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**Report from the  
Sea Change Tai Timu Tai Pari  
Ministerial Advisory Committee**

**to  
Hon Stuart Nash  
Minister of Fisheries  
and  
Hon Eugenie Sage  
Minister of Conservation**

September 2020

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*Tērā ngā matarae e rehurehu ana ki ngā  
kākarauri ki ngā wai taketake, ki ngā  
kōngutu awa o Ngā Tai Whakarewa Kauri.*

*There are the headlands appearing  
indistinct at the many river mouths of the  
Hauraki Gulf.*

*E kore e kitea te kōrehu tonga o te ahi  
whakapō ki Tīkapa Moana, ki Te Moananui  
o Toi, arā, kei tua te pai, kei tawhiti rawa.*

*Indistinguishable in the murky haze of the  
life devouring fire at the Hauraki Gulf, at  
this time hidden from sight your  
magnificence lies.*

*Anei ngā kupu o te ngākau e mihi atu ana ki  
ngā minita o te Kāwanatanga, me i kore  
ake koutou, kua raru te mauri o tō tātou  
moana.*

*Respectfully here are our words of greeting  
to you the Government Ministers, without  
whose initiative our Hauraki Gulf would be  
in total despair.*

*Ko te pūrongo e whai ake nei he  
kohikohinga whakaaro o te whakaminenga  
nā rātou tēnei kaupapa i āta taute i ngā  
hui, tekau mā whā, kua hipa atu.*

*The following report is the culmination of  
fourteen gatherings involving much  
discussion and robust debate from those  
knowledgeable people assembled to  
complete the task.*

*Ahakoā ngā tāiro ā-Kupe, kua eke te  
kaupapa ki te pae o te kotahitanga, ā, tae  
noa atu ki ngā whakaaro e tautoko ana ki  
tā te pūrongo nei a te Tai Timu Tai Pari  
kimihia rapua he oranga mō o tō tātou  
moana.*

*Despite the diverse world views represented  
at the table, by maintaining the single focus  
on the health of the Hauraki Gulf and being  
guided by the Tai Timu Tai Pari report we  
are all able to recommend the following  
report.*



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## Foreword by Co-Chairs

The Hauraki Gulf / Tīkapa Moana / Te Moananui-ā-Toi (the Gulf) has been a taonga to the people who belong to this nationally significant place. The Gulf is of the utmost cultural and spiritual significance to mana whenua through its rich history of settlement and use. They prosper from the profusion of kaimoana and experiences it provides, and build upon and use their knowledge of its land, waters, plants and animals.

The Gulf's incredible environment is treasured by all due to its varied and natural land and seascapes; the diversity and abundance of the life it supports; and the way it enriches lives through the variety of uses made of it – for kai, pleasure, and for those who earn a living from it.

However, the Gulf is however under significant pressure. It has seen a marked decline in the mauri, environmental quality and abundance of its resources. The 2020 *Hauraki Gulf / Tīkapa Moana / Te Moananui-ā-Toi State of the Environment Report* is the latest in a number of reports that sets out the pressures on the wellbeing of the Gulf. Its message is blunt - degradation is continuing, and urgent action is needed. Many, if not most, of the issues that existed when the Hauraki Gulf Marine Park was established in 1990 have not been resolved.

The Sea Change collaborative process was established in 2013 to reverse the decline. It was supported by central and local government, mana whenua, and a network of stakeholders committed to better outcomes in the Gulf. It led to the development of the Hauraki Gulf Marine Spatial Plan by a group reflecting a diverse range of interests - including mana whenua, environmental and conservation, commercial and recreational fishing, aquaculture, land use, farming and infrastructure. The group, and supporting stakeholders, were committed to seeing sustainable improvements to the Gulf and made a large number of integrated recommendations to improve the Gulf's governance and wellbeing.

The Sea Change Tai Timu Tai Pari Ministerial Advisory Group (MAC)<sup>1</sup> was set up by the Ministers of Fisheries and Conservation to provide independent advice on development of a government response strategy to the Sea Change Tai Timu Tai Pari spatial plan. All of us on the MAC have close links to the Gulf. We feel honoured and privileged to have been asked to make a contribution towards an outcome that protects and enhances the things we all treasure there. This report comments on the draft government response strategy – *Revitalising the Gulf - our plan for action* and does so through the lens of all of us wanting the best for the Gulf.

Thanks are due to many people. We acknowledge both Ministers, Hon Stuart Nash and Hon Eugenie Sage, for their commitment to achieving better outcomes in the Gulf, and appreciate the opportunity to be able to contribute to the development of a strategy aimed

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<sup>1</sup> MAC Members are set out in Appendix 1

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at restoring it. Both Ministers made themselves readily available, have taken a keen interest in progress, and gave us every encouragement while leaving us free to find our own way.

As Co-Chairs, we express our gratitude to other members of the MAC for the contributions they have made. Each has devoted time to the process, as well as their extensive knowledge, wisdom, optimism and creativity. Their willingness to engage, robustly challenge, and identify pragmatic actions has provided valuable insights and guidance.

Thanks is also due to officials from the Ministry for Primary Industries, Fisheries New Zealand and the Department of Conservation. They have been diligent and professional, provided advice, and taken on board many of the suggestions made by the MAC.

It would be inappropriate for a report developed in 2020 not to acknowledge the impacts of Covid-19 on the work of developing the draft response strategy. The constraints imposed by the pandemic occurred at key times in developing the draft strategy. That made engagement by officials with the range of groups with an interest in the Gulf less full than it would otherwise have been.

It also meant the MAC met ‘virtually’ on a number of occasions. That was not always ideal – we found face to face meetings made for an environment much more conducive to the collaborative development of our views.

Finally, we would like to mihi to those that preceded us and developed Sea Change Tai Timu Tai Pari. The work was vital in setting out steps that need to be taken to restore the Gulf. Those that worked on Sea Change Tai Timu Tai Pari have provided significant direction – a response strategy that provides an integrated and outcomes-focussed way forward will be a tribute to them.

In general, MAC members’ views are aligned on the draft response strategy. As might be expected, views on a few aspects differ. Where we differ we have identified that and briefly set out the different points of view.

In concluding, we urge Ministers and the Government to treat the strategy and this report as critically important contributions to the betterment of the Hauraki Gulf / Tīkapa Moana / Te Moananui-ā-Toi. The Gulf is a regional and national treasure and we urge you to take quick action to arrest its decline.

