

## An open letter to:

Cr Richard Hills (Chairperson) and Cr Pippa Coom (Deputy chairperson) of Auckland Councils Environment and Climate Change Committee.

The Court of Appeal recently ruled that Regional Councils are obliged to actively protect indigenous biodiversity in the marine environment (the Mōtītī decision – Attorney-General v The Trustees of the Mōtītī Rohe Moana Trust & ORS [2019] NZCA 532 [4 November 2019]).

This has significant implications for the management of Auckland's marine environment, you can read about it here:

[Judgement document](#) , [NZ Herald](#) , [Stuff](#) , [Newshub](#) , [Radio NZ](#) , [Simpson Grierson](#)

The Mōtītī decision means Regional Councils have new responsibilities to protect indigenous biodiversity in the marine environment. It empowers Council to use the Resource Management Act to control the effects of fishing provided they do not do so for Fisheries Act purposes. If Councils value a fishing resource for more than just fishing, if they believe they want to preserve it for another reason, (including scientific, cultural and aesthetic values) then they can do this.

Auckland Council has acted on the Mōtītī decision in one narrow sense, and now requires a consent for mussel reef restoration (which aims to reverse the impact of fishing damage). However we have not heard how Council plans to act regarding fishing. The State of the Environment reports for the Hauraki Gulf Marine Park regularly and clearly show the negative impacts fishing has on marine biodiversity (key pages attached in appendix including a case study on the Mōtītī decision).

The public and many members of the Hauraki Gulf Forum have felt helpless as destructive fishing methods (bottom trawling, Danish seining, recreational and commercial dredging) have scoured the seafloor. In 2016 the Sea Change – Tai Timu Tai Pari Hauraki Gulf Marine Spatial Plan asked for these activities to begin to be transitioned out in 2017. Four years later and nothing has been done and the degradation continues.

Given the Mōtītī decision (that regional councils can impose controls over fishing activities in the interests of biodiversity):

1. Do bottom impact fishing methods comply with the Unitary Plan?
2. If so, please restore the ecological function of the seafloor by changing the operative Unitary Plan so these destructive activities require a resource consent.

We would like a public response to the questions. This committee is well placed to lead Councils response to the Mōtītī decision. The response will define Council's role as kaitiaki of the Aucklands marine environment.

Let's take responsibility for the magnificent marine realm of Tikapa Moana and our wild west coast, rather than just extract from it. Let's practice the same kaitiakitanga in our Marine Park that as we do in our national parks on land.

Faithfully

Shaun Lee  
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