

The Bill creates a "transparency black hole" regarding the very tools meant to ensure accountability.

- **4.1** By expanding the definition of "fisheries services" in Clause 4 to include the "submission, storage, and review of electronic and other data", the Bill creates a risk that critical environmental evidence (such as camera footage of bycatch) will be treated as proprietary commercial information. The Committee must clarify that data held under this new service-definition remains fully subject to the Official Information Act 1982, ensuring that industry privacy does not supersede the public's right to oversee the impact of commercial extraction on the moana.

5. Limitation of Democratic Process and Judicial Review

The Bill significantly erodes the ability of the public and the courts to oversee fisheries management.

- **5.1** The Erosion of Ministerial Discretion and Consultation (Clause 8). By shifting sustainability measures into "pre-set decision rules" and explicitly removing the requirement for the Minister to consult when applying those rules (Section 12(1)(b)), the Bill effectively removes the "check and balance" of public input. This allows for automated Total Allowable Catch (TAC) increases based on narrow, industry-aligned metrics without considering real-time ecological shifts or community concerns.
- **5.2** The Bill attempts to insulate ministerial decisions from judicial scrutiny through Clause 313A, which imposes a strict 20-working-day time limit for filing a judicial review. This creates an impossible "Catch-22" for the public: the Official Information Act 1982 (OIA) gives the Ministry 20 working days just to respond to a request for information. This ensures that any legal challenge would likely be filed without a full record of the decision, significantly increasing the cost and inefficiency of the proceedings while effectively hollowing out the rule of law.
- **5.3** Restricting the ability of the public to challenge fisheries decisions is an undue limitation on the democratic process and is contrary to New Zealand's obligations under UNCLOS and international customary law. These international frameworks require states to ensure that conservation and management measures are based on the best scientific evidence available and are subject to transparent, accountable governance. By automating extraction and insulating the Minister from judicial review, the Bill moves Aotearoa New Zealand away from its international commitments and toward a "black box" management system that prioritises administrative convenience over the health of the moana.
- **5.4** The Bill's reliance on "pre-set decision rules" under Clause 5 (Section 11AAA) is fundamentally weakened by its failure to regulate the quality of industry-provided data. Without a legal mechanism to verify or enforce the accuracy of voluntary industry reporting used to trigger these "pre-agreed responses," the Bill risks automating management decisions based on unverified, non-binding data, while simultaneously excluding the input of recreational and customary fishers who lack a seat at the "pre-set" table.

6. Bottom impact fishing and protected species bycatch

The New Zealand public is increasingly alarmed by the toll taken on habitat and native wildlife.

- **6.1** While Clause 13(2)(ba) provides a necessary legal defence for returning marine mammals or Chondrichthyes (sharks and rays) to ensure their safety, the Bill must not allow "defensible return" to replace "absolute prevention." A

legal defence for returning a dying animal to the sea does nothing to improve the health of the moana. The legislative focus must remain on mandating gear changes and spatial avoidance to prevent the capture of these protected species entirely, rather than merely providing a legal framework for their disposal as bycatch.

- **6.2** The Bill fails to mandate the cessation of bottom-impact fishing in sensitive areas, instead providing a legal "exit ramp" via Clause 14 (Section 72A)(2)(c). This clause allows the Minister to require the "abandonment" of catch for an "ecosystem purpose". For sessile organisms like deep-sea corals, the damage is total the moment a trawl makes contact ; allowing for "managed abandonment" back into the sea merely serves to clear the vessel's record of physical evidence of habitat destruction, prioritising extraction efficiency over the actual protection of benthic nurseries. (See Appendix 1).

7. Failure to Apply the Precautionary Approach to Uncertain Stocks

- **7.1** Mandating Reductions for Cumulative Stressors: The Bill fails to mandate precautionary quota reductions when fish population health is uncertain or in decline. To be truly fit for purpose in 2026, the Bill must require the Minister to apply a higher "cautionary buffer" to catch limits for populations already stressed by ocean acidification, rising sea temperatures, and coastal pollution. Instead, the current framework facilitates easier quota increases while lacking a mandatory "safety net" to trigger automatic reductions when these non-fishing stressors emerge. (See Appendix 2).
- **7.2** Strengthen Clause 14 (Section 72A(2A)(d)): Amend the Bill to provide a statutory definition of "social, cultural, and economic factors" that mandates the consideration of non-extractive benefits. This must explicitly include the economic value of healthy reefs for the tourism sector and the role of unharvested fish populations in natural carbon sequestration and ecosystem resilience.