**Catherine Harland**

**Paul Majurey**

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## Table of Contents

A	Ministerial Advisory Committee Overview .....	9
B	Comment on each element of the Draft Strategy.....	12
	i Fisheries Management.....	12
	ii Active Habitat Restoration .....	13
	iii Aquaculture.....	14
	iv Marine Biosecurity .....	14
	v Marine Protection .....	14
	vi Protected Species.....	15
	vii Ahu Moana.....	16
	viii Governance .....	16
C	Research Monitoring and Reporting .....	19
D	An Integrated Response .....	19
E	Engagement .....	19
F	Te Ao Māori.....	20
G	Conclusion – need for action .....	23

### Appendices

Appendix 1 : Members of the Sea Change Tai Timu Tai Pari Ministerial Advisory Committee.....	24
Appendix 2 : Hauraki Gulf Governance Options.....	25
Appendix 3 : Sea Change Tai Timu Tai Pari : Hauraki Gulf Forum Functions .....	29





## A. Ministerial Advisory Committee Overview

1. The Sea Change Tai Timu Tai Pari Ministerial Advisory Committee (MAC) was, in short, asked to progress the vision and aspirations developed in the Sea Change process; provide Ministers with independent advice on the draft Government response strategy; act as a sounding board for central government agencies; and help facilitate agreement with iwi and stakeholders during the development of the strategy. Our full Terms of Reference are set out in Appendix 2 of the draft response strategy.
2. The MAC has met 14 times during the course of the development of the draft response strategy. The bulk of that time has been spent engaging with officials on the way the strategy has been put together, and providing ideas and suggestions about ways it could be enhanced. Advice on the process for, and monitoring progress with, stakeholder engagement was also shared. It has been an iterative process as the draft strategy has been written and refined by officials. Our engagement with the development of the strategy has been both probing and supportive.
3. Officials have broadly arrived at a durable response. *Revitalising the Gulf – our plan for action* sets out a number of the steps needed to improve the Gulf. The focus on eight action elements is a logical structure for addressing the problems that successive reports have identified for the Gulf. It will involve a considerable amount of work in the future, needs to be well resourced, and will need to see a considerable shift in behaviour for the draft strategy's outcomes to come about.
4. There are, however, a number of ways that the process leading to the development of the draft strategy, and the strategy itself, could be improved. Detailed comments on each of the eight elements of the draft strategy follow (see section B), but our most important comments can be summarised as:

<b>Urgent action is needed to repair damage to the Gulf and to stop it degrading further. We do not think the draft strategy conveys sufficient urgency or ambition.</b>	It sets out a considerable work programme but there could be a greater sense of immediacy and priority in the proposals with clear delivery dates. As one example, the set of immediate actions indicated in section 3 of the response strategy (and set out in more detail in section 8) include a number of steps the MAC thought could have been progressed in tandem with development of the strategy. It includes establishing a Cross-Agency Implementation Group. Taking up to a year to do that is far too long.
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<p><b>There is no robust economic, social and cultural analysis of the strategy's proposals.</b></p>	<p>The lack of urgency is compounded by lack of an economic, social and cultural analysis of the proposals. That needs to include an assessment of the way the strategy can be implemented within existing Treaty settlements, and 'giving space' for future settlements. Such analyses are invariably contentious. Progress with implementing the strategy could be slowed while that work is carried out, socialised and consulted on. This work needs to start as soon as possible so that strategy implementation is not delayed.</p>
<p><b>The draft response strategy needs to say where the new resources that are needed will come from.</b></p>	<p>There are a range of organisations that resource action in the Gulf – for example, the GIFT Fund and Nature Conservancy. The draft strategy does not set out where new resources (financial, skills, people, knowledge and supporting infrastructure) to ensure the strategy succeeds will come from. It is essential that resources are available for implementation – to be clear, the draft strategy's success will be dependent on sufficient resources.</p>
<p><b>Measurable outcomes are needed.</b></p>	<p>Along with clear, urgent timelines and resource commitment, the draft strategy needs to set out success factors – the measurable outcomes against which success can be tested in the future. Having measurable outcomes allows central and local government, mana whenua, industry, environmental groups, key stakeholders and the community to assess the success of the strategy over time. We recognise this can be difficult to do, in particular due to the way cumulative effects are recognised and addressed, but an effort needs to be made to develop these measures.</p>
<p><b>There is not enough local decision-making.</b></p>	<p>Most of the MAC notes that the thrust in Sea Change Tai Timu Tai Pari for greater local involvement and decision-making is not met within the draft response strategy. Most of the strategy proposals rely on central government progress and control, with little real power being given to communities and those with a tangible stake in the Gulf. There needs to be greater 'trust' by central government in communities to develop and implement actions. One member of the MAC notes however that this observation is a little blunt, and that, for example, the trials of Ahu Moana are the appropriate way to proceed.</p>

<p><b>The governance proposals are inadequate.</b></p>	<p>Page 14 of the draft response strategy talks of ensuring effective kaitiakitanga/guardianship in the Gulf, yet the governance proposals set out in the draft strategy do not meet that test. The MAC’s views on governance (see paras 31 to 42) go beyond the proposals in the draft strategy. Options for the government to consider and investigate further are included.</p>
<p><b>Progress can be made on solutions in the Gulf while protecting current and future Treaty settlements.</b></p>	<p>The draft strategy is concerned that proposed actions should not affect nor diminish current and possible future Treaty settlements. The MAC agrees but notes that some settlements are likely to be many years off and action is needed now given the state of the Gulf. Action can be taken while recognising the current and future rights and ambitions of claimants. Further degradation might make settlements harder.</p>
<p><b>Changes to legislation should occur where they are needed.</b></p>	<p>The draft strategy does not propose any legislative changes as part of its implementation. In some areas, the MAC believes legislation specific to the Gulf should be considered (for example through amendments to the Hauraki Gulf Marine Park Act). This would allow some of the options proposed in Sea Change Tai Timu Tai Pari to be progressed, and some of the issues the MAC has with the draft strategy to be addressed. Slowing things down to wait for legislation should not however occur.</p>
<p><b>The draft strategy is incomplete in not setting out fully the sources of stressors to the Gulf’s ecology.</b></p>	<p>The MAC understands the constraints imposed by the scope of work given to officials (that essentially involved the responsibilities of the two Ministers). While substantial progress will be made under the Government’s <i>Action for healthy waterways</i> package of measures, and officials have engaged with some staff in local government over their responsibilities for water quality in the Gulf, the draft strategy does not itself integrate how the combined measures will affect the Gulf and its ecosystems, and what gaps if any exist.</p>

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## B. Comment on each Element of the Draft Strategy

5. The draft response strategy uses a set of eight elements to focus its actions. The following sets out the MAC's views on each of these eight elements, plus some commentary on the proposed research, monitoring and reporting actions in the draft strategy. Comments on the extent of integration, and quality of the engagement carried out in developing the strategy, are also provided.

