

Environmental Law Initiative  
Submission:

# Draft National Plan of Action for the Conservation and Management of Sharks 2022



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*Takina te mauri o te taiao*



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## ABOUT US

The Environmental Law Initiative (ELI) thanks MPI for the opportunity to submit on the Draft National Plan of Action for the Conservation and Management of Sharks 2022.

ELI is a registered charitable trust, whose objective is to support the effective protection of Aotearoa's natural resources and environment. We are advised by a small team of experts in environmental law, policy, science, ecology and management.

Though operating independently, we partner with a range of other groups and individuals—including iwi, hapū, governmental agencies, charities, and organisations—to achieve positive outcomes for the environment.

In ELI's view, the law is our best tool for effectively protecting the environment. Our research and advocacy is centered around improving legislation and policy to better protect and restore Aotearoa's marine, freshwater, and terrestrial environments and biodiversity.

As a non-profit, our ultimate objective is to bring sound environmental research to decision-making in matters of the environment and move towards a sustainable, healthy Aotearoa for all.

For more information, see [www.eli.org.nz](http://www.eli.org.nz)

If you have any questions, we would welcome the opportunity to discuss our submission with you. Please contact Dr. Simon Childerhouse to arrange a time to discuss (m. 027-256-5067; e. [simon.childerhouse@eli.org.nz](mailto:simon.childerhouse@eli.org.nz)).

## To: Fisheries NZ (FNZ) and the Department of Conservation (DOC)

Tēnā koutou,

1. The Environmental Law Initiative (ELI) thanks you for this opportunity to submit on the Draft National Plan of Action for the Conservation and Management of Sharks 2022 (NPOA Sharks 2022<sup>1</sup>).
2. **Section A** of this submission contains general comments on the draft document.
3. **Section B** outlines the aspects of the draft document that ELI supports.
4. **Section C** outlines significant gaps and areas for further consideration.

### Section A: General comments

1. ELI welcomes the news that Fisheries NZ (FNZ) and the Department of Conservation (DOC) on behalf of the Aotearoa New Zealand (NZ) Government are consulting on the Draft National Plan of Action for the Conservation and Management of Sharks 2022 (NPOA Sharks 2022). The previous National Plan of Action – Sharks 2013 (NPOA Sharks 2013) is now considerably out of date and a review and update has the potential to significantly improve the conservation and management of sharks in NZ.
2. The draft document defines the term '*shark*', as it is used generally in the document, to refer to all sharks, rays, skates, chimaeras and other members of the Class Chondrichthyes. This is an appropriate approach, but it is worth noting that while the definition includes all Chondrichthyes species, the strong focus of the document is on sharks with considerably less information and consideration of other Chondrichthyes species. It would be useful to see an improved coverage of these other species including issues that specifically relate to species other than sharks. We also follow the general usage of 'shark' in our submission to refer to all of these species unless specified otherwise.
3. The previous NPOA Sharks 2013 provided some useful guidance and direction to the Government for the conservation and management of sharks in NZ. The document listed over 35 objectives or sub-objectives and, in a recent review of progress against

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<sup>1</sup> NZ Government 2022. National Plan of Action for the Conservation and Management of Sharks 2022 Draft for Consultation. p. 32. Available at <https://www.mpi.govt.nz/dmsdocument/52438-Draft-National-Plan-of-Action-for-the-Conservation-and-Management-of-Sharks-2022>

these objectives conducted by FNZ<sup>2</sup>, only three were considered to be completed, a further five were on track with the remainder either partially completed or ongoing with a further six items recorded as not having been started. Given the 9 years since the publishing of the NPOA Sharks 2013, this low level (e.g., <23%) of objective delivery is both alarming and disappointing. While there were some significant achievements from the NPOA Sharks 2013, with the most notable being the elimination of shark finning, this low level of objective achievement highlights the importance of revising the NPOA Sharks to ensure that the updated version is more outcome focused with clear, measurable and enforceable performance measures.

