

Before the Independent Hearings Panel  
At Department of Conservation

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Under the Resource Management Act 1991 (**RMA** or **Act**)

In the matter of Proposed Plan Change 1 to the Regional Coastal Plan:  
Kermadec and Subantarctic

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**Memorandum of Counsel on behalf of Sanford Limited and Seafood New Zealand Limited (Deepwater Council)**

18 June 2026

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## May it please the Panel

- 1 This memorandum of Counsel is filed on behalf of Sanford Limited and Seafood New Zealand Limited (Deepwater Council) (together **Fishing Industry Interests**) in response to Minute 2 of the Hearing Commissioners (**Commissioners**) dated 11 June 2026.
- 2 As per the directions of Minute 2, the Fishing Industry Interests:
  - (a) welcome the opportunity to participate in relation to the proposed amendments proposed by Plan Change 1 (**PC1**); and
  - (b) wish to ensure the final directions provide scope for submitters to provide some limited further supporting information for context in relation to the factual matters referred to by Ms Hucker (i.e. in relation to the *wider* operation of the inspection regime/matters included in the forms).
- 3 In this regard, the Fishing Industry Interests are concerned that the scope of the proposed process set out at paragraphs 6.2 and 6.3 of Minute 2 may be too narrow and limited to "*form design*" or "*surgery to the forms*" (as referred to in discussion on the provided YouTube clip). The discussion was clearly broader than the simple layout of the form.
- 4 The Fishing Interest Interests wish to emphasise at the outset that they do not seek to provide wholesale new evidence on the wider biofouling regime but (again) they do ask, in the interests of natural justice, that the final directions do allow some contextual explanation/response to the matters raised (as in turn is relevant to informing the content and operation of the form).
- 5 There is an absolute need to ensure submitters are not "*short changed*" (at 58.24min) in relation to next steps.

## Process concerns

- 6 The Fishing Interests start from the position that the Panel must '*establish a procedure that is appropriate and fair in the circumstances*'.<sup>1</sup> That would ordinarily see submitters having matters identified in an Officer's report and then getting a fulsome opportunity to comment on all factual matters raised (and Officers only then being given a right of reply).
- 7 In this instance:

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<sup>1</sup> Resource Management Act 1991, section 39(1)

- (a) the Department was allowed, out of sequence, to introduce further evidence after the Fishing Industry Interests had already presented its submission and addressed the matters arising from DOC's initial presentation of its section 42A evidence; and
  - (b) the relevant material was approximately 1 hour and 9 minutes in duration (and was much broader than 'reply' – rather what was provided was a fulsome explanation of the inspection regime and how inspections are undertaken (i.e. much more than just the layout of the forms)).
- 8 Specifically, the evidence of Ms Hucker, provided on DOC's behalf, was directly relevant to the Fishing Industry Interests, as it addressed:
- (a) amendments to the forms contained within Appendix 4, including the increased video and photo evidential requirements;
  - (b) Appendix 2 of Darryn John Shaw's evidence and the view from an approved diver contractor/inspector on the significant additional workload and resulting cost increases (per vessel) from the proposed dive inspection standards and reporting requirements;
  - (c) the proposed deletion of Appendix 5, and consequential removal of the requirement that inspections be undertaken by an Approved Person;
  - (d) consistency as between the MPI Craft Risk Management Standard and the requirements of the form; and
  - (e) how a dive inspection would be implemented in practice against the requirements for the form, including:
    - (i) threshold inspections and what an inspector is looking for;
    - (ii) how photographs would be collected and of what;
    - (iii) how sea chest and niche area exclusion and inspections should occur; and
    - (iv) how any inspection is to be "*scaleable*" to reflect the relevant vessel; and
  - (f) preparation of additional or combined vessel-discrete forms.
- 9 The Fishing Industry Interests are particularly concerned by DOC's comments on Appendix 2 to Darryn Shaw's evidence, which questioned the

methodology and accuracy of the approved diver contractor/inspector's calculations. The Fishing Industry Interests would have responded directly to those comments had it been given a proper opportunity to do so.

- 10 For clarity, and as referred to at paragraph 2.1 of Minute 2, the Fishing Industry Interests also wish to record that they are confident that they have not misunderstood the degree to which the proposed changes are more onerous than PC1's current provisions.
- 11 This view appears to have formed following the presentation of DOC's additional evidence and again would have been a matter it would have directly responded to at the hearing if fairly provided the opportunity.

### **Fishing Industry Interests proposed process**

- 12 In the interests of natural justice, the Fishing Industry Interests need to be given a substantive opportunity to respond, as they would have done so had an opportunity been fairly provided at the hearing.
- 13 As the Panel observed in the hearing the material is potentially of "*great significance*" to them. Further, with the Panel having raised the potential jurisdictional issue it is also submitted that the Panel should now be particularly cautious in limiting or restricting the response of submitters. As the Panel observed (at 56.15min):

*"the problem here is that just in terms of natural justice we haven't got these folk here to hear all this, to explore it, to test it, to put a contrary view"*

- 14 That comment needs to be seen in the broader discussion that occurred and not just the layout for the forms.
- 15 In terms of process, the Fishing Industry Interests propose a two-step process. In particular they:
  - (a) record that they are willing to engage with Ms Hucker and the wider Department to see if an agreed position can be reached (but don't see this as requiring separate additional specific directions); and
  - (b) propose that submitters be given an opportunity to respond to the matters raised by DOC in Ms Hucker's additional evidence (being strictly limited to the layout/content of the form **and** the various new factual matters/opinions raised on the inspection regime) through:
    - (i) a limited written reply; and

(ii) if the Panel so determines following the provision of material, a limited reconvening of the hearing to allow those matters to be addressed fairly.

16 If the Panel are not minded to provide adequate scope for the Fishing Industry Interests to respond to the matters raised, Ms Hucker's further evidence should be disregarded in its entirety.

Dated this 18th day of June 2026



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Ben Williams / Conor Meredith  
Counsel for Fishing Industry Interests