8. Recommendations

The Government's backdown on size limits proves that the initial draft was fundamentally flawed. However, the remaining "structural" changes are even more dangerous. STET Limited urges the Committee to address the following legislative gaps to ensure New Zealand's fisheries management is consistent, transparent, and protective of native biodiversity:

- **Amend Clause 4:** Explicitly state that all data submitted or stored as part of "fisheries services" (including camera footage) must remain subject to the Official Information Act 1982 to ensure public transparency.
- **Amend Clause 6 (Section 11):** Require that the Minister, when setting or varying sustainability measures, must prioritise the recovery of native and endangered biodiversity over commercial or recreational convenience.
- **Repeal Clause 313A:** To restore the democratic right to judicial review by removing the 20-day filing restriction that conflicts with standard OIA response timeframes.
- **Strengthen Section 72A(2A)(d):** Legislatively define "social and cultural values" to explicitly include non-extractive benefits, such as the economic value of healthy reefs for tourism and natural carbon sequestration.
- **Strengthen Clause 14 (Section 72A(2A)(d)):** Amend the Bill to provide a statutory definition of "social, cultural, and economic factors" that mandates the consideration of non-extractive benefits. This must explicitly include the economic value of healthy reefs for the tourism sector and the role of unharvested fish populations in natural carbon sequestration and ecosystem resilience.
- **Address Native Species Protection Gaps:** Amend the Bill to resolve the "legislative quirk" where native and endangered freshwater species (such as threatened whitebait galaxiids) have fewer protections than introduced "sports fish" like trout. The Bill should prioritise the recovery of native biodiversity over the commercial or recreational convenience of managing introduced predators (See Appendix 3).
- **Amendment to Section 186A Timeframes:** The current legislative framework under Section 186A is failing both marine ecosystems and Treaty partners by limiting temporary closures to a maximum of two years. This arbitrary timeframe is ecologically insufficient for the recovery of complex habitats—such as shellfish beds—and forces iwi and hapū nationwide into an inefficient, resource-draining cycle of constant reapplications. We recommend that the Fisheries Amendment Bill be amended to extend the statutory closure period to at least ten years, providing a realistic window for biological recovery and removing the unnecessary administrative burden on tangata whenua who are currently forced to repeatedly justify basic protection measures.

Thank you for considering our recommendations.

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Appendix 1: Benthic Impacts – Bottom Trawling and Dredging

The following graphics from [Impacts of seabed disturbance in the Waikato region](#) illustrate the physical destruction caused by mobile, bottom-impact fishing methods. These impacts highlight a critical legislative gap: the Bill fails to mandate or even incentivise a transition toward low-impact fishing methods.

Bottom trawling & seining

Bottom trawling and Danish seining impacts around 2000 km² of the seabed in the Waikato Region. They remove seabed habitat and reduce community variability resulting in seabed communities with less plants and animals dominated by small and fast-growing species.

EFFECTS

| DIRECT | <p>Death of discarded fish. Discarded fish have a poor survival rate. Injured or stressed animals are vulnerable to predation and disease.</p> | <p>Loss of habitat complexity. Trawling and seining flatten the seabed removing physical & living features.</p> | <p>Killing other plants and animals. Trawling and seining damages or kills other large species that grow on, or in the seabed like kelp, horse mussels, sponges, brittle stars and large seasnails.</p> | <p>Changes to communities that live in the sediment. Trawling and seining changes the abundance of sediment-dwelling animals like shrimps and worms.</p> | |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|
| INDIRECT | Fewer fish due to lower reproduction and survival of juveniles. | Reduced filtration and smothering of animals due to resuspended sediments. | More predation of fish and other animals due to fewer places to hide. | Reduced biodiversity and abundance due to less food and shelter. | Changes in nutrient cycling and oxygen levels. |

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Tipa / Scallop dredging

Tipa dredging affects the seafloor. International reviews of the effects of bottom impact fishing generally agree that dredging causes the most intense damage to seafloor communities, but affects a smaller area than bottom trawling and seining.

