



Tubeworm mounds protected from bottom impact fishing by an adjacent mussel farm near Coromandel. Photo by Shaun Lee.

Submission on the proposed Waikato Regional Coastal Plan

Shaun Lee May 2021

1. The operative Waikato Regional Coastal Plan 2005¹

The previous Waikato Regional Council (WRC) coastal plan failed to protect ‘significant vegetation and habitat’ (Section 3.2) from the effects of fishing. Kelp forests have been replaced by kina (*Evechinus chloroticus*) barrens² due to the overfishing of kina predators like crayfish (*Jasus edwardsii*) which are now functionally extinct in the Hauraki Gulf Marine Park (HGMP) and crayfish abundance has dropped dramatically in the Hahei marine reserve³. Bottom Impact Fishing (BIF) has continued to destroy complex and fragile biogenic habitats that provide significant ecosystem services to the Waikato Region.

2. New responsibilities with the Motiti decision

The core failing of the proposed plan is that it does not immediately seek to manage the effects of fishing. Under the Resource Management Act (RMA) Regional Councils have a responsibility to maintain biological diversity in the ocean. The Court of Appeal recently ruled that Regional Councils are obliged to actively protect indigenous biodiversity in the marine environment (the Mōtiti decision⁴).

¹ <https://www.waikatoregion.govt.nz/council/policy-and-plans/rules-and-regulation/regional-coastal-plan/>

² <https://gulffjournal.org.nz/wp-content/uploads/2020/02/State-of-our-Gulf-2020.pdf>

³ <https://www.stuff.co.nz/science/125060958/plummeting-crayfish-numbers-in-small-marine-reserves-leads-to-call-for-more-protection-in-hauraki-gulf>

⁴ Attorney-General v The Trustees of the Mōtiti Rohe Moana Trust & ORS [2019] NZCA 532 [4 November 2019]).

The Mōtītī decision empowers WRC to use the Resource Management Act to control the effects of fishing provided it does not do so for Fisheries Act purposes. If WRC values 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 so.

Councillors are asking WRC:

'Can controls be placed on bottom trawling activities?'. The answer is... yes.

'Should trawling can be prohibited in harbours?'. The answer should be... BIF should require a resource consent and be considered on a case by case basis.

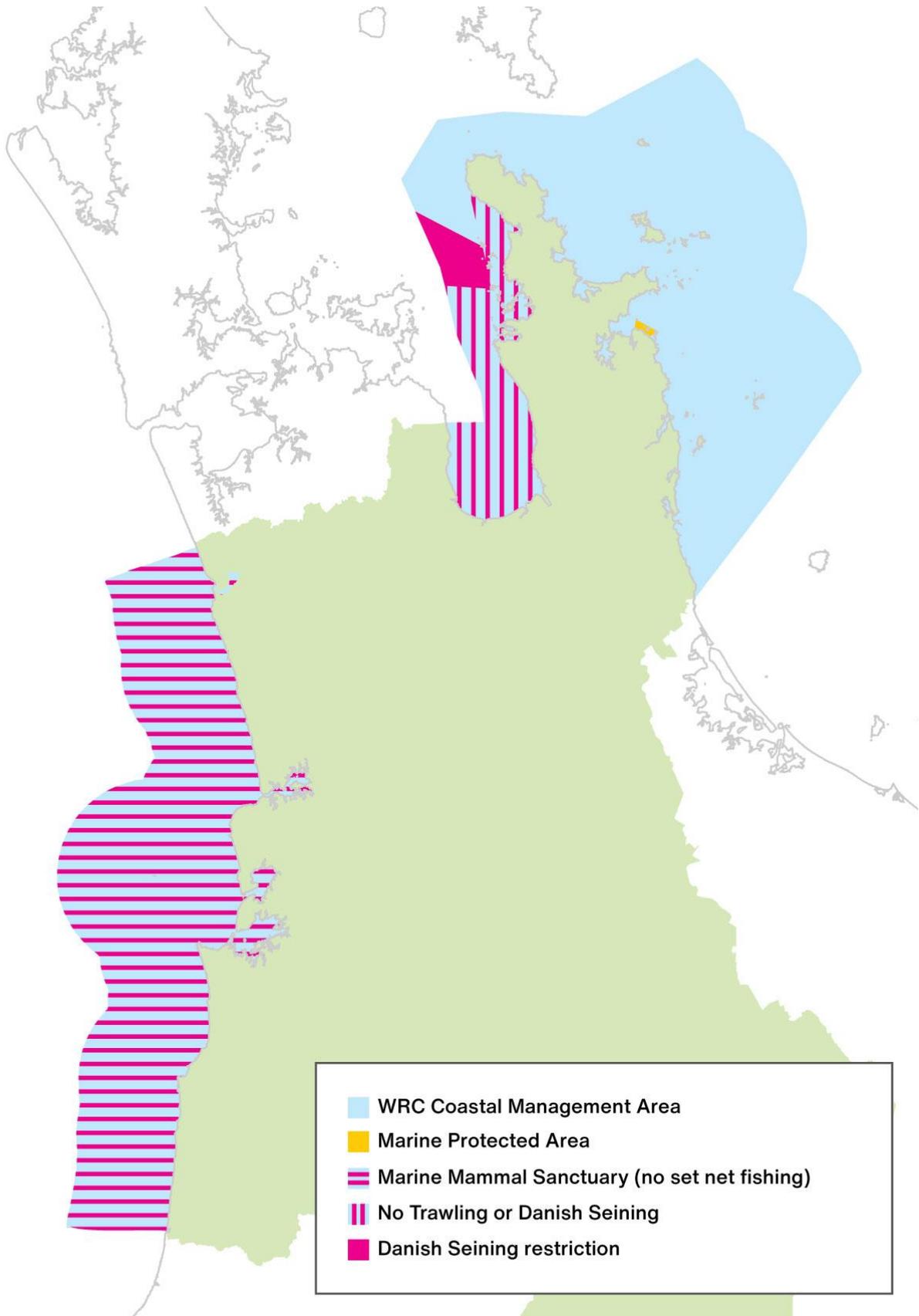
'What ways will WRC look after flora and fauna biodiversity along the coast to increase its resilience in the face of climate change?'. The answer should be... we will limit BIF creating large passive restoration areas and start doing active restoration of the seafloor.