### i Fisheries management

6. In general, the MAC is broadly supportive of the proposed actions for fisheries management set out in the draft strategy. The ecosystem-based management approach and an area-based Fisheries Plan are very positive steps forward and are applauded. It is vital though that the implementation process does not stop quick progress.
7. Some members are concerned about the lack of quick action in this important part of the Strategy. Development of the Terms of Reference for, and establishment of, a multi-stakeholder Fisheries Advisory Group for the Gulf is set for the end of 2020. In addition, the proposed Hauraki Gulf Fisheries Plan still has to be nested within the wider Inshore Fin Fish Plan.
8. At this stage the Fisheries Plan, while providing a strong sense of direction, is indicative (as the draft strategy admits). It still needs further policy and development and must be consulted on. Some members think that by now the draft plan could have been sufficiently detailed and worked through with mana whenua and key stakeholders to provide the basis for consultation. That has not happened, delaying the start of formal public consultation.
9. The result is that the Plan will not be ready by 1 October 2020 when the new fishing season starts. A more likely timeframe based on the broad times in the draft response strategy is by 1 October 2021.
10. Some members do not think this is quick enough and an interim arrangement is needed to make progress before the Fisheries Plan becomes operational.
11. The MAC views with particular concern the structure of the proposed Fisheries Advisory Group. There is a real risk it will become a talk shop and not provide the impact needed. It should have a clear mandate, be high-powered, paid, and be expected to broker settlements over fisheries in the Gulf. Its members need to be carefully selected to ensure they have the skills and capability necessary to carry out what is expected, and contribute to changes that improve Gulf outcomes. The way the Group is described in the draft strategy does not give us confidence that the Group's role has been adequately considered and empowered.

12. There are some areas where members think there is insufficient detail, or on which there will be contention when the draft strategy is released and the draft Fisheries Plan is consulted on, or where the MAC was not in agreement. These are:
- a. While the draft strategy notes the Fisheries Plan will work alongside any eventual Hauraki Gulf Iwi Fisheries Forum Plan, there is no detail as to how this might happen.
  - b. The treatment of purse seining, where some MAC members do not agree with the draft strategy's proposed treatment and wish to see action to reduce or remove this method in the Gulf, rather than carry out further monitoring. Other members support the draft strategy's proposal.
  - c. The treatment of, and extent and impact on, recreational fishing. One member is concerned at the cumulative impact of the draft strategy's proposals on the ability of recreational fishers to continue to enjoy their use of the Gulf. That member is concerned the Fisheries Management part of the strategy will be seen to favour commercial over recreational fishing.
  - d. The Sea Change Tai Timu Tai Pari proposal of a separate FMA and QMA for the Gulf is not being progressed. Officials have set out their reasons for not advancing this proposal, including that Gulf scale QMAs would not align with the biological characteristics of the fish populations found in the area (with one possible exception). The MAC has noted that advice. We observe that not all FMAs and QMAs are aligned with biological fish populations. Some members think that adding further QMAs that are misaligned with biological stock boundaries would worsen the situation. Some members note that it is crucial that there be effective spatial management within the Gulf.
  - e. The MAC was advised that exclusion of recreational dredging of scallops as proposed in the draft strategy needed to go through a statutory process. Some members oppose continuation of the practice. Others believe its exclusion is not justified. A proposal by some MAC members that recreational dredging be provided for in the commercially dredged areas was not supported by fisheries officials.
  - f. There are differing views about proposed trawl zones. The MAC considered that such zones might be acceptable if there was a robust process for establishing them. Some members expressed concern that a process led by central government was not preferable to one led by mana whenua and communities. This was one area where a high level, skilled and influential Advisory Group could play a role.
13. The MAC also believes the impact of climate change needs to be highlighted, and that there will be a need for agility in managing the Gulf ecosystem as the climate changes.

## **ii Active habitat restoration**

14. The MAC supports the proposals for active habitat restoration. The draft strategy importantly recognises that habitat restoration is likely to evolve and improve as better knowledge about what works is developed.

15. There is some concern that the draft strategy gives the impression of action being static in an area that will require agility, and applying new information sources and research in a dynamic way. Learning what works well and does not work is essential, and applying it quickly is important.
16. The MAC notes that, while direct intervention is proposed for mussel restoration, there is not a similar plan for kelp restoration (and there should be).
17. The strategy notes the importance of mātauranga Māori as a knowledge base to aid restoration. The MAC has a high level of expectation that full use will be made of mātauranga Māori.
18. Our major concern with this part of the strategy is a complete lack of reference to funding sources for restoration. While identifying regulatory barriers is mentioned, there is no mention of funding barriers, which are arguably just as significant. Active restoration efforts will require resources to implement and sources of funding should be identified.

### **iii Aquaculture**

19. The MAC is generally comfortable with the proposed actions in the strategy. Some concern exists over the way that waste from marine farming is currently addressed, and the importance of progressing the *Aquaculture Strategy's* efforts to address waste was stressed by MAC members.

### **iv Marine Biosecurity**

20. As the draft strategy notes, non-indigenous marine species have the potential to become ecological and economic pests. Some pest species have the potential to pose serious threats to marine ecosystems. The draft strategy's proposals are supported but, in common with other parts of the strategy's implementation, MAC members want to stress the need for urgency and action, and appropriate resourcing.

### **v Marine protection**

21. In general, while the MAC is broadly supportive of the proposals there are several areas of concern.
22. Firstly, members are concerned that there is not enough urgency being applied to the actions in the draft strategy. For example, the draft strategy notes the first step is determining the best pathway for implementation – that should have been done while the draft strategy was being prepared so implementation could start immediately. To avoid further delay, public consultation should occur while the pathway is finalised. The MAC notes it will also take two years to complete plans for monitoring and research. Again, that should be accelerated.