4. It is unclear why the NPOA Sharks 2013 has had such a low level of success as measured against the stated objectives and there is little consideration nor explanation of this in the draft NPOA Sharks 2022. It is important to understand the reasons for this low level of success so as to improve the likely success of the updated version. Some specific issues that appear likely to have influenced the low level of success against the NPOA Sharks 2013 include:
  - a. The NPOA Sharks 2013 had many goals and objectives that were very broad and non-specific with poorly defined performance measures. All objectives and performance measures need to be SMART (i.e., specific, measurable, achievable, relevant, and time-bound) so that the requirements for delivery and completion are clear to everyone including both stakeholders and regulators and so that progress can be assessed against them. It is positive to note that this aspect has been addressed in the draft NPOA Sharks 2022 (i.e., performance measures). We provide some specific comments on some of these performance measures in Table 1 and Section C.
  - b. While there was a review of progress and action against the NPOA Sharks 2013 after 9 years, it appears that this was the only significant review. It is essential that more regular reviews are conducted (e.g., ideally annually or biannually) so that progress against the objectives and performance measures can be regularly assessed. This would allow for adjustments and / or additional resourcing to be provided if progress was unsatisfactory. While this statement is specific to the draft NPOA Sharks 2022, ELI recommends that regular reviews should, in future, be included as an integral part of these

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<sup>2</sup> Fisheries NZ 2022. Review of NPOA Sharks 2013: Progress against objectives and Actions. p. 20. Available at <https://www.mpi.govt.nz/dmsdocument/52441-Review-of-National-Plan-of-Action-Sharks-2013>

kinds of strategic and policy documents including other NPOAs (e.g., birds), species management plans, and recovery plans.

- c. While the NPOA Sharks 2013 provided some useful goals and objectives, the document itself has no formal statutory or legislative standing under the Fisheries Act, Wildlife Act or any other mechanism. However, it is noted under the Implementation Section of the draft document, that the main mechanism through which the NPOA-Sharks 2022 will be given effect is the National Fisheries Planning process managed by FNZ. This is a positive development including that there will be annual reviews of the relevant operational plans. However, this mechanism will only cover actions in the draft NPOA Sharks 2022 that relate to fisheries and the implementation of other non-fishery related actions. It is identified that DOC will implement work through the Conservation Services Programme which is also a fisheries focused process. ELI recommend that more detail is provided in the draft document about how non-fishery related actions will be implemented and monitored. The draft document also identifies roles and responsibilities for both Regional Councils and the Ministry for the Environmental (MFE) and yet there is no description of how the issues allocated to these agencies will be implemented and monitored.
- d. There appears to have been no formal approved budget associated with the NPOA Sharks 2013. While the document itself was approved by the Government, there appears to have been no specific budget allocated to implement any of the work identified by that document. Presumably, the expectation was that FNZ, DOC and other agencies would fund work to meet the identified objectives from existing funding. Most agencies (including FNZ and DOC) are already under significant budgetary constraints which may explain the poor level of delivery of the objectives from the NPOA Sharks 2013. ELI strongly recommends that when the NPOA Sharks 2022 is finalised, it includes a specific budget approved to allow for the implementation of the identified work in the NPOA Sharks 2022. As noted previously, while this statement is specific to the draft NPOA Sharks 2022, ELI recommends that approved budgets should, in future, be included as an integral part of these kinds of strategic and policy documents including other NPOAs (e.g., birds), species management plans, and recovery plans.

5. The draft document has been developed to address all forms of impacts on shark species. However, there is a distinct bias towards fisheries related impacts and considerably less consideration and coverage of other non-fishing related threats. This is not to take away from the consideration of fishery related threats which urgently require consideration but there is, in general, very little specific detail around other threats which in some cases will pose a significantly higher risk to some local stocks of some species. Examples that have been identified but cover poorly include terrestrial sedimentation and pollution impacting upon nursery and breeding areas and a wealth of impacts associated with climate change. Non-fishery impacts have been addressed very poorly and will require considerable review and updating to make the NPOA Sharks 2022 more of a holistic document that identifies all forms of risks and develops objectives to address them all. ELI recommends that identified actions against non-fishery impacts are reviewed and strengthened considerably.
  
6. In our analysis of the changes made between the NPOA Sharks 2013 and the draft NPOA Sharks 2022, there appears to have been a subtle (and, in some places, not so subtle) shift towards objectives which are more open and less specified. For example, words such as '*promote*' and '*encourage*' are widely used in the draft NPOA Sharks 2022. These descriptors are inadequate as these are essentially non-specific targets which do not actually require any real changes to be made but rather suggest that issues are simply passively advanced. In some places where these terms are being used, they are being applied to issues of known impact where more specific and direction for measures should be provided. For example, with respect to objective 2.2, there should be legal instruments to require the full utilisation of sharks (rather this issue being 'promoted' to fishers) including timeframes for their achievement.

