

# IMPROVING REGULATION OF ENVIRONMENTAL EFFECTS IN NEW ZEALAND'S EXCLUSIVE ECONOMIC ZONE



SUMMARY OF SUBMISSIONS



Ministry for the  
**Environment**  
*Manatū Mo Te Taiao*

New Zealand Government



*Ministry for the*  
**Environment**  
*Manatū Mō Te Taiao*

# **Improving Regulation of Environmental Effects in New Zealand's Exclusive Economic Zone**

## **Summary of Submissions**

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*Ministry for the*  
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*Manatū Mō Te Taiao*

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# 1 Introduction

## 1.1 Purpose of this document

The Ministry for the Environment (the Ministry) released the discussion paper *Improving Regulation of Environmental Effects in New Zealand's Exclusive Economic Zone* for public consultation on 1 August 2007. The paper proposed establishing new legislation to fill key gaps in the environmental regulation of New Zealand's Exclusive Economic Zone (EEZ), and promoted a consistent approach to environmental management across different statutes. The focus of the proposals was on the effects of activities not covered by existing statutes.

This document provides a summary of the submissions received in response to the discussion paper.

## 1.2 Consultation

Public consultation on the discussion paper was held from 1 August to 30 September 2007. An electronic copy of the paper was placed on the Ministry's website and hard copies were sent to iwi and key stakeholders (i.e., people and organisations likely to be directly affected or interested in the proposals set out in the paper). (For a list of the recipients, see Appendix 1.) In addition, notices announcing the consultation were placed on the Ministry's website, and advertisements were placed in nine major daily newspapers. (For the list of newspapers containing notifications, see Appendix 2.)

During August and September 2007 the Ministry held five meetings with key stakeholder groups and with iwi. The purpose of these meetings was for those attending to discuss particular issues in the discussion paper that affected their area of interest or work. The key stakeholder groups for the meetings were the:

- minerals, petroleum and telecommunications industries
- science, research and academic communities
- fishing industry
- environmental non-government organisations.

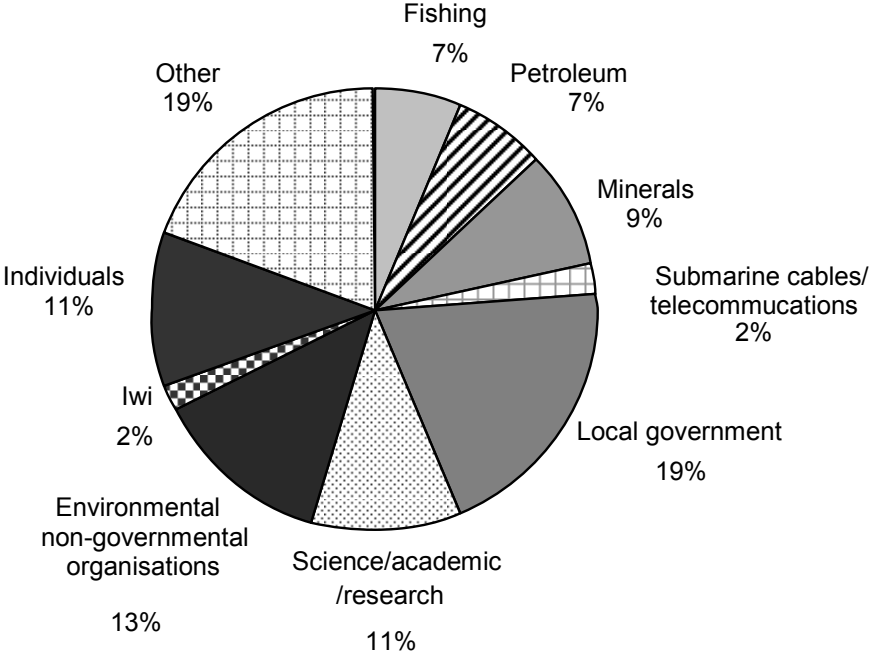
The Manager of the Natural Resources Policy Team at the Ministry also presented the proposals to regional council representatives at a resource managers meeting in September. A final consultation workshop was held in late September, to which participants from all the previous meetings were invited. The purpose of this final meeting was to provide attendees with the opportunity to hear what others had to say. (See Appendix 3 for a full list of meetings and attendees.)