23. Second, the MAC notes that the draft strategy provides for customary take to be included in the new high protection areas, and that discussions will take place with mana whenua over what this customary take will entail. By now the MAC would have expected there to be a clear understanding on how customary take will be defined including, for example, a way of resolving differences between hapū or iwi over the way customary take is defined in areas over which they exercise mana o te moana. To be clear, most of the MAC is of the view that a fundamental plank of marine protection in the Gulf is that customary take should be provided for in the new protected areas, and that engagement with mana whenua should occur over how that should be defined. The strategy should be clear about this and the legal ability to do it. Provision for customary take does not extend to current protected areas. One member does not favour blanket customary take precluding the formation of no-take areas and considers that further consultation with mana whenua is required.
24. Third, insufficient analysis has been carried out on the impacts of the proposals on recreational and commercial users. The MAC agrees with commentary in the draft strategy that sets out the limitations of the economic analysis that has been carried out. Members do not want to hold up progress with developing further protected areas but also believe preparation of a robust impact analysis, addressing both costs and benefits and the impacts on fishers, is a high priority. It should include an analysis of the impact on Treaty of Waitangi settlements.
25. Finally, there are a number of other comments about the way the draft strategy's marine protection proposals will be implemented:
- a. It is not clear whether the Marine Protection Areas are designed to protect from immediate risk with tailored interventions, or to stop selected use in a sample of habitats regardless of risk.
  - b. In further consultation it is likely that the details of the proposed protected areas will be discussed. This will include the way that those areas proposed in Sea Change Tai Timu Tai Pari for protection but not included in the draft strategy have been addressed. Not all MAC members agree with the departure from the areas proposed in Sea Change Tai Timu Tai Pari.
  - c. Most MAC members support the use of special legislation to create the protected areas as a package. That will enable some of the concerns to be addressed in a tailored manner. It could be achieved through amendments to the Hauraki Gulf Marine Park Act. The use of special legislation would need to ensure that existing protections in current legislation are maintained and not undermined.

## vi Protected species

26. The MAC is in general agreement with the draft strategy over the treatment of protected species. In common with other parts of the draft strategy, we think there



is an opportunity to take faster action, in particular a need for improved and targeted observation and monitoring.

27. Again, there is concern about a lack of early action – instead, the draft strategy explicitly proposes to stagger implementation.

## **vii Ahu Moana**

28. MAC members support the Ahu Moana concept but note that the proposals set out in the draft strategy are a retreat from Sea Change Tai Timu Tai Pari. What was envisaged as a way of providing for effective kaitiakitanga and guardianship with co-management by iwi and local communities has been reduced to pilot studies to assess the feasibility of the Ahu Moana concept with no governance or management powers in the medium term. In addition, only a limited number of pilot sites are identified and there is a limited programme of action to implement Ahu Moana after the pilots cease. Ahu Moana on a broad scale, in the way envisaged by Sea Change Tai Timu Tai Pari, is likely to be years or decades away.
29. We note that these practices are already being undertaken, with some communities and iwi already operating in this way. The use of pilots is a positive initiative but we have concerns over the lack of devolution and what could be seen as central government reluctance to cede control to iwi and communities. The draft strategy proposals downgrade what was potentially exciting and empowering for iwi and local communities. The strategy's proposals refer to the use of existing management tools yet the Ahu Moana proposal was developed precisely because those existing tools were not fit for purpose.
30. Figure 12 clearly shows decision-making sits with a cross-agency project team reporting to a government Strategy Implementation Group. While MAC members acknowledge the importance of central government facilitating and resourcing the establishment of Ahu Moana, the draft strategy is unambitious in its progress towards the Sea Change concept.

## **viii Governance**

31. Terms of Reference for the MAC include:

*“The Government’s Response Strategy and the Ministerial Advisory Committee may discuss governance matters, provided that:*

- a. The purpose of discussions is to gather information and views about governance, including identifying issues and seeking views on how to resolve those issues*
- b. They are treated as preliminary discussions only that would inform Treaty negotiations over harbours*
- c. Any governance reform is to be undertaken through Treaty settlement”.*

32. Sea Change Tai Timu Tai Pari made a suite of recommendations relating to the functions of a coordinating and governing entity for the Gulf. It anticipated an entity



- with responsibilities that go beyond oversight, advocacy and commentary, and extend into implementation-support, direction, and decision-making.
33. The key thrust of Sea Change Tai Timu Tai Pari's recommendations in this area are that implementation of the marine spatial plan required strong, effective co-governance, and that the governance entity needed to be the champion for the Hauraki Gulf Marine Park – able to play an active role in the “acceptance, adoption, and implementation of the Marine Spatial Plan.” (see Appendix 2)
  34. The draft response strategy essentially proposes that officials will:
    - a. over the course of the next year, seek approval for a Terms of Reference for a central government Cross-Agency Implementation Group, and
    - b. at some indeterminate time in the future provide further guidance to the Minister of Conservation on the timing of a full review of governance arrangements in the Hauraki Gulf.
  35. The majority of the key decision-making and management roles in strategy implementation will be ‘held’ by the central government Cross-Agency Implementation Group rather than being devolved to those closest to the Gulf. While local central government staff will play an important role in implementing the strategy, control will likely lie in Wellington rather than in Auckland.
  36. MAC members agree that improved governance in the Gulf is critical to facilitate the improvements needed. All members agree that the proposed role of the Cross-Agency Implementation Group does not meet the governance needs of the Gulf.
  37. There are a variety of views about the extent of governance change that is needed. Some members think that migrating functions out of current agencies would be a considerable undertaking. When combined with the unknown governance issues that might arise during the course of Treaty of Waitangi negotiations, the draft strategy's caution is an understandable and reasonable first step.
  38. Other members do not think the draft response strategy's proposals are sufficient to ensure effective governance that will turn the tide on environmental decline and deliver a Gulf that is “vibrant with life, its mauri strong, productive, and supporting healthy and prosperous communities.” They note:
    - a. while there have been recent signs of positive change in the way the Hauraki Gulf Forum operates, under the current structure it remains subject to ad hoc change at any time by simple majority decision-making: it also has no real power
    - b. the officials' approach and Terms of Reference constraints mean that the outcome is too lengthy and uncertain, do not resolve any of the pressing issues with existing governance in the Gulf, and is too timid. The officials' proposal is a band aid, not a solution
    - c. there is concern that without faster action on governance there will be no organisation that can drive the critical changes needed. Misalignment and

ineffectual governance will inevitably undermine the delivery of cohesive strategy and actions

- d. a better governance structure for the Gulf is needed which does not compromise Treaty settlements but as such settlements could be many years away (e.g. the 13 iwi of the Tāmaki Collective have been waiting eight years for negotiations to even begin, and they won't begin this year), that should not be used as a reason to delay putting better arrangements in place. The arrangements can be further amended, if needed, to take into account any Treaty settlements when they are finalised.