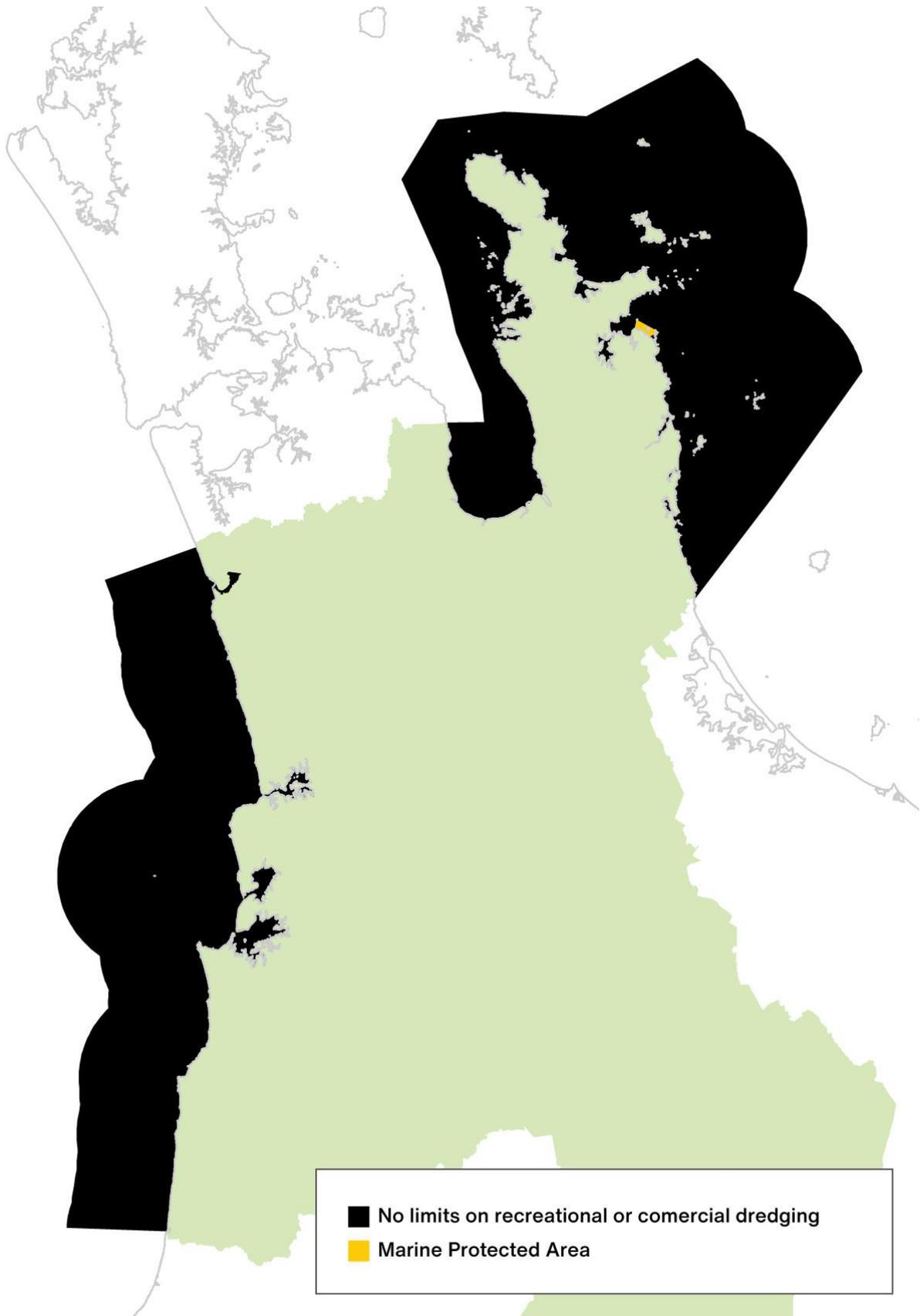
Councillors are telling WRC:

'Identify biodiversity sites that need to be protected and apply more attention to those areas'. The answer should be... WRC will limit BIF and start creating Marine Protected Areas (MPAs) with a target of 30% by 2030 which is inline with the Hauraki Gulf Forums 30% goal and the 30% by 2030 (Resolution 50) made by the International Union for Conservation of Nature in 2016⁵.

WRC should immediately identify the ecosystem services that could be enhanced by controlling the effects of fishing in the CMA, the community can then tell WRC if it values those services, WRC can then control the effects of fishing.

⁵ <https://www.pewtrusts.org/en/research-and-analysis/articles/2016/09/09/world-conservation-congress-calls-for-protecting-at-least-30-percent-of-the-ocean>





3. Avoiding responsibility

It's good to see WRC mapping biogenic habitats and planning to protect them through new objectives, policies and rules. However it is irresponsible to allow BIF activities to continue while the maps are being made. Sensitive biogenic habitats are currently being damaged by BIF. This is like mapping a suburb while watching a bulldozer drive through it. The maps will never be good enough to protect small pockets of remnant and high value biodiversity (e.g protected coral species which are regularly hauled to the surface in the HGMP). The finest resolution of the very latest numerical classification model (used to predict biodiversity) is 250 meters. Rugby fields of biodiversity get missed in such maps. These small pockets of biodiversity which could seed larger areas are likely to be lost while WRC makes maps. Council has a responsibility to take a precautionary approach.

Furthermore it is irresponsible to place the management of BIF on local iwi. This is what is happening in Auckland with Ngāti Pāoa's rāhui around Waiheke⁶, and Ngāti Hei Trust's rāhui on Tīpa / scallops, 12NM from shore, off the eastern Coromandel coast⁷.

4. Inconsistent with Sea Change – Tai Timu Tai Pari⁸

The WRC was party to the 2016 *Sea Change – Tai Timu Tai Pari Hauraki Gulf Marine Spatial Plan* which asked for some BIF activities to begin to be transitioned out in 2017.

- c) By 2018 ban the use of scallop dredges in areas less than 20m deep within the Hauraki Gulf Marine Park.
- d) By 2025, prohibit the use of scallop dredges within the entire Hauraki Gulf Marine Park.

There is only one Marine Protected Area (MPA) in the Waikato, Whanganui A Hei (Cathedral Cove) Marine Reserve which is 9km². Consented aquaculture space is more than 14km². In the proposed plan WRC is only advancing commercial aquaculture plans, WRC can't rely on central government to create MPAs (Sea Change is more than five years old). WRC should actively look to create an MPA network to complement the ones proposed in Sea Change. This network would be revised in the next coastal plan like the Motiti Protection Areas that the Bay of Plenty Regional Council has created. When commercially allocated space is greater than the space reserved for nature, the regional council has got the balance wrong. The balance should not reflect disproportionate lobbying by commercial vs environmental interest groups.