## **Section B: Issues that ELI supports**

7. Overall, ELI strongly supports the development of a new NPOA Sharks 2022 that sets some useful and practical goals and objectives to improve the management and conservation of sharks and rays in NZ. ELI supports many of the broad goals and objectives of the draft document. We have provided some suggestions for amendments and revisions to the draft document in Section C.
  
8. In principle, ELI supports a risk-based approach to management and conservation with the proviso that robust risk assessment requires sufficient data to enable it to be

effective, useful and to correctly identify the most at-risk species. With respect to sharks, thirty seven percent of all chondrichthyan species are listed as data deficient<sup>3</sup> which may not have their true status reflected in either a qualitative or data-poor risk assessment. For some species that are data deficient, undertaking a risk assessment may not provide a meaningful outcome that can be used to guide research or management action. Therefore, any risk assessment process must start with a review of whether there is sufficient data to actually undertake a risk assessment with some species that are identified as data deficient simply being identified as such and no risk assessment undertaken. Conducting risk assessments on such species can be counterproductive as the outcomes are likely to have a high degree of uncertainty associated with them and which can misdirect high priority actions or falsely provide the impression that the species is not at risk when it in fact is. This issue is further addressed in Paragraph 12 of our submission.

9. We are pleased to see an expanded consideration of Tangata Whenua Perspectives from the previous NPOA Sharks 2013 including a strengthening of the Crown Māori relationship.
10. Goal 6 relating to International Engagement is also welcomed.
11. Strongly support goal 7 relating to Research, Data and Information including the specific objective to ensure that there is adequate monitoring and data collection for all sectors as it appears that there is little robust data available from any sector other than the commercial fishing sector.

### **Section C: Significant gaps and areas for further consideration**

12. Goal 1 is very positive, and we particularly support the addition of '*...taking into account their role in the ecosystem*' which was not included within the previous NPOA. This is also appropriately picked up in objective 1.1 and particularly in 1.4. While objective 1.1 is positive including the implementation of a risk assessment framework, there is little detail around the actual framework itself. Previous risk assessments have generally been qualitative due to a lack of data and therefore the utility of these approaches can be highly variable. Given the clear drive to use a risk assessment framework, it is essential that appropriate data is collected to support

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<sup>3</sup> Duffy C, Francis M, Dunn M, Finucci, Ford R, Hitchmough, Rolfe J 2018. Conservation status of New Zealand chondrichthyans (chimaeras, sharks and rays), 2016. New Zealand Threat Classification Series 23. 17 p. Available at <https://www.doc.govt.nz/globalassets/documents/science-and-technical/nztcs23entire.pdf>

these assessments. Without appropriate data, these assessments include a high degree of uncertainty and can be of questionable utility. Specifically, we would suggest that there is a species-by-species assessment undertaken as to what data is available and what would be required to undertake a robust, quantitative risk assessment. While we appreciate that a full risk assessment is unlikely to be possible for all species at present, it is critical that we identify data gaps now and can move to collect that data. As noted previously in Paragraph 8, if there is inadequate data to undertake a risk assessment then that species or stock should be designed as data deficient, and no assessment undertaken until sufficient data has been collected.

13. Objective 1.5 sets a target of '*... long term viability*'. This is a useful starting point, but the term is suitably vague (e.g., what is long term? What is viable?) and lacks a measurable metric against which progress can be measured. In the first instance, the term 'long term viability' should be clearly defined in the draft NPOA Sharks 2022. Once it has been clearly defined, ELI reserves the right to suggest an alternative target as it is possible that the proposed definition may not be sufficiently precautionary or appropriate to address priority conservation and management issues. The lack of a definition means it will be extremely difficult to assess progress against this objective. Furthermore, consideration should be given to other targets that are also consistent with other legislative imperatives (e.g., Wildlife Act) including moving species to non-threatened status with 20 years. While noting that this objective sits within Section A (which relates specifically to the Fishery Act) and therefore it is appropriate to relate to the goals of that Act, there is no equivalent objective in Section B which relates to other Acts. While there are some advantages to developing separate objectives for separate Acts, it should be possible to develop some high-level goals and objectives which meet the requirements of all Acts (such as have been partly considered in Section C Cross-cutting and overarching goals) and provide strong leadership for the NPOA Sharks 2022. Simply put, the NPOA Sharks 2022 must include objectives and performance measures which are drawn from Acts other than just the Fisheries Act, and these should be explicitly included in the document.