39. All MAC members see that future governance arrangements need to involve, at the least:

- a. Representation from those communities and organisations that are local. That is a key principle behind Sea Change Tai Timu Tai Pari,
- b. The concept of co-governance, and
- c. A smaller-sized, more cohesive governance body with an increased mandate.

40. The MAC has considered a number of options for improving governance in the Gulf. The table in Appendix 2 sets out three options as well as the status quo, and provides some pros and cons for each. The options presented are:

- a. The status quo
- b. A 'streamlined' status quo – a better 'champion' for the Gulf
- c. A Hauraki Gulf Authority set up to operate in a way similar to the Waikato River Authority
- d. A Hauraki Gulf Authority with Resource Management Act, marine conservation and potentially fisheries management powers over the Gulf.

41. We acknowledge the MAC has not had the time or resource to fully consider all implications resulting from the options. However, most MAC members want to provide Ministers with additional governance advice because it is our view that the current governance framework falls short in meeting the needs of the Gulf and its communities, and the officials' proposals do not substantially move matters forward.

42. Some MAC members favour that, on a first principles basis, further work be carried out on the 4<sup>th</sup> of the options – a Hauraki Gulf Authority that has responsibility for the integrated management of the Gulf. Its membership would reflect a co-governance approach between the Crown and mana whenua, with local government and stakeholders. These members note that resolution of Treaty settlements over all of the Gulf is likely to be some time away. Improved governance for the Gulf does not need to wait for those settlements to occur. Others are concerned that a move to option 4 could involve lengthy objections and delays that may undermine delivery of immediate actions to improve the Gulf, so more detailed work on option 3 may be a pragmatic first step even though it does not provide the strongest voice and integrated leadership. One member notes that governance changes are needed but believes further more detailed work is required on all options.

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## C Research, monitoring and reporting

43. The MAC strongly supports the draft strategy's research and monitoring approach. It is positive to see the importance of this recognised, including through the use of te ao Māori perspectives.
44. There are, however, two reservations – first, control of research and monitoring rests with the government Cross-Agency Implementation Group. While alignment with central government agencies' research programmes is desirable, that does not need to be done through central control.
45. Second, research, monitoring and reporting will be strengthened by having clear success factors and measurable outcomes against which success can be measured. It is a shortfall in the draft strategy that these are missing. Having measurable outcomes allows central and local government, mana whenua, industry, environmental groups, key stakeholders, and the community to assess the success of the strategy over time. The MAC recognises that these are not always easy to develop, and they would improve over time with more research and better knowledge. The draft strategy would however have been improved with their inclusion, even as proxies or appropriately caveated.

## D An integrated response

46. In a number of parts of the strategy it notes that action will need to be taken by local government, who are responsible for catchment management and regulation, and preventing land-based stressors and contaminants from entering the Gulf.
47. These sources contribute to the degradation of the Gulf. The MAC understands the constraints imposed by the scope of work given to officials, and notes the recent release of the Government's *Action for healthy waterways* package of measures, which should make a difference to freshwater quality. While officials have engaged with some local government staff over their responsibilities for water quality in the Gulf, the draft strategy does not fully set out how healthy Gulf ecosystems will be achieved in an integrated way.

## E Engagement

48. Officials were aware of the need to get and include feedback from a wide range of interested stakeholders, and were keen to undertake that engagement. However, the arrival and ongoing impact of Covid-19 has adversely affected the extent to which officials were able to carry out engagement during the course of the development of the draft strategy. That impact is recognised by the MAC.

49. The MAC also acknowledges receipt of some feedback that engagement undertaken was at too high a level, was too broad and would have been better if officials had consulted on their draft proposals (rather than on the Sea Change Tai Timu Tai Pari plan) so their proposed approach was tested with mana whenua, interest groups and the community.
50. In light of the constraints on consultation, it is likely that further consultation will be needed in a number of areas, slowing down the implementation of the Government's response. That is unfortunate.

## F Te Ao Māori

51. Te Ao Māori or the Māori World,<sup>2</sup> (as opposed to the Māori Worldview, which can imply observing from a distance rather than a turning of the mind to the world in which Māori lived)<sup>3</sup> is a complex three-dimensional philosophy that communicates concepts from the 'inside', whereas a Māori Worldview necessitates observations from outside.<sup>4</sup> Cosmology and the creation accounts are intrinsic to Te Ao Māori. Cosmology establishes the relationships or *whakapapa* between people, the environment and the spiritual world.<sup>5</sup>
52. Tikanga Māori is a contextual concept.<sup>6</sup> The commonly accepted meaning is "straight, direct, tied in with the moral notions connotations of justice and fairness including notions of correct and right".<sup>7</sup> This can, however, vary according to the people involved and in relation to particular circumstances.<sup>8</sup> Tikanga is a system prescribing what is considered normal and right, it is defined and influenced by contextual factors inferring flexibility and *ritenga* refers to those practices that are similar or equivalent to those followed by ancestors.<sup>9</sup> This provides a 'standard' or 'precedent'.<sup>10</sup> The use and implementation of this standard or 'precedent' gives

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<sup>2</sup> Although Te Ao Māori is often referred to as the Māori worldview, Te Ao Māori more correctly is the Māori World.

<sup>3</sup> See M Marsden "God, Man and Universe: A Māori view" in Michael King (ed) *Te Ao Hurihuri Aspects of Māoritanga* (Reed Books, Auckland, 1992) at 117.

<sup>4</sup> Above.

<sup>5</sup> See also Te Paparahi o te Raki Waitangi Tribunal Report (November 2014) Wai 1040, at 20.

<sup>6</sup> See New Zealand Law Commission *Māori Custom and Values in New Zealand Law* (NZLC SP9, Wellington, 2001); see also H W Williams *A Dictionary of the Māori Language* (7<sup>th</sup> ed, Government Printer, Wellington, 1971).

<sup>7</sup> Richard Benton, Alex Frame and Paul Meredith (eds) *Te Mātāpunenga: A Compendium of References to the Concepts and Institutions of Māori Customary Law, compiled for Te Matahauariki Institute* (Victoria University Press, Wellington, 2013) at 429.

