

## Fishing Industry Submitters' view on "enhancement" of fisheries resources

At the MEP Hearing on 11 April 2018, Hearing Panel member Mr Ron Crosby sought the Fishing Industry Submitters' views on a submission by the New Zealand Marine Farming Association (NZMFA) concerning the re-establishment of mussel beds in the Marlborough Sounds. Mr Crosby was particularly interested in whether the Fishing Industry Submitters considered that the NZMFA's proposal constitutes "enhancement" of a fisheries resource and, therefore, whether the Council is precluded from considering the NZMFA proposal by virtue of RMA section 30(2) – i.e.,

*A regional council and the Minister of Conservation must not perform the functions specified in subsection (1)(d)(i), (ii), and (vii) to control the taking, allocation or **enhancement of fisheries resources** for the purpose of managing fishing or fisheries resources controlled under the Fisheries Act 1996.*

### Fisheries Act

"Enhancement" is not defined in the Fisheries Act. The term enhance/enhancing/enhancement is used in the Act in section 8 (purpose), section 14 (alternative total allowable catch for stock specified in Schedule 3) and section 310 (southern scallop enhancement programmes).

In section 8, the purpose of the Act is to provide for the utilisation of fisheries resources while ensuring sustainability. "Utilisation" is defined to mean "*conserving, using, **enhancing**, and developing fisheries resources to enable people to provide for their social, economic, and cultural well-being*".

Section 14 provides for the Minister to set an alternative TAC for a stock listed on Schedule 3 to the Act on a number of grounds, one of which is that "*the stock is managed on a rotational or **enhanced** basis*" (s14(8)(b)(iii)).

The southern scallop fishery is the only Schedule 3 stock that is (or was, at the time it was added to Schedule 3) managed on an enhanced basis. Section 310 refers specifically to the development and approval of enhancement programmes for the southern scallop fishery.

Although "enhancement" is not defined, the term has a specific and relatively narrow usage in the Fisheries Act – i.e., it is used only in relation to fisheries resources (in the purpose) and more specifically to the management of fish stocks (in sections 14 and 310). The Fishing Industry Submitters therefore consider that, under the Fisheries Act, "enhancement" refers to the deliberate management of a fish stock by directly supplementing the population – for example by reseeding a shellfish stock or releasing hatchery-reared juvenile fish – with the aim of augmenting the "natural" abundance of the stock so that it may be utilised by fisheries users.

### NZMFA proposal

The relevant NZMFA submission is as follows:

*Chapter 16. Coastal Marine Zone. 16.1 Permitted Activities.*

*The Marlborough Sounds used to contain extensive natural mussel beds. Attempts to restore those mussel beds in appropriate areas is consistent with NZCPS Policy 14.*

*Relief sought:*

- (a) Add new Permitted Activity 16.1.24 – “restoration of shellfish reefs in the Marlborough Sounds and associated activities in appropriate areas”; and*
- (b) Consequential changes should be made to the Permitted Activity Standards at 16.2, allowing for restoration to be achieved using a variety of techniques, including, but not limited to, depositing natural fibre substrate, placing waste shell or old mooring blocks on the seabed, or undertaking other activities to kick start reef development.*

The NZMFA proposal does not relate to enhancing a fish stock for Fisheries Act purposes – i.e., it does not entail directly supplementing a fish stock so as to improve opportunities for utilisation of the stock. Instead, it involves the placement of waste shell or other non-living biological material on the seabed to initiate reef development. The purposes of the reef development are not stated, but appear to be for habitat restoration and general environmental enhancement (and not for fisheries management purposes).

The Fishing Industry Submitters therefore consider that the activity proposed by the NZMFA does not fall within the scope of RMA section 30(2) because it does not entail the enhancement of fisheries resources for the purposes of managing fishing or fisheries resources under the Fisheries Act.