



Ref: s.7(2)(a) -
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15 April 2021

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s.7(2)(a) -
protect the
privacy of
natural
persons
including

Dear s.7(2)(a) -
t t th

OFFICIAL INFORMATION REQUEST

I refer to your official information request dated 16 March 2021 for information regarding the actions being taken or planned by your organisation to implement the NZ Coastal Policy Statement 2010 (NZCPS) in light of the 'Motiti' Court of Appeal decision.

Council is currently preparing the Whakamahere Whakatū Nelson Plan. The Plan will include the Nelson Regional Policy Statement (RPS), Nelson Air Quality Plan and the Nelson Resource Management Plan which incorporates the District Plan, Regional Plan and Regional Coastal Plan (RCP). The reviewed Nelson Plan will integrate all these plans into one document.

In late 2020, Council sought community feedback on most of the draft Plan, this included the Coastal Environment. The version of the draft plan discussed with the community can be found at <https://shape.nelson.govt.nz/nelson-plan>

The draft Plan is a document in progress and will change before it is 'notified'. My responses follow each question.

1. What objectives, methods, policies and rules do you have in place to regulate fishing activities to maintain biodiversity?

This question firstly requires "fishing activities" to be defined. Under the draft Nelson Plan Fishing activities includes farmed activities (such as aquaculture – mussels/ scallops)/ fin fish etc) as well as "non-farmed" activities (such as line/net fishing).

The RPS section of the Nelson Plan (Part 2) does not have any specific objective or policy focused on fishing or aquaculture. The emphasis is on protecting values and qualities from inappropriate use and development. Therefore, several objectives and policies focus on identifying the qualities and characteristics to be protected and providing guidance on "appropriateness" of activities. These are: Objectives SRMR-CE-O1, SRMR-CE-O2, SRMR-CE-O5, and SRMR-CE-O8, all of which inform the management of biodiversity.

The following policies are applicable:

- SRMR-CE-P1 focuses on integrated management – including with agencies such as DOC & MPI as well as with industry such as fishing/ aquaculture

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- SRMR-CE-P2 focuses on protecting areas important to iwi and restoring the health of the marine area as a food basket
- SRMR-CE-P3-P6 address natural character which also includes the marine area, these areas are mapped and activities within these areas are more restrictive (in the RCP part of the plan)
- SRMR-CE-P9 reflects specifically on the importance of the Haven, an estuarine environment important for fish species
- SRMR-CE-P10 addresses biodiversity risks
- SRMR-CE-P11 and P12 deal with public access and coastal water quality, both of which are important for fishing activities
- SRMR-CE-P13 addresses coastal processes and indigenous ecosystems
- SRMR-CE-P14 addresses use and development

Methods are listed under Part 2 of the Nelson Plan to implement the Objectives and Policies. Listed regulatory methods are addressed in the RCP section of the Plan (as rules) and other methods indicate non-regulatory actions the Council proposes to undertake. Mapping natural character is a key management tool for biodiversity. Likewise, the implementation of the Council's biosecurity plans and pest surveillance. Monitoring of estuaries and coastal/marine water quality is critical to biodiversity and fisheries, along with land management practices that impact on marine areas. Most particularly there are methods related to engagement and consultation with tangata whenua, statutory and industry groups, with particular reference to biodiversity management.

The Nelson Plan within Part 3 Chapter Coastal Environment contains the RCP. This plan provides further guidance for the matters outlined above in relation to the RPS. Specifically, for biodiversity the relevant sections are:

- CMA-O4 protection from inappropriate use and development and restoration
- CMA-O7 marine pests

CMA-O9 supports aquaculture. There is no specific provision(s) for fishing, however as per above, many of the policies would contribute to the quality of the environment and ecosystem health.

In this context the following policies are particularly important:

- CMA-P2 and CMAP3 values of significance to tangata whenua
- **CMA P9 – protecting and restoring biodiversity – with Appendix 13 setting out Coastal indigenous biodiversity habitats and indicative vulnerable species**
- CMA-P15 and CMA-P16 address aquaculture
- CMA-P22 – CMA-P24 address disturbances to the seabed
- CMA-P25 addresses biosecurity
- CMA-P27 – CMA-P32 address water quality

There are rules around aquaculture but no rules for effects of fishing activities. This must be understood in the context that to manage the effects of fishing on biodiversity, it is first necessary to know:

- a) the adverse effects occurring and where, and
- b) the marine biodiversity that exists. Biodiversity data is held by a number of organisations including Department of Conservation and Fisheries New Zealand. Data on the benthic health of Tasman Bay outside of the Marine Reserves is scarce and as such the emphasis is on managing the environment in a way that protects water quality, sedimentation effects from land and so on, as well as protecting outstanding natural character areas and significant biodiversity) as specified in Appendix 13.

2. Does your organisation intend to revisit existing regional coastal plans in light of the 'Motiti' decision? Please explain why/why not.

As noted above the Council is currently in the process of reviewing its operative RCP. Consideration of the 'Motiti' decision is part of this process. The decision is currently being considered and would be addressed within the document prepared under section 32 of the *Resource Management Act 1991*. Council also draws your attention to the structure of the chapter as well as the knowledge constraints identified in response to question no 1.

3. What resources are currently allocated, or planned to be allocated, to give effect to the 'Motiti' decision?

As per answer to question no. 2, this is part of the RCP review process. Separate resource allocation is not required and has not been budgeted in that manner.

Council is currently finalising the development of a non-regulatory Coastal and Marine Programme. The programme has been instigated for a variety of reasons including the need for Council to have a better understanding of the coastal/marine environment. The programme has the following objectives:

- water quality monitoring
- research into the feasibility of coastal and benthic restoration projects
- community engagement

An estuarine monitoring programme including broad and fine scale monitoring and water quality monitoring is already underway for the 4 estuaries in the Nelson region.

Once the programme has been presented to Council, it will be placed on Council's website.

4. How are these resources allocated between survey and monitoring; compliance, policy; and education?

Both the preparation of the Whakamahere Whakatū Nelson Plan and the Coastal and Marine Programme are funded through the Long Term Plan. Resource consent monitoring and compliance costs are met through Resource Consent fees and charges. Further information can be found in the Long Term Plan 2018-28 at <http://www.nelson.govt.nz/council/plans-strategies-policies/long-term-plans/>

Council is currently seeking comment from the community on the proposed Long Term Plan 2021-2031. The Consultation Document is available at <https://shape.nelson.govt.nz/long-term-plan-2021-2031>

5. What mechanism is being used to authorise the expenditure of those resources (e.g., rates, user chargers, etc.)?

Refer to the response to question no. 4

6. What management agreements have been made, or are in the process of being made, with other agencies and/or iwi as a consequence of the 'Motiti' decision? Please supply any documentation associated with such.

In undertaking the above work, Council engages with iwi, government agencies, interest groups and the community. Council is watching the implications of the decision across

councils and will consider these in undertaking its functions which includes the review of the Nelson Plan.

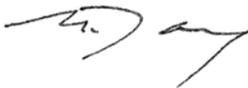
7. How does your organisation define “maintain” in maintaining biodiversity in your regional coastal plan and other plans and policies, and what is the source for this definition?

Please refer to CMA- P9 in the RCP. The term “maintain” has not been used in this context. I also refer you to the New Zealand Coastal Policy Statement (NZCPS) Policy 11 which also does not use the term maintain. In terms of planning hierarchies, the RCP must give effect to the RPS and to the NZCPS. You may wish to read the Department of Conservation guidance note on the NZCPS Policy 11 for more background to the development of this policy.

You have the right to seek an investigation and review by the Ombudsman of this response. Information about how to make a complaint is available at www.ombudsman.parliament.nz or Freephone 0800 802 602.

If you wish to discuss this decision with us, please feel free to contact me.

Yours sincerely



Maxine Day
Environmental Planning Manager

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