<sup>8</sup> See also submission from Ngāti Korokoro in Wai 1040, above n 4, at 495 that stated '...many hapu lived side by side practising different tikanga very successfully'.

<sup>9</sup> See also Wai 1040, above n 4, at 25 that notes 'An example of ritenga, Aldridge said, was the requirement for people who went fishing to return the first fish to Tangaroa'.

<sup>10</sup> See Hirini Mead *Tikanga Māori Living by Māori Values* (Huia, Wellington, 2003), at 12.

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effect to *kaupapa*, ground rules<sup>11</sup> or ‘body of principles that create the law’.<sup>12</sup> Together with *kaupapa*, this then provides a framework by which further concepts such as *mana*, *tapu* and *mauri* are given effect.

53. *Mana* is defined as ‘...recognised authority, influence and prestige, thus also power and the ability to control people and events’.<sup>13</sup> Within the Māori world, *tapu* simply refers to the presence of ancestors, and the resulting restrictions that their presence places on people, places, *taonga* or events.<sup>14</sup> *Mauri* is a central notion in Māori philosophy defined as ‘life principle’.<sup>15</sup>
54. The principle of *whakapapa* is fundamental to Te Ao Māori. It is a complex network of reality linking animate and inanimate objects.<sup>16</sup> As a relational construct, it provides an explanation of how the universe emerged and how the convergence of complementary, or balancing pairs created new forms of life.<sup>17</sup>
55. So, *tikanga* is a ‘structure’ that gives effect to basic principles or ground rules.<sup>18</sup> And concepts such as *mana* and *tapu* assist in the regulation of the relationships or *whakapapa* between people, the environment and the spiritual world. The aim of *tikanga* Māori is to achieve balance.<sup>19</sup> The regulators — *tapu* and *mana* — assist in the restoring of any imbalance e.g. environmental degradation.

### **Te Ao Māori and the Environment**

56. Māori, like other Indigenous peoples, have a spiritual connection to the environment. Māori conceptions of the environment and natural resources, such as fisheries and climate, are sourced in Māori cosmology. This cosmology assists to govern and understand the relationship. The separation of Ranginui and Papatūānuku in the creation stories resulted in the birthing and developing of different ecosystems, such as rains, mists and dews symbolising the tears of separation; and the blood from the tearing of the sinews joining them became the sunrises and sunsets. This separation and the ongoing conflict between the children of Rangi and Papa symbolises the ongoing struggle between different aspects of the environment.
57. This was all part of the *whakapapa* relating the gods, the natural world and humans. As *whakapapa* relates us as Māori to the environment, in that these elements are

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<sup>11</sup> *Kaupapa* derives from *kau* which means to appear for the first time or be disclosed, while *papa* is a reference to the Earth or Papatūānuku, so together *kaupapa* means ‘ground rules’ or ‘first principles’. See Maori Marsden “The Natural World and Natural Resources” in C Royal (ed) *The Woven Universe: Selected Writings of Rev Maori Marsden* (Estate of Rev. Maori Marsden, Masterton, 2003) at 173.

<sup>12</sup> Wai 1040 above n 4.

<sup>13</sup> Benton and others above n 6, also Marsden above n10, at 4.

<sup>14</sup> Marsden above n 2, at 119.

<sup>15</sup> Benton and others above n 6, at 239.

<sup>16</sup> In writings by ‘Hohaia Toki Pangari’ (grandfather of Valmaine Toki), he traced this ‘whakapapa’ of inanimate and animate objects from Te Kore to contemporary times; see also Wai 1040 above n 4, at 22 - 25.

<sup>17</sup> Marsden above n 10.

<sup>18</sup> Above.

<sup>19</sup> Wai 1040, above n 4 at 25.

our relations, that concept of whanaungatanga extends to an obligation to our non-human relations also. i.e. we are all related and should treat each other with respect.

58. Māori developed customs to look after the mauri (life force) of all natural resources and ensure their sustainable management. There is no concept of ownership of resources, such as the fishery, rather mana or authority and control over access and use. The resource is recognised as taonga (treasure) protected by guardians (kaitiaki) who mediate the relationships between that resource and people to maintain the mauri (life force) of that resource.
59. The philosophy underpinning tikanga Māori includes concepts such as kaitiakitanga (guardianship), manaakitanga (a duty to look after others), taonga tuku iho (future generations) and kotahitanga (unity). The aim of tikanga Maori is balance. The interaction of these concepts to preserve intergenerational and intragenerational equity is consistent with the concept of “sustainable management”.

## Te Ao Māori and Te Tai Timu Tai Pari

60. We support the inclusion of tikanga concepts/principles (e.g. kaitiakitanga) into the strategy, however we are mindful that tikanga is premised on Te Ao Māori and effective (unintended) ‘cherry-picking’ concepts and then including into a document that is not premised on Te Ao Māori is problematic. However, we also understand practicality and inclusion of these concepts creates awareness raising. To this end there are four areas where we consider there should be a stronger direction to ‘tikanga’.
  1. **Ahu Moana** – a perfect vehicle to ‘bring together’ in a practical sense Te Ao Māori concepts into a community situation where all players seek sustainability or balance for the resources. Ahu Moana, and the associated tools such as rahui, is a solution to the now imbalance and environmental degradation and decline of mauri. The draft strategy misses the opportunity to fully explore and empower a model for localised authority.
  2. **Marine Protected Areas** – Mana whenua have underscored the enduring special relationship Māori have with the marine protection areas proposed in the draft strategy. For customary rights within any of those areas to be restricted, or subject, to a ‘special permit’, is a slight on the right of tino rangatiratanga.
  3. **Treaty Settlement** – the draft strategy states:

*“Implementation of the Strategy does not in any way affect or dilute existing Treaty Settlements. Rather, our intent is to further strengthen the Crown’s partnership with mana whenua as kaitiaki of this taonga.”*

We prefer stronger language:  
e.g. ‘the Strategy *will not* in any way affect or dilute...’ and  
e.g. rather than intent ‘our *guarantee* is to further strengthen the Crown’s partnership ....’

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4. **Impact of commercial fishers and recreational fishers** – on Māori rights to tikanga practices that, for example, allow for customary take. That is not meaningfully taken into account within the strategy.

## G Conclusion – need for action

61. To conclude, the Government has a real opportunity to stop further degradation of the regional and national taonga that is the Gulf. It can put in place the fundamental measures that will over time restore and transform the Gulf, and leave a lasting legacy. That opportunity to act quickly and decisively should not be lost.