14. ELI note that objective 2.1 from the NPOA Sharks 2013 does not appear in the draft NPOA Sharks 2022. The previous objective states, '*Review and implement best practice mitigation methods in all NZ fisheries (commercial and non-commercial)*'. While this has been partly replaced by new objectives 3.1 and 3.2 in the draft 2022 version, the '*implement*' element has been lost which has greatly weakened the intent



from the previous objective 2.1. ELI recommends that these two new objectives need to be strengthened to: (i) continue to review existing and new mitigation methods and, (ii) ensure that they are implemented.

15. The existing approach of using industry lead operational procedures and best practices that are voluntary are insufficient to provide appropriate levels of protection to sharks. A more direct approach would be use regulatory mechanisms to ensure that mitigation is implemented. It is not clear if there has been any measure of the effectiveness of any of the existing voluntary mechanisms identified in the document and whether they are actually working. If such data exist, and they support the effectiveness of these voluntary approaches, then perhaps regulation may not be required but in the absence of this empirical evidence, regulation should be the preferred option. Following on from this, while the intent of goal 3 is positive, most of the objectives and performance measures are too vague and should be revised to all be SMART objectives as noted previously. None of the objectives as stated are measurable at present. For example, objective 3.4 says, '*Encourage compliance with regulations and promote best practice behaviour to minimise harm...*' ELI believes that it should be a requirement to follow regulations and implement best practice behaviour. Encouraging and promoting actions both should flow on from a fundamental requirement for fishers to actually do it.

16. Section B relates to goals enabled by the Fisheries Act whereas Section C relates to goals enabled by other legislation. The draft NPOA Sharks 2022 identifies a range of potential domestic legislation relevant to the document including Treaty of Waitangi (Fisheries Claims) Settlement Act 1992, Animal Welfare Act 1999, Conservation Act 1987, Biosecurity Act 1993, Resource Management Act 1991 and the Wildlife Act 1953 yet there appears to be little consideration of any requirements for Sharks under any of these Acts. The possible exception to this is the incomplete and cursory consideration of the Wildlife Act. ELI understands that the development of NPOAs are required as part of NZs membership of the UN FAO and relate to specific commitments under the Code of Conduct for Responsible Fishers. This provides some rationale for why the overwhelming focus of the draft NPOA Sharks 2022 is on fishing related threats. However, the inclusion of Section C and consideration of other Acts provides an indication that the NZ Government intends the focus of this draft NPOA Sharks 2022 to be about more than just fishing impacts and impacts on fisheries. On the basis of this assessment, ELI recommends that the draft NPOA Sharks 2022 includes a specific analysis of what requirements relate to sharks under

these other Acts and for these issues to be fully reflected within the draft NPOA Sharks 2022 including in relevant objectives and performance measures. A specific example of this imbalance within the draft document is that there appears to be a very cursory consideration of the requirements of these other acts compared with the detailed provided for the Fisheries Act. This is further exemplified with 11 specific objectives in proposed Section A which to cover the Fisheries Act but only four objectives proposed for all the other Acts combined. For example, this would seem to cut across the absolute legal protection of sharks offered by the Wildlife Act, and the legislative tools available through that Act to promote the objectives set out elsewhere in the draft NPOA. This lack of consideration of requirements under other Acts therefore represents a significant gap in the present draft of the NPOA Sharks 2022.