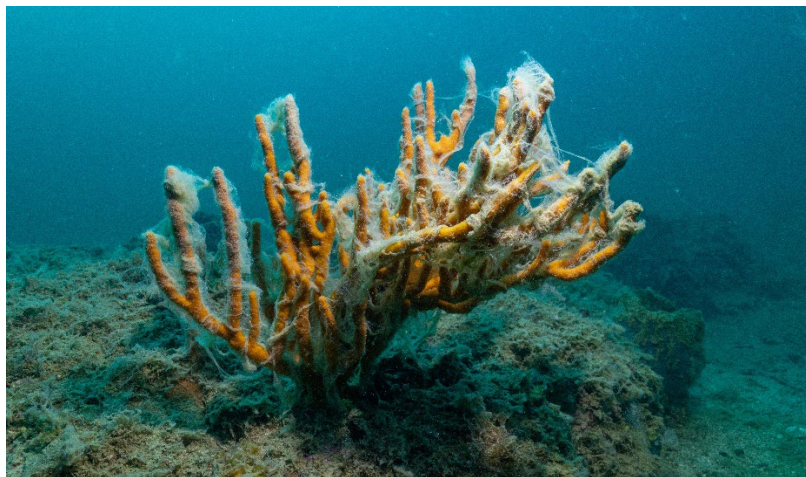
EFFECTS

| DIRECT | <p>Death or reduced growth of uncaptured tipa. Dredging damages & stresses discarded or uncaptured tipa that contact dredges. Damaged tipa attract scavengers, which kill more tipa.</p> | <p>Loss of habitat complexity. Dredging flattens the seabed removing physical & living features.</p> | <p>Killing other plants and animals. Dredging damages or kills other large species that grow on, or in the seabed like kelp, horse mussels, sponges, brittle stars and large seasnails.</p> | <p>Changes to communities that live in the sediment. Dredging changes the abundance of sediment-dwelling animals like shrimps and worms.</p> | |
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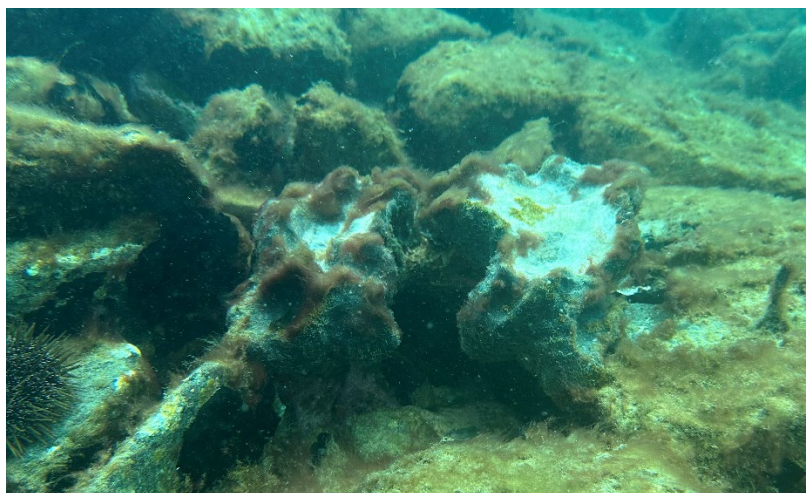
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Appendix 3: Photos of non-fisheries stressors

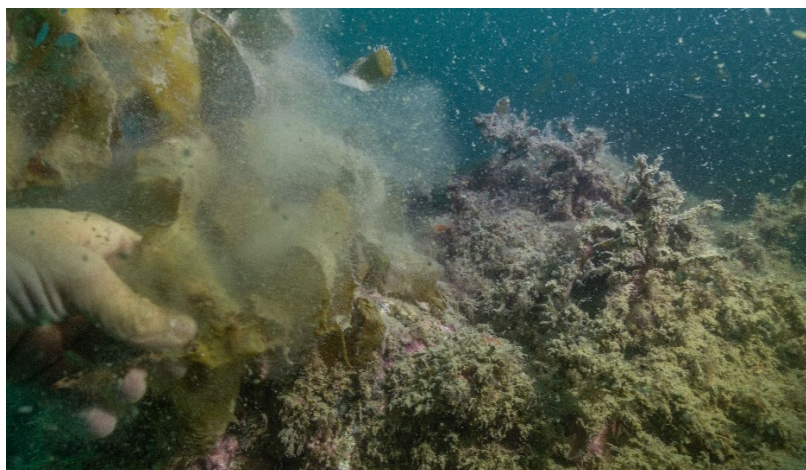
The following images illustrate the cumulative environmental stressors that degrade the critical marine habitats upon which New Zealand's fish populations depend for recruitment, shelter, and long-term resilience. These ecological drivers are currently excluded from the "pre-set" management framework of this Bill, yet they fundamentally undermine the baseline ecosystem health required to support sustainable harvest levels.



Sponge (*Raspailia topsenti*) impacted by an algae bloom in the Hauraki Gulf Marine Park. Photo by Shaun Lee.



Sponge (*Ecionemia alata*) impacted by warming ocean temperatures in the Hauraki Gulf Marine Park. Photo by Shaun Lee.



Kelp (*Ecklonia radiata*) impacted by sediment pollution in the Hauraki Gulf Marine Park. Photo by Shaun Lee.

Appendix 3: Infographic – New Zealand’s Fishing Rules Disparity

The following graphic illustrates the current legal imbalance where native, often threatened, species lack the basic protections afforded to introduced species—a systemic issue this Bill fails to rectify.

New Zealand’s crazy fishing rules

39 **native freshwater fish** species are threatened with extinction. It's legal to kill them all without a license.



It's legal to kill and sell **endangered whitebait**. Everywhere else in the world it's illegal to trade in endangered species. Only one of our native freshwater fish* is protected, it went extinct last century.



**Upokoro / New Zealand grayling*

Introduced trout prey on our threatened native fish and damage waterways. Yet, they are legally protected 'sports fish', and you cannot kill them without a license.



We have millions of **introduced pest fish** that damage and destroy native ecosystems. It's illegal to kill or sell many of them without a license.



Aside from a few protected sharks and rays, you don't need a license to kill our **native saltwater fish**. This includes many species going locally extinct.