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## Appendix 1 : Members of the Sea Change Tai Timu Tai Pari Ministerial Advisory Committee

Catherine Harland (Co-Chair)

Paul Majurey (Co-Chair)

Dr Jeremy Helson

Volker Kuntzsch

Dr John Montgomery

Raewyn Peart

Tame Te Rangi

Dr Valmaine Toki

Liane Ngamane (until 17 January 2020)

Wati Ngamane

Dirk Sieling

Moana Tamariki-Pohe



## Appendix 2 : Hauraki Gulf Governance Options

HAURAKI GULF GOVERNANCE OPTIONS			
OPTIONS	ESSENTIAL FEATURES	PROS	CONS
1. Status Quo	<p>Hauraki Gulf Forum in its present role and configuration.</p> <p>Current responsibilities for conservation, fisheries management and catchment management would remain with current relevant agencies.</p>	<ul style="list-style-type: none"> <li>• Presents the least level of disruption.</li> <li>• At least some of the functions proposed could be carried out with a Forum that is better resourced.</li> </ul>	<ul style="list-style-type: none"> <li>• There is a lack of independence from statutory agencies</li> <li>• The Forum lacks the resource to provide independent advice</li> <li>• The Forum lacks an effective secretariat that can play a key role in the management of the Gulf.</li> <li>• It lacks influence over statutory decision-making</li> <li>• There are too many members for an effective governance organisation</li> <li>• The Forum in its current form has not been able to prevent deterioration in the Gulf.</li> </ul>
2. Streamlined Status Quo – a better ‘champion’	<p>The Forum maintains its present role, with changed composition to reduce its size and better reflect mana whenua:</p> <p>12 members, with 6 local government reps (3 appointed by Auckland Council and 3 by Waikato Regional Council)<sup>20</sup></p>	<ul style="list-style-type: none"> <li>• The membership of the Forum would be smaller and more efficient, effective and focussed.</li> <li>• Mana whenua would not have increased membership overall but there would be a proportionate increase.</li> <li>• If it received additional funding, it could provide more leadership and advocacy.</li> </ul>	<ul style="list-style-type: none"> <li>• Not every iwi or council has direct representation – some iwi may object to Ministerial appointments</li> <li>• While the size of the Forum reduces, its role and functions remain the same. It would have no direct role in achieving change</li> </ul>

<sup>20</sup> Under Option 2 and Option 4 council and/or central government appointments should encompass scientific/sector specialists, community, industry, environmental and NGOs, but with a focus on selection of a group with the skills necessary to provide the governance capability needed to progress Sea Change.

HAURAKI GULF GOVERNANCE OPTIONS			
OPTIONS	ESSENTIAL FEATURES	PROS	CONS
Continued... 2. Streamlined Status Quo – a better ‘champion’	<p>6 mana whenua reps appointed by the Ministers of Conservation &amp; Fisheries and the Minister for Māori Development from mana whenua nominations.</p> <p>The Forum would have its funding increased to play a more direct role in statutory and planning processes, and in determining priorities for scientific work on the Gulf, and on clean-up and restoration priorities.</p> <p>The Forum could provide leadership without statutory change – but that would only be effective if other management agencies formally and positively support the approach, both in principle and by providing resources that enable the Forum to perform this role effectively</p>	<ul style="list-style-type: none"> <li>• There are advantages to having stakeholders rather than elected council members on the Forum.</li> </ul>	<ul style="list-style-type: none"> <li>• Local non-indigenous knowledge is not included as of right. While this could be provided for by council appointments, it is not guaranteed.</li> <li>• On the other hand, if elected local government representatives are selected, this is said to have been a key contributor to governance difficulties identified.</li> <li>• It would still lack direct influence over statutory decision-making by both central and local government</li> <li>• Without other changes it would still lack sufficient resources.</li> <li>• It is not clear that the attitude of other agencies towards the Forum would change sufficiently for it to be able to play a leadership role.</li> </ul>
3. Hauraki Gulf Authority ‘Light’	The Authority would be set up to operate in a way similar to the Waikato River Authority. <sup>21</sup>	<ul style="list-style-type: none"> <li>• The membership of the Forum would be smaller and more efficient, effective and focussed</li> </ul>	<ul style="list-style-type: none"> <li>• There would be, through the use of the Vision, and a more active Forum, a greater level of integration in decisions over the Gulf.</li> <li>• Not every iwi or council has a seat.</li> </ul>

<sup>21</sup> The Waikato River Authority was established under the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010. The Act sets out the Vision and Strategy for the River, and provides that the Vision and Strategy prevail over sections 59-77 of the Resource Management Act (which deal with regional plans and rules, water quality, greenhouse gas discharges, and district plans). The primary direction for the health and use of the Waikato River is through the Vision and Strategy to achieve the restoration and protection through the health and wellbeing of the Waikato River for future generations. The Authority promotes an integrated, holistic and coordinated approach to the implementation of the vision and strategy and the management of the Waikato River, and funds rehabilitation initiatives in its role as sole trustee for the Waikato River Clean-up Trust. It can request call-ins under the Resource Management Act, and appoint commissioners to sit on hearings committees or Boards of Inquiry.

HAURAKI GULF GOVERNANCE OPTIONS			
OPTIONS	ESSENTIAL FEATURES	PROS	CONS
Continued... 3. Hauraki Gulf Authority 'Light'	<p>There would be a statutory Vision for the Hauraki Gulf which would have similar effect to that for the River Authority, and would prevail over regional and district plans.</p> <p>The Vision could also prevail over relevant central government fisheries and conservation legislation as it relates to the Gulf.</p> <p>The Authority (and its enlarged secretariat) would liaise with councils and central government, as well as with communities and mana whenua, over plans and its other activities.</p> <p>The Authority would have a role of determining priorities for scientific work on the Gulf, and on clean-up and restoration priorities.</p> <p>The composition of the Authority could be as under either Option 2 or Option 4 but there would be a role for Ministerial appointments if the Vision prevailed over fisheries and conservation legislation.</p>	<ul style="list-style-type: none"> <li>• Mana whenua do not have increased membership overall but there is a proportionate increase.</li> <li>• Planning and other statutory responsibility would remain with Councils but the Authority would have statutory power but at a higher level.</li> <li>• Relevant government departments would retain their statutory responsibility for fisheries and conservation law, but within the context of the Vision.</li> <li>• The Authority would need to be funded to carry out the enhanced role.</li> <li>• It would considerably strengthen the integration of policy, regulation, research and advocacy in the Gulf.</li> </ul>	<ul style="list-style-type: none"> <li>• Local non-indigenous knowledge is not included. While this could be provided for by appointments, it is not guaranteed.</li> <li>• Enhanced resources would need to be guaranteed or the Authority would not be able to carry out its functions adequately.</li> <li>• The Authority's influence on the way that statutory instruments within the Gulf are used would not be direct, still relying on the actions of government departments and local authorities, but within a structure driven by the (statutory) Vision.</li> <li>• It is not clear the extent to which government departments and local authority statutory responsibilities would be influenced by a Vision, and how any 'spillover' effects (e.g. freshwater rules, fisheries areas outside the Gulf) would be affected.</li> <li>• The Waikato River Authority and its related legislation and funding is part of a Treaty settlement. That may lead to two sets of concerns – is it seen as a predictor of settlements in the Gulf and, having seen it work, would the Crown be committed to a similar settlement for the Gulf?</li> </ul>