Consultation on the discussion paper closed on 30 September 2007. The Ministry received 46 submissions. (See Appendix 4 for the full list of submitters.) This summary of submissions document has been provided to all submitters. The document is available from the Ministry's website ([www.mfe.govt.nz](http://www.mfe.govt.nz)).

# 2 Overview of Submissions

The Ministry received 46 submissions in response to the discussion paper. These submissions represented a wide range of views, from individuals through to industry representative associations. For the purpose of analysis, submissions have been categorised into stakeholder groups. The distribution of submissions across these stakeholder groups is shown in Figure 1.

**Figure 1: Distribution of submissions, by stakeholder group**



For ease of reading and to maintain consistency, this summary document follows the same question format as the discussion paper.

# 3 Issues for EEZ Management

## 3.1 Outcomes

The specific outcomes proposed for managing New Zealand’s EEZ were as follows:

1. safeguard the integrity of EEZ ecosystems
2. promote the sustainable management of EEZ resources
3. encourage the development of sustainable marine industries in the EEZ
4. enable EEZ resources to be used or protected in a way that provides for the greatest national benefit.

**Question 1: Do you think these outcomes are appropriate? Can you suggest others?**

Thirty-five submitters responded to this question. There was overall support for the four listed high-level outcomes. Submissions were received from all stakeholder groups except iwi.

Seven submitters across five of the sectors (local authorities; science, academic and research; fishing industry; minerals industry; individuals, other) noted that scientific knowledge of environmental “bottom lines” and the offshore environment in general is too limited to ensure the safeguarding of this environment and the ecosystems. Some proposed that the stated outcomes be viewed as long-term goals, and for interim measures to be put in place in the short term. Industries operating in the marine environment noted that a collaborative effort between all parties (e.g., industry and researchers) would be needed to gain this knowledge.

Eleven submitters across six sectors (fishing; local authorities; science, academic and research; environmental non-governmental organisations [NGOs]; individuals; others) suggested that in areas of high environmental significance the environment should take precedence over economic, social and cultural factors, to ensure that New Zealand’s obligations under national and international law are not compromised. Of these, eight specified the need for greater consideration of biodiversity, species-level and genetic-level protection, and recovery of the marine environment where it has been degraded by existing activities.

Suggested amendments to the listed outcomes included:

- reword the first outcome to read: “protect and preserve the integrity of EEZ ecosystems” to give emphasis to non-extractive values and uses and the precautionary principle (Greenpeace New Zealand)
- reword the second and third outcomes to read: “Any development of marine economic resources must be regulated so that the marine environment is preserved and protected” (Environment and Conservation Organisations of New Zealand Inc [ECO])
- reword the third outcome from “sustainable marine industries” to “industries reliant on marine resources” (Petroleum Exploration and Production Association of New Zealand [PEPANZ])

- reword the third outcome to read: “ensure clear and equitable regulation of activities in the EEZ to achieve the above outcomes”, and place it after the fourth outcome (MWH New Zealand – environmental consultancy)
- exchange “sustainable management” in the second outcome to “sustainable development” (New Zealand Seafood Industry Council) or “responsible management” (Nautilus Minerals)
- distinguish between renewable and non-renewable resources (Greater Wellington Regional Council and Local Government New Zealand)
- exchange “greatest national benefit” for “beneficial long-term environmental outcomes” (OMV New Zealand), or “greatest sustainable national benefit” (Greenpeace New Zealand), or “net national benefit” (ECO) in outcome 4.

Suggested additional outcomes to those listed in the discussion paper included:

- “promote a greater understanding of the marine environment so the true assessment of impacts can be understood” (Wellington Recreational Marine Fishers Association)
- “achieve effective and efficient integration of management processes within the EEZ and between the EEZ and the area of New Zealand’s territorial sea” (Taranaki Regional Council and Local Government New Zealand)
- “description and establishment of a comprehensive set of environmental standards to be met in the conduct of off shore oil and gas activities” (OMV New Zealand Ltd)
- “all activities in the EEZ, their possible interactions with other activities, and with the environment (chemical, physical, biological) will be controlled and co-ordinated” as an overarching principle (Mike Patrick)
- “the need for simplicity for environmental controls in the EEZ” (Telecom New Zealand)
- “ensure that any development is environmentally sustainable and avoids, remedies or mitigates adverse environmental, social and cultural impacts” (ECO)
- “safeguards the integrity of Fisheries and Aquaculture Settlements” (Te Ohu Kai Moana Trustee Ltd).