17. Following on the paragraph above which identifies non-fishing threats, the section in the draft document headed *Anthropogenic Impacts* provides a very high-level summary of non-fishing threats. Given that some non-fishing threats are likely to be significant for some shark species, this section is very brief and lacks any real details about the other issues facing sharks. This unfortunate approach appears consistent with the general tenor of the document where the primary focus is on fishing impacts with far less consideration of other impacts. While the original intent of the NPOA may have been to address international commitments to the FAO relating to fishery impacts or impacts on fisheries, it is clear that the NZ Government has responsibilities for the conservation and management of sharks from all threats, not simply fishing. Overall, there should be a more balanced approach to all threats facing sharks of which fishing is only one. ELI would like to see additional consideration and emphasis of threats other than fishing covered in the document as is consistent with requirements under other Acts. If for some reason, non-fishery threats are not to be considered in detail as part of the NPOA process, which seems counter intuitive in and of itself, then can the appropriate mechanism and /or document for consideration of these issues be clearly identified in the draft NPOA Sharks 2022 with links provided to that document.

18. While the general intent of goal 4 and its objectives are positive, they are all suitably vague. This section will likely require considerable revision once an analysis of additional requirements identified from the other relevant pieces of legislation is completed. Given this lack of consideration in the present draft, we have not provided specific comments on this Section as, we believe that in its current form, it is unlikely to meet many of the requirements specified in Acts other than the Fisheries Act. We

would welcome a revision of this Section so we can provide future feedback on meaningful and measurable objectives and performance measures.

19. Goal 6 is positive but there needs to be some consideration of how '*enhanced monitoring*' is defined as it is unclear how this might be applied and measured.
20. ELI supports the NZ Government's aim of meeting the requirements of the International Plan of Action for the Conservation & Management of Sharks (IPOA-Sharks). We would specifically note IPOA aim 6 which is to '*Contribute to the protection of biodiversity and ecosystem structure and function*' which is positively reflected in objective 1.4 of the draft document.
21. The section of the draft document entitled '*Progress to date on the goals and objectives under the NPOA Sharks 2013*' correctly identified that there were a lack of performance measures in the NPOA Sharks 2013 which limited the assessment of the NPOA Sharks 2013 against its objectives. It is useful that new performance measures have been developed for the NPOA Sharks 2022. While this section notes that good progress was made in implementing the NPOA Sharks 2013, this isn't consistent with the assessment noted in Paragraph 3 of this submission in which the low level (e.g., <23%) of objective delivery from the NPOA Sharks 2013 is both alarming and disappointing.
22. Table 1 provides specific comments on the individual draft performance measures. There are some general comments that are referred to be several different places including:
  - a. The use of the term 'viability' has already been discussed in our Paragraph 13 but is also used in several of the draft measures. Please refer to our earlier statements about the use of this term and how understanding of the term can vary subtly between readers, and for it to be a useful goal, it requires a clear definition and application consistent with the various Acts (not only the Fisheries Act) under which shark conservation and management are relevant.
  - b. Many of the draft measures do not have any clearly specified targets or have targets that are nonspecific or not measurable. Again, as identified previously in our Paragraph 4.a, any metrics must be clear and be SMART or they are inappropriate metrics. One of the most significant missing parts of the draft measures is the inclusion of a time frame over which the metric should be assessed. ELI recommends that a specific table developed which clearly outlines the actual metric being proposed for each Measure and how it will

actually be measured as in many cases it is completely absent or simply unclear.