HAURAKI GULF GOVERNANCE OPTIONS			
OPTIONS	ESSENTIAL FEATURES	PROS	CONS
4. Hauraki Gulf Authority	<p>The Authority would have RMA, marine conservation and potentially fisheries management powers over the Hauraki Gulf coastal marine area.</p> <p>The Authority's representation would change to better reflect a co-governance model:</p> <ul style="list-style-type: none"> <li>• Composition (12 members):</li> <li>• 6 government / local government reps <ul style="list-style-type: none"> <li>○ 3 appointed by Ministers of Conservation &amp; Fisheries and the Minister for Māori Development</li> <li>○ 3 jointly appointed by Auckland Council &amp; Waikato Regional Council</li> </ul> </li> <li>• 6 mana whenua reps appointed through a process similar to the Auckland Independent Māori Statutory Board process</li> </ul> <p>A new secretariat and administrative structure would be established. It would be funded predominantly by central government, recognising the national significance of the Gulf, but with partial funding from the Auckland Council and Waikato Regional Council, recognising the freshwater management functions that would be carried out.</p>	<ul style="list-style-type: none"> <li>• The Forum would have a single statutory purpose and focus. It would provide the Gulf with an influential and resourced public body.</li> <li>• It would be easier for the Forum to play a leadership role if its statute gave it more direct powers and if its governance arrangements and operating model were designed explicitly for that purpose.</li> <li>• It would mean that one body would have integrated management responsibilities.</li> <li>• It removes an artificial political boundary in the Hauraki Gulf.</li> <li>• It achieves integration in Gulf regulation, advocacy and management.</li> </ul>	<ul style="list-style-type: none"> <li>• Councils would lose statutory functions.</li> <li>• There would be significant time, cost and disruption in making the transition to such an authority. That might result in delays to achieving outcomes.</li> <li>• It would be an exception to existing statutory regimes.</li> <li>• It could result in a lack of integrated land-use planning (although some would argue that this does not exist in reality in many areas already).</li> <li>• There would be significant roles in the Authority that were not directly related to the Gulf – for example some freshwater compliance functions such as approving regulatory approaches for contaminants that did not relate to the Gulf.</li> <li>• There might be duplication in fisheries enforcement functions between the Ministry of Fisheries and the Authority.</li> <li>• There might be boundary issues in fisheries management with the Ministry of Fisheries.</li> <li>• Depending on the Councils' and Ministers' choices, there may not be sectoral participation in governance, or the skills necessary.</li> </ul>

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## Appendix 3 : Sea Change Tai Timu Tai Pari Hauraki Gulf Forum Functions (pages 179-180)

The Governance Entity needs to be the champion for the Hauraki Gulf Marine Park and focus on the acceptance, adoption, and implementation of the Marine Spatial Plan. This includes the following:

- a. Leading strategic Gulf-wide initiatives described in the Plan that are clearly not the role of any particular statutory agency, and/or facilitating inter-agency cooperation to ensure priority Initiatives are implemented.
- b. Overseeing the design of a detailed implementation plan (within 6 to 9 months of adoption of the Spatial Plan), which could commence with prioritised fisheries reviews, the development of key performance indicators, and commitment to monitoring and review protocols being established.
- c. Overseeing and coordinating research, information gathering, and reporting for the Hauraki Gulf Marine Park, as well as providing a central place where Gulf information is held.
- d. Establishing a public awareness and education campaign on the implementation of the Spatial Plan and other relevant issues associated with the Hauraki Gulf Marine Park.
- e. Coordinating and supporting the community initiatives and restoration groups actively engaged with the care of the Hauraki Gulf Marine Park
- f. Providing recommendations to the Minister for Primary Industries on fisheries sustainability measures and regulations applying to the Hauraki Gulf Marine Park. This includes working with the Minister for Primary Industries and local Mana Whenua groups in establishing customary fisheries tools such as mātaimai, taiāpure, and rāhui.
- g. Supporting Mana Whenua and local communities in the establishment of Ahu Moana.
- h. Assisting iwi to realise their goal of greater participation in the governance, management and kaitiakitanga of the marine space.
- i. Working closely with DOC, iwi/hapū, and local stakeholder groups and communities to help establish the network of MPAs identified in the Plan and providing support to iwi/hapū and local communities to ensure MPAs are successfully managed in the long term
- j. Ensuring that all government agencies and stakeholders consider potential impacts on the Hauraki Gulf Marine Park's ecosystems, and document their process as an integral part of their decision-making systems.

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- k. Developing guidance material on how an ecosystem-management / Mātauranga Māori management approach should be applied to fisheries, conservation, and resource management decision-making in the Hauraki Gulf Marine Park and its catchments.
  - l. Producing a five-yearly “State of the Hauraki Gulf Marine Park” report, which would include a review of the effectiveness of the Marine Spatial Plan and the extent to which targets are being met.
  - m. Revising the Marine Spatial Plan to respond to issues raised in the review. The Governance Entity should be responsible for approval of each revised Spatial Plan, which could then be given statutory recognition under a revised Hauraki Gulf Marine Park Act, with agencies required to give effect to it under their various statutory instruments.
  - n. Reviewing relevant draft statutory documents prepared by agencies prior to public notification to ensure that they give effect to the Spatial Plan and the Hauraki Gulf Marine Park Act. These would include plans prepared under the Resource Management Act, the Conservation Act and in Initial Position Papers prepared under the Fisheries Act.
  - o. Leading regular meetings with statutory agencies to track implementation progress.