There were requests from all stakeholder groups for clarification and definition of terms used in the discussion paper, including: “environmental bottom-lines”, “healthy and productive ecosystem”, “greatest national benefit”, a balance between “encouraging” development and “enabling” development, “ecological functioning” and “EEZ ecosystems”.

## 3.2 Key challenges

Against the above-mentioned outcomes, the discussion paper identified the following key challenges that need to be addressed:

1. gaps and inconsistencies in the operational control of environmental effects
2. defining the environmental outcomes so that activities and their effects can be assessed consistently
3. effects on investment certainty
4. managing effects on other activities.

**Question 2: Do you agree that these are the main problems for regulating environmental effects in the EEZ? Are there others?**

Thirty-four submitters responded to this question, and overall they agreed that the listed key challenges are valid. However, 22 submitters noted additional challenges and considerations that would require addressing, including ensuring:

- effects are correctly attributed to the activity that produced them (New Zealand Minerals Industry Association [MIA])
- an assessment of effects considers the scale, location, cumulative effect, intensity and longevity of proposed or existing activities (Royal Forest & Bird Protection Society of New Zealand Inc [Forest and Bird] and Auckland Conservation Board)
- cross-boundary effects or activities are considered, as this could influence whether an applicant decides to locate in the EEZ or territorial sea (local authorities and Local Government New Zealand)
- any new legislation achieves more consistent and integrated management in the offshore environment across all activities, including: co-ordinating information; monitoring and reporting; enforcing regulations; and giving primary consideration to the environmental effect rather than the cause of a disturbance (local authorities [including Local Government New Zealand], Auckland Conservation Board, Greenpeace New Zealand and University of Otago)
- an oceans policy framework is in place before making rules, as there are no good examples of managing the marine area globally (ECO, Greater Wellington Regional Council, Greenpeace New Zealand and the Green Party of Aotearoa New Zealand [Green Party])
- the designation of “no take” areas; for example, on the Chatham Rise (New Zealand Marine Sciences Society).

In addition to these challenges and considerations, many submitters requested that terms used in the question be defined or clarified, as follows:

- define: the natural background environment; the development activity; the effects of the activity on the natural environment; the effects of interacting activities; what is environmentally acceptable in terms of all activities resulting in environmental impacts in general, and in relation to monitoring and measuring the integrity of EEZ ecosystems; good environmental and ecological status
- clarify: control of effects and control of activities; what costs and benefits New Zealand will get from the development of the EEZ; what current baseline knowledge and data are available – especially what a healthy ecosystem looks like.

The fishing industry raised concerns that in the absence of certainty about resource allocation, incentives for resource users to invest in the mitigation of environmental effects are weakened. The fishing industry also commented that there needs to be consideration of Treaty of Waitangi settlement rights and obligations. The Wellington Recreational Marine Fishers Association noted that it should not be assumed that the practices of large companies are entirely environmentally friendly even though some may have well-established environmental procedures.

The petroleum industry was concerned that regulations could unnecessarily hinder the responsible and sustainable development already undertaken by the industry. Submissions in this regard sought to clarify and focus the key challenges. OMV New Zealand suggested key challenge 2 be amended to read: “defining reasonable requirements for the investigation and analysis of environmental effects (applicant) and to apply sufficient expertise and consistency to the approvals process (authorities)”, and that any proposal should address discharges to air and water. Likewise, Todd Energy carried out an analysis that suggested that current regulatory “gaps” are somewhat inconsequential in environmental terms and could be addressed via relatively minor adjustments to current legislation (while acknowledging there could be regulatory gaps associated with potential new activities). Todd Energy also submitted that although greater clarity about regulatory requirements will help to improve investment certainty, there is no hard evidence that the existing regime is creating a problem in this respect.

Neptune Resources New Zealand Group (Neptune Resources) emphasised that the identified key challenges are indeed challenges to be managed, not inherent problems, and so legislative regulation may not be required. This submitter identified that problems for investors could be created through ill-informed restrictive regulations based on poor information, and recommended that government work with investors to build knowledge and an agreed understanding of environmental effects management.