The 30% by 2030 MPA goal mentioned earlier has recently been achieved by the New Zealand Government by creating benthic protection areas in unfishable parts of the Exclusive Economic Zone EEZ. The Waikato Coastal Marine Area covers over 10,000 km² and

⁶ <https://ourauckland.aucklandcouncil.govt.nz/articles/news/2021/02/waiheke-local-board-gives-support-for-rahui-to-protect-the-island-s-kaimoana/>

⁷ <https://www.mpi.govt.nz/consultations/proposed-temporary-closure-of-the-eastern-coromandel-coast-to-the-harvest-of-scallops/>

⁸ <https://www.seachange.org.nz/>

currently only has one 9km² Marine Reserve (0.09%). The extensions and new Marine Reserves proposed in Sea Change 2016 might only increase this to c45km² (0.45%). A gap analysis of the MPAs suggested in Sea Change should have been provided to the Ministerial Advisory Committee for Sea Change, that would be a good place to start planning new MPAs (alongside the 81 sites identified by NIWA in a report commissioned by WRC). WRC also needs to work with Fisheries New Zealand to obtain catch and bycatch data to inform marine habitat maps. Note that MPAs identified by WRC would only last as long as the Coastal Plan, and that Fisheries New Zealand is working with the Bay of Plenty Regional Council on enforcement. A Regional Marine Protection Strategy would sit well with a Regional Aquaculture Strategy for the Waikato region. WRC has a responsibility not to prioritise aquaculture over biodiversity.

5. Inconsistent with advice from communities

Communities have told Waikato Regional Council (WRC) that they want the plan to provide for the restoration of indigenous habitats and ecosystems. WRC can do this by creating space for passive and active restoration. By not limiting fishing activities it has done neither.

6. Inconsistent with the Hauraki Gulf Forum

The Hauraki Gulf Forum which has many members representing the Waikato Region has called for *“the complete removal from the Marine Park of all fishing methods that damage the seafloor⁹”*.

7. Inconsistent with the Hauraki Gulf Marine Park Act¹⁰

By allowing BIF to continue WRC is not giving effect to management objectives in the Hauraki Gulf Marine Park Act. Specifically:

8 (a). The protection and, where appropriate, the **enhancement** of the life-supporting capacity of the environment of the Hauraki Gulf, its islands, and catchments.

8(b). The protection and, where appropriate, the **enhancement** of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments.

8(c). The protection and, where appropriate, the **enhancement** of those natural, historic, and physical resources (including kaimoana) of the Hauraki Gulf, its islands, and catchments with which tangata whenua have an historic, traditional, cultural, and spiritual relationship.

⁹ <https://ourauckland.aucklandcouncil.govt.nz/articles/news/2021/03/opinion-the-hauraki-gulf-needs-more-marine-protection-now/>

¹⁰ <https://www.legislation.govt.nz/act/public/2000/0001/latest/DLM52558.html>

8(d). The protection of the cultural and historic associations of people and communities in and around the Hauraki Gulf with its natural, historic, and physical resources.

8(e). The maintenance and, where appropriate, the **enhancement** of the contribution of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments to the social and economic well-being of the people and communities of the Hauraki Gulf and New Zealand.

8(f). The maintenance and, where appropriate, the **enhancement** of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments, which contribute to the recreation and enjoyment of the Hauraki Gulf for the people and communities of the Hauraki Gulf and New Zealand.

In the marine environment 'enhancement' can be defined as passive restoration (marine protection) or active restoration (e.g mussel reef restoration) where the restored habitat may not have existed in the area before. It's very important that WRC is aware that a decision to map and protect only remnant biodiversity leaves no place for enhancement as active or passive restoration. This is because significant areas (more than 250m²) of remanet biogenic habitat is only likely to be present in areas where BIF is inefficient. If the plan is to protect areas that do need enhancement then the mapping process is redundant and BIF should be stopped throughout the CMA.

8. Inconsistent with the New Zealand Coastal Policy Statement (NZCPS)¹¹

By allowing BIF to continue WRC is not upholding its responsibilities in the NZCPS. Specifically these policies specify that WRC avoid adverse effects of activities on:

11 (a i & ii). On threatened species *E.g Bottom trawling resuspends sediments that choke protected corals.*

11 (a iii & iv). On indigenous ecosystems and vegetation types that are threatened in the coastal environment *E.g Dredging functionally extinct habitats like mussel beds and fishing functionally extinct species like crayfish.*

11 (b i). On areas of predominantly indigenous vegetation in the coastal environment *E.g kina barrens created by over-fishing.*

11 (b ii). On habitats in the coastal environment that are important during the vulnerable life stages of indigenous species. *E.g bottom fishing impacts on biogenic habits like horse mussel beds.*

WRC is also not:

¹¹ <https://www.doc.govt.nz/globalassets/documents/conservation/marine-and-coastal/coastal-management/nz-coastal-policy-statement-2010.pdf>

13.2 (a&b). Preserving the natural elements, processes and patterns. Preserving the biophysical, ecological, geological and geomorphological aspects; *E.g The ecosystem services provided by biogenic habitat on the seafloor.*

14. Restoration of natural character. *E.g. WRC knows where the Gulf has lost more than 1,000sq km's of shellfish beds. WRC do not need to make a new map. At the minimum WRC should close these areas of the seafloor to fishing impacts to allow passive and active restoration. Policy 14 shows the WRC has a responsibility to actively lead seafloor restoration.*

Restored filter feeding communities will help WRC enhance water quality and manage sediment impacts (policies 21 & 22).

9. Inconsistent with the Waikato Regional Policy Statement (RPS)¹²

Policy 11.4 Requires WRC to specifically safeguard coastal/marine ecosystems and protect indigenous biodiversity in the coastal environment by:

a) Avoiding adverse effects on:

i & ii. Threatened species and their habitats. *E.g. Dredging impacts on protected corals and drowning Māui dolphins in trawl nets.*

iii. Areas containing nationally significant examples of indigenous community types. Indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare. *E.g Bottom trawling impacts on Rhodolith, horse mussel (Atrina zelandica) and tubeworm beds (Galeolaria hystrix).*

b) Maintaining or enhancing:

ii. Shellfish beds. *E.g dredging impacts on dog cockle beds (Tucetona laticostata).*

vi. Habitats of indigenous species that are important for recreational, commercial, traditional or cultural purposes. *E.g bottom trawling impacts on horse mussel beds (Atrina zelandica).*

vii. Areas of predominately indigenous vegetation in the coastal environment. *E.g kina barrens created by over-fishing.*

The best way for WRC to enhance shellfish beds (11.4.b.ii) that have been destroyed by over-fishing is to start actively start doing mussel reef restoration.

¹² <https://www.waikatoregion.govt.nz/assets/WRC/Council/Policy-and-Plans/RPS-Regional-Policy-Statement/RPSv2018.pdf>

Policy 11.4.2 Requires WRC to ‘support and advocate for a network of marine protected areas that is comprehensive and represents the region’s marine habitats and ecosystems’. WRC now has the power to create these MPAs and should do so.

10. Climate change responsibilities

Communities have asked WRC to address climate change. Councils have statutory responsibilities to adapt to, and help the community to adapt to, the effects of climate change. Councils can also play an important role in mitigation by working with their communities to reduce emissions¹³. WRC can do this in two ways:

- 1) Passively and actively restore ocean ecosystems so they will be more resilient to the effects of climate change (marine heatwaves, storm surges, ocean acidification, invasive species etc).
- 2) Limit activities in the ocean that contribute to climate change. An overseas study¹⁴ has found that bottom trawling releases as much carbon as air travel.

11. Aquaculture

Aquaculture is key to the restoration of the Gulf. Industry has been very supportive of restoration efforts and green-lipped mussel (*Perna canaliculus*) supply has often been at cost and sometimes free. Rather than rely on industry goodwill to restore historic shellfish beds WRC should escalate restoration efforts by requiring restoration support to remedy or mitigate the impacts of aquaculture (specifically policy 13.2(f) of the NZCPS), fed aquaculture and other activities. Aquaculture will benefit from restored wild beds of *Perna canaliculus* (Norrie et al 2020¹⁵).

12. Biosecurity

As per feedback WRC have already received, WRC need to limit their definition of pests and diseases. The Unwanted Organism classification is not controlled by WRC and can needlessly impede activities when applied to organisms that are already widespread in the Waikato CMA.

13. Mapping responsibilities and costs

¹³ <https://www.lgnz.co.nz/climate-change-project/>

¹⁴ <https://www.theguardian.com/environment/2021/mar/17/trawling-for-fish-releases-as-much-carbon-as-air-travel-report-finds-climate-crisis>

¹⁵ https://www.researchgate.net/publication/341331427_Spill-over_from_aquaculture_may_provide_a_larval_subsidy_for_the_restoration_of_mussel_reefs

The current process where WRC – maps the seafloor to identify natural character (biogenic habitat) and possibly protects remnant biodiversity from BIF – places the cost of managing impacts on the WRC tax payer. It would be more efficient to move the costs to the entity wanting to do BIF. WRC can do this by specifying in their coastal plan that BIF requires a resource consent. An Assessment of Environmental Effects (AEE) of the area the BIF consent was applied for allows for a more thorough analysis of the impacts. This process is:

1. more precautionary
2. more likely to increase the speed of seafloor restoration in the HGMP
3. more likely to nurture innovation in the fishing industry

However a mapping process is critical for identifying a representative network of MPAs. WRC is the right organisation to pay for maps that identify a MPA network in the region. The mapping project should be realigned with a goal to create a representative network of MPAs. Classification models are always evolving, and the maps will only be as good as the data behind them. WRC should not wait for better maps, it can act now and review the effectiveness of the MPAs in 10 years with the next coastal plan.