**Table 1:** Summary of comments on Performance Standards for individual objectives

objective	Performance Measure	Comment
1.1	1	<p>We would suggest that prior to starting this risk assessment exercise, there is first a review that identifies which species have sufficient data for a fully quantitative assessment, which species have data appropriate to a semi-quantitative assessment, which species have insufficient data for anything other than a qualitative assessment and which species for which it is not possible to undertake any level of risk assessment and therefore they should be identified as data deficient. This is a vital first step in undertaking the appropriate level of risk assessment. Recent experience with FNZ risk assessments (e.g., marine mammals) included attempts to undertake an assessment for every species, even when there was no data at all for some species. Undertaking assessments on data deficient species can provide a false impression of risk especially as the level of uncertainty is generally poorly reflected in the final assessment. In principle, ELI are fully supportive of the objective of completing a risk assessment for all shark species by 2025 but given the range of data available for each species, the type of assessment must be dictated by the level of data available and a simple one-size-fits-all as has been attempted in the past is not appropriate. These issues should be reflected in a revised performance measure. An additional outcome of the review would be an identification of data gaps which can be used to feed into goal 7 and its objectives. Also of note is that this measure only refers to undertaking risk assessment for 'protected shark species' by 2025. While it is appropriate to prioritise 'protected species', this exercise should be undertaken for all species where possible, with the additional consideration of further prioritising species with a known high threat status, especially those species with a suspected or known decline. While this objective is clear in that the aim of the risk assessment framework is to identify the nature and extent of risk to shark species and populations and also <u>their functional role within the ecosystem</u>, it is not clear how the latter issue will be addressed in any assessment as this represents a relatively new area for fisheries risk assessment. ELI welcomes this inclusion of an ecosystem approach and would like to see some more detail about how this will be undertaken. In lieu of this description, it may be simpler to revise the Measure to read, '<i>Semi-quantitative risk assessment, including an assessment of their functional role within the ecosystem, for protected and other high risk shark species is completed by 2025.</i>' This ensures sufficient clarity and direction is provided in the measure.</p>
1.1	2	<p>Agree but suggest that 'regularly' is simply replaced by 'every five years' to make it explicit.</p>
1.2	1	<p>Agree with the understanding that all three issues (i.e., shark management categories, NZ threat classifications and protection status) are updated biennially.</p>
1.2	2	<p>Agree.</p>
1.3	1	<p>Broadly agree noting our earlier comment about defining 'viability' under Paragraph 13. In addition, this measure only covers high risk shark species and given the</p>

objective	Performance Measure	Comment
		assumed ~10-year span of the NPOA, it should be possible to expand this assessment to include other lower risk or data deficit species, if not all species.
1.3	2	Excellent. This is a very useful addition as it will clearly show where and how these designations will be incorporated into management action. However, it should not be restricted to only fisheries management but expanded more broadly to include applications to other management actions as well (e.g., non-fishery MPAs, Regional Council Coastal Plans, Resource consents, etc.). Noting that Section A is specific to the Fisheries Act, one option may be to replicate this measure as a new measure in Section B or C rather than including it here.
1.4	1	ELI welcomes the addition of an ecosystem approach to this issue, but it remains unclear about how this approach will be included in the consideration of maximum sustainable yield calculations. There is certainly no consideration of how an ecosystem approach will be incorporated into any of the measures under this objective. In addition, this measure as written is very poor as it only requires an increase in the number of stocks for which evaluation has been undertaken (i.e., target: increasing) and no detail about what actually constitutes an evaluation. Arguably, this measure could be successfully met by a single new stock being added over the life of the NPOA. This should be revised to include a more robust metric such as at least one new evaluation should be completed each year. This would provide more positive encouragement for new work to be undertaken.
1.4	2	Same comment as above with regard to the ' <i>target:increasing</i> ' statement.
1.4	3	Same comment as above with regard to the ' <i>target:decreasing</i> ' statement.
1.5	1	Our earlier comment about defining 'viability' under Paragraph 13 is also relevant here. This measure confuses two issues – that of undertaking research and undertaking management actions through using the 'and / or' qualifier. As written, a population can be declining and, as long as there is some research undertaken on this population, then this measure is successfully met even though research alone will not influence or halt the decline. This is also counter intuitive in that if we already know the cause of a decline, yet undertake research rather than management action, then we also successfully address the measure. ELI recommends that this measure is split into two separate measures: (i) Specific research is taken where a population trend is decreasing, and the cause of that trend is unidentified or poorly understood) (target: research undertaken for 100% of declining species where the cause of that trend is unidentified or poorly understood); and (ii) Specific management actions are taken where a population trend is estimated to be decreasing at greater than 2.5% per annum (target: management actions undertaken for 100% of declining species). The nominal 2.5% suggested will require some careful consideration but is essential that a level is set if this measure is actually trigger meaningful management action. Additional consideration needs to be given to how this can be implemented under the Fisheries Act but also other relevant Acts. With respect to other Acts, additional measures may need to be created in under other NPOA sections.
2.1	1	Support this measure in principle but again, the use of a simple target of an increasing proportion of inspections that are meeting the regulation is inappropriate. For example, if the existing proportion meeting the regulations is 1%, then increasing it to 2% would meet this Measure over the lifetime of the NPOA. A better

objective	Performance Measure	Comment
		measure would be that 'no more than 5% of all inspections each year are non-compliant with shark finning regulations.'
2.1	2	Excellent. However, it could be useful to add '... and prosecuted where appropriate' as there is little value in detecting non-compliances if no action is taken.
2.2	1	Supportive of the principle but what does 'promoted' mean? How do you measure it and what constitutes achieving it?
2.4	2	Supportive of the principle but what does 'encourage' mean? How do you measure it and what constitutes achieving it?
3.1	1	This measure is so vague, it is unclear what it is aiming to do. This partly reflects the poor framing of the original objective which sets out to 'promote' rather than 'require' fishers to avoid catching sharks. This measure would be better served by using a similar metric to that suggested above; 'no more than 5% of all inspections each year are non-compliant with regulations and guidelines around the use of mitigation measures to avoid catching protected and unwanted sharks.'
3.1	2	This measure is reasonable but why use fisher reported data rather than observer data which is likely to be more representative and unbiased? Given the known issues with fisher reporting ELI would recommend using observer data as the metric.
3.2	1	Given the overarching objective of promoting positive behaviour, this measure is reasonable, but the target is difficult to follow. What websites? Subscribers to what?
3.2	2	Volume of material distributed is likely to be a poor reflection of improvements in shark awareness. Cheap, poorly quality material could be widely distributed whereas high quality, more expensive material which has more information content may be less widely distributed. Again, the metric needs a rethink.
3.2	3	Reasonable.
3.2	4	Supported.
3.2	5	This is also a little unclear but increasing the amount of information available is likely to be positive but unsure how it would be actually measured.
3.2	6	Supported but what is the data upon which this will be measured? Interviews with non-commercial fishers perhaps?
3.3	1	'Further harm' presumably includes unnecessary injuries post capture or during release? It is excellent to see that this covers <u>all</u> protected sharks but why is restricted to only protected species? Is there a reason for this as presumably any unnecessary or deliberate injuries to any shark represents a breach under the Animal Welfare Act as also noted in measure 4 of this objective? It is useful that the data source is specified in the target which makes it clear and transparent.
3.3	2	Supported.
3.3	3	As mentioned previously, a simple target that is increasing may not be that useful. Presumably the reference to 'based on available information' refers to the data that will be used to monitor this, but it is not clear what that data actually is.
3.3	4	This measure is positive but somewhat watered down by the inclusion of the phrase 'where appropriate' which provides some scope to not investigate some issues if they are deemed to be inappropriate. It would be useful to identify which circumstances may be considered inappropriate to understand why this caveat is necessary.

objective	Performance Measure	Comment
3.4	1	Support the principle but similar comments as provided for measure 2 of objective 3.2
3.4	2	Reasonable but note our previous general comments about the use of targets measured by 'increasing'. A preferred target would be 100% of clubs have been provided with appropriate material regularly.
3.4	3	Reasonable but note our previous general comments about the use of targets measured by 'increasing'. A preferred target would be 100% of IFFs have been provided with appropriate material regularly.
3.4	4	This directly conflicts with measure 4 of objective 3.2 which is a more useful measure. That measure should be reproduced here and revised accordingly.
3.4	5	Supported but what is the data upon which this will be measured? Interviews with non-commercial fishers perhaps?
4.1	1	Excellent but Coastal Plans only cover the Territorial Sea, and this measure needs to be extended to cover the full EEZ. Perhaps this could be achieved through some application of the EEZ Act? However, whatever the appropriate mechanism is, this measure needs to be expanded to include the full EEZ. An option might be to leave this measure as it is and add a new measure to cover the application of similar principles to the EEZ.
4.1	2	Excellent but there needs to be some indication about who is responsible for providing this information to Regional Councils and other agencies as otherwise it is likely to fall through the cracks. Presumably FNZ will provide data on HOPSFMs, and DOC will provide additional supporting information? As discussed above, this also needs to be extended to cover the EEZ. It will also be important that any data and outputs from the risk assessments identified in objective 1.1 are provided to all relevant regulators. ELI would also recommend that a new measure is added whereby both FNZ and DOC are required to monitor marine consents (both within the Territorial Sea and EEZ) with the potential to impact on shark populations and provide appropriate information to those consent processes to support shark conservation and management. Leaving this role solely to Regional Councils who, in general, have little expertise or knowledge in this area is likely to lead to a lack of positive outcomes for sharks. Furthermore, noting that Regional Councils have no jurisdiction over the EEZ, the EPA should also receive this information for any of their consent processes.
4.2	1	Supported. Note however that this section is related to non-fishing threats and while the measure as written makes good sense, it provides a measure of compliance of fishing vessels which potentially should be moved to Section A. Notwithstanding this, there should be a standalone measure in this section that covers other non-fishing vessels, although it is not clear how this would be actually measured. Some suggestions might include data from Marine Mammal Observers on seismic or other vessels and monitoring of compliance with Waste Management Plans approved by Maritime NZ as a part of NZ vessel survey requirements.
4.2	2	Supported but how to you measure success? In addition, this is the first reference to CCAMLR which is another convention in which the application of shark conservation and management should be applied yet it doesn't appear often in the objectives or measures. ELI recommends that consideration be given to reviewing where else it may be appropriate to refer to CCAMLR in these measures.

objective	Performance Measure	Comment
4.2	3	Supported. Also, as noted in some of the earlier measures, it should be possible to add something to the measure about the prosecution of breaches of these obligations and controls. While it is broadly useful to report any breaches to the appropriate authority, surely it is possible to prosecute any such breaches within NZ waters?
4.2	4	Excellent sentiment but how do you identify these activities and confirm controls on them? The mechanism for this measure is also not clear.
4.2	5	Supported.
4.2	6	Supported.
4.3	1	Supported
4.4	1	Supported but this might be a big ask to achieve by 2025. Consider revising the timeframe.
4.4	2	Supported.
4.4	3	Supported.
5.1	1	Supported.
5.1	2	Supported and contains a useful target.
5.1	3	Supported.
5.2	1	Supported.
5.2	2	Supported.
6.1	1	Supported. However, the target is weak and could be improved to reflect that the meeting notes confirm that NZ has advocated for improved conservation and management of sharks in all RFMAs. As the target is presently written, there is no obligation on NZ to advocate for this and as long as one member raises some conservation or management measure, the draft target will be met. A similar approach has been used in measure 3 of this objective and this may provide a useful guide in revising this measure.
6.1	2	Supported but there is no clear target for this.
6.1	3	Supported but this should be broadened out from just fishing pressure to pressures from any form of activity as limiting it to fishing only is unnecessarily restrictive.
6.1	4	Supported noting that this should be applied to all vessels.
6.1	5	Supported noting that this should be extended to all vessels rather than just fishing vessels. Presumably some other vessel types and activities within the EEZ also require a permit to operate in NZ waters (e.g., seismic survey vessels, research vessels, temporary oil rigs)?
6.1	6	Supported but again this should be expanded to include all vessels operating under any permit in NZ
6.2	1	Supported.
6.3	1	This measure positively encourages NZ to advocate for increased observer coverage (as required) but perhaps it would be better to simply advocate for adequate levels of observer coverage that will provide robust and necessary data for shark conservation and management. Advocating for increased levels when there may already be adequate levels doesn't make sense.
6.3	2	Supported. This is an excellent measure but there appears to be no similar measure applied to NZ fisheries. ELI would recommend that a similar measure is added to goal 7 to be consistent with our international advocacy.



objective	Performance Measure	Comment
6.3	3	Neutral.
6.3	4	Supported.
7.1	1	Supported. There should also be consideration of additional reporting around recreational and customary fishing. This would improve reporting and data in both these forms of fishing as they are presently poorly understood and quantified with respect to effort and shark catch.
7.1	2	Supported.
7.1	3	Supported.
7.1	4	Supported.
7.2	1	Supported.
7.2	2	Supported.
7.2	3	Supported.
7.2	4	Supported but this is a pretty simple requirement. Surely it is possible to identify these by 2024 given that risk assessment work will be completed by 2025? ELI recommends that this measure is expanded to include both the identification and collection of relevant data of non-fishing anthropogenic impacts by 2024 for implementation into the risk assessment by 2025.
7.2	5	Supported.
7.2	6	Supported.
7.3	1	Supported in principle but more description is required. It is not clear how these practices will be assessed and on what criteria, who might propose such practices, and how the 'increasing' target might be applied.
7.3	2	Supported in principle but more description is required. It is not clear how these improved practices will be assessed and on what criteria, and how the 'increasing' target might be applied.
7.3	3	There is a considerable different between 'available' mitigation and 'effective' mitigation. Suggest remove 'available'.
7.3	4	Supported.