Nautilus Minerals recognised that rules need to be established “ahead of the game”, and that any initial regulations and processes may need to be improved in the future. This submitter also noted that the protection of biodiversity should be addressed in an environmental impact assessment, so should not necessarily involve the establishment of a marine reserve area.

Local authority submitters generally agreed with the challenges, although they did raise several concerns. Greater Wellington Regional Council was concerned that there is no co-ordinating body to check gaps and inconsistencies, indicating the difficulty of the EEZ environment. Taranaki Regional Council considered it important to establish clear and consistent outcomes for management across all activities in the EEZ to avoid inequalities between industries or reduced investment confidence.

A common concern from local authority submitters was how the implementation, monitoring and enforcement of the regulations would be carried out (e.g., funding, access to vessels, resourcing). Environment Canterbury proposed an additional key challenge: “Part 5: Managing effects on the receiving environment to establish information and knowledge in relation to the ‘receiving’ environment as a key part of achieving sustainable management”.

Submitters from the science, academic and research sector and the other category raised a common concern as to whether existing legislation adequately addresses the environmental damage caused by their respective industries. These submitters suggested, for example, that the fisheries legislation alone does not adequately address the environmental damage caused by fishing activities. They considered that non-legislative tools would be inadequate for the sustainable management of the EEZ.

Environmental NGOs, and two individuals (submitters 16 and 26) recommended that:

- an ecosystem-based approach is required
- the precautionary principle be fully utilised
- passive (and non-market) values be considered alongside economic values
- more consideration needs to be given to biodiversity protection, both at site level and more broadly within the ocean system.

These submitters also noted that industrial waste inadvertently entering the marine environment as a by-product of industry (e.g., non-retrieval of lost gear, dumping of garbage, abandonment of equipment, by-product dumping) would need addressing.

Greenpeace New Zealand commented that the potential effects of climate change on the oceans need to be considered, where information is available. This submitter suggested that there are no clear environmental indicators to guide monitoring, and that there is a lack of an effective network of marine reserves or marine protected areas. ECO suggested that policy should not give existing uses, such as fishing, a privileged status. ECO also wanted acknowledgement of the vertical migration of species in the water column when assessing impacts on the water column and ecosystems.

# 4 Policy Options

## 4.1 Overview of options

Two broad options were proposed in the discussion paper:

- Option 1: Establish legislative mechanisms focused on **filling key gaps** in EEZ environmental regulation and promoting a consistent approach across statutes, including the assessment of cumulative effects. This is the preferred option.
- Option 2: Develop an entirely new regime for **managing all activities** in the EEZ.

**Question 3: Do you agree with this assessment? Which option do you prefer, and why?**

Forty submitters responded to this question. Of these, 19 were in support of Option 1, 15 were in support of Option 2, three supported a more transitional option, and three considered that there was insufficient information to make an informed choice between the options.

Submitters from the petroleum industry who responded to this question were all in support of Option 1. Responses were split across Options 1 and 2 for the fishing industry. The minerals industry submitters were in support of Option 1, or Option 1 as part of a transitional approach. All of the environmental NGOs and science, academic and research submitters that responded supported Option 2. The local government sector was largely in support of Option 1, with two not considering the information sufficient to select an option.

Of the 19 submitters in support of Option 1, the support of four local government submitters, OMV New Zealand and MWH New Zealand was conditional on the option being applied consistently across all activities, and across statutes and the agencies in charge of enforcing and administering regulations. The New Zealand Historic Places Trust's support for Option 1 was conditional on the protection of historic heritage being included in the assessment of effects. Nautilus Minerals supported a modified Option 1 for seafloor mining similar to the Resource Management Act 1991 (RMA) process, and referenced the Papua New Guinea process for approving seabed mining. Six submitters across five stakeholder groups considered that gaps in environmental regulation were not significant enough to justify the creation of an entirely new regime, and that extending the scope of existing legislation to promote a consistent approach across statutes would be better understood. It was argued that extending the scope of existing legislation could also be more flexible given the lack of knowledge of the offshore environment.

Of the 15 in support of Option 2, Greater Wellington Regional Council and the Green Party of Aotearoa New Zealand (Green Party) noted that their support was due to the absence of a comprehensive oceans policy. The Auckland Conservation Board recommended that Option 2 include a strategy supplementing food produce for the nation and "provide for certain activities in particular areas". Submitters suggested that some existing legislation covering activities in the EEZ does not go far enough to protect and maintain ecosystems and biodiversity. This legislation included the Fisheries Act 1996 and the Crown Minerals Act 1991.

World Wildlife Fund New Zealand (WWF) pointed to experience from elsewhere in the world, which this submitter said showed that filling gaps fails to address cumulative effects and interactions between activities. WWF suggested that this results in an unsustainable approach, which compromises biodiversity and ecosystem function, increases bureaucracy, complexity and confusion, and fails to address conflicts and identify synergies between activities due to the lack of a strategic approach. An individual submitter, Kathryn Scarlet, suggested there is a need for something more along the lines of a strategic environmental report rather than an environmental impact report.

MIA, Kiwis Against Seabed Mining Inc (KASM) and Mike Patrick, supported a more transitional approach to improving environmental regulation in the EEZ. This could include Option 1 as a short-term solution, while moving forward to a more co-ordinated approach, as offered by Option 2, in the longer term.

Greater Wellington Regional Council, the New Zealand Conservation Authority and Tasman District Council commented that there is not enough information to accurately compare all possibilities and so did not support one option over the other.

The New Zealand Conservation Authority would support either option as long as the following were addressed: the current fragmentation of management systems; a national overview is provided; a precautionary and enforceable management regime is developed; cumulative impacts and effects across all activities are addressed; environmental standards and criteria to assess activities are established; there is balance between competing uses, values, and conflicts; there is clear, timely and transparent decision-making; and the responsible agency has adequate capacity.

## 4.2 Preferred option

The Government's preferred option is Option 1: "Establish legislative mechanisms focused on **filling key gaps** in EEZ environmental regulation and promoting a consistent approach across statutes, including the assessment of cumulative effects".

Option 1 would involve a new regime for the consideration, approval and regulation of those activities not already covered by existing statutory frameworks. This consideration and approval would focus on the environmental effects of the activity.

**Question 4: Do you think this approach is an appropriate and proportionate response to the problems?**

Thirty submitters responded to this question. Of these, 14 noted that the approach is appropriate; six noted the approach is not appropriate, and the remaining 10 commented without indicating support for or against the approach. All sectors responded to this question.

The Green Party, WWF, the Forest and Bird, Greenpeace New Zealand and the University of Otago did not support the approach of Option 1 due to concerns that it would not cover all activities, and that such coverage would be required to address the challenges identified in the discussion paper. The Wellington Recreational Marine Fishers Association disagreed with the preferred option; in their opinion it is based on an assumption that science (without adequate funding) has obtained enough information to advise these practices. WWF considered that the approach of the preferred option was not strategic enough for current and future activities, and thus likely to require amendment within a few years.

Reference to the application of the precautionary principle was common in responses to this question. OMV New Zealand and Todd Energy considered that applying the principle was inappropriate for the offshore oil and gas industry as their effects are already known. These submitters instead proposed the application of adaptive management, whereby monitoring conditions are imposed and, if necessary, management controls are adjusted if adverse effects are detected. These submitters also proposed rules for defining thresholds for groups of activities, whereby each threshold requires a different level of environmental analysis. Neptune Resources considered that there should be minimal upfront regulation, particularly where information is limited, and that the focus should be on the active and independent monitoring of activities to build criteria for future regulation. The submitters in support of the application of the precautionary principle were a mix of individuals, environmental NGOs, others and the Green Party.

Following are some of the particular concerns and comments raised by submitters.

- Concerned with cost recovery provisions and enforcement and monitoring provisions, if they are not based on any experience.
- The regime needs to be transparent, flexible, incorporate adaptive management, and be able to evolve.
- Resource allocation needs to be addressed more explicitly.
- Whether the approach should only apply to activities not already covered by existing legislation.
- More comprehensive environmental assessments are required.
- There needs to be a strong governance regime, based on an ecosystem approach.
- There is a need for integrated marine policies across the marine area.

Auckland Regional Council would support the approach of the preferred option if the appropriate integrating mechanisms were included in the legislation.

Todd Energy, Neptune Resources, MWH New Zealand, MIA and Mike Patrick all identified the need for an active, adaptive management approach to be included in the approval regime. These submitters suggested that this kind of approach would achieve long-term sustainable management, and would require the ability to change management strategies, conditions and regulations in order to adapt to a growing knowledge base.

Neptune Resources noted that lack of knowledge has created a need to learn by experimentation to determine the best management strategy. In relation to cost recovery provisions, Neptune Resources noted the risk is the potential to impose substantial administration and other costs to underwrite a new government department. In relation to enforcement and monitoring provisions, this submitter continued, informed decision-making and “pragmatic protection” through monitoring are vital, rather than going straight for enforcement.

Suggestions from submitters as to what Option 1 should involve included:

- links to any effects on other activities or the environment inside New Zealand's territorial sea, and the means to avoid, remedy or mitigate those effects; and demonstration of the way in which, and the extent to which, the proposal would be in New Zealand's national interest or provide benefits to New Zealand
- provisions for public disclosure, for public participation and input into decision-making, and for ecosystem-based management
- development of strategic environmental assessment and policies.

KASM and the Green Party noted that a regulation framework should allow for future inclusion of the territorial sea and parts of the extended continental shelf, where the latter may be under New Zealand jurisdiction in the future. This would include or be equal to the marine provisions of the RMA. The Green Party proposed that existing users and permits be reassessed within the framework once the new regulation is in place.

# 5 Details of the Proposed Option

## 5.1 Statutory purpose

The proposed option focuses on filling gaps in existing regulation and promoting a consistent approach to environmental regulation across different statutes. It is proposed that the regime focus on environmental effects rather than prescribing the activities it will apply to.

The purpose of the proposed new legislation is “sustainable management”, with environmental, economic, social and cultural dimensions. It is proposed that the purpose be modelled on the RMA.

**Question 5: Do you have any comments on this proposed purpose?**

Thirty-four submitters commented on the proposed scope and purpose. Submissions were received from each of the stakeholder groups.

Modelling the proposed purpose on the RMA had a mixed response from the nine submitters that referred to it. WWF, Todd Energy, Telecom New Zealand and Tourism Industry Association New Zealand (TIA) were unsure about this approach. These submitters seemed to be uncomfortable about how it would be implemented and whether it would incorporate aspects unique to the EEZ environment, rather than disagreeing with the RMA itself. The remaining five submitters were happy with the RMA model, especially as it would provide some consistency between the management of the territorial sea and the EEZ. The fishing industry commented that the proposed purpose was too passive, and that it should actively enable people to provide for their own wellbeing.

Most submitters that commented on the proposed scope and purpose supported the legislation having the purpose of “sustainable management”, although JM Beggs pointed out that this could be open to interpretation. OMV New Zealand submitted that although it agreed with the purpose of sustainable management, there was a risk that this could lead to environmental rules that deliver limited benefit and deter investment.

Five (two representing the minerals industry, two representing the fishing industry, and one individual) submitted that the purpose should be “sustainable development” rather than “sustainable management”. Nautilus Minerals suggested the purpose be “responsible management”. Neptune Resources commented that the proposed purpose could be expanded to reference the promotion of sustainable development “through utilising adaptive management practices, applying to all activities and based upon the best available scientific knowledge”.

Most environmental NGOs and the Auckland Conservation Board suggested that the purpose needs more emphasis on the protection and preservation of the marine environment and its biodiversity, in line with international law, specifically the United Nations Convention on the Law of the Sea (UNCLOS). Greenpeace New Zealand commented that the proposed purpose should include the restoration of seriously degraded ecosystems.

Submitters representing iwi interests pointed out that statutory recognition in the proposals for the active protection of Treaty of Waitangi claim settlements was needed. Te Runanga o Ngai Tahu recommended that “national benefits” should include the maintenance of full and final Treaty settlements.

A number of submitters recommended that clarification on whose wellbeing was being provided for in the purpose was needed; for example, “all New Zealanders”.

## 5.2 Rules framework

Two types of rules are proposed: mandatory rules to determine thresholds, and discretionary rules for specific areas or activities. Rules could be applied to all activities and their effects, or only those activities that are currently unregulated.

**Question 6: Do you feel the proposal for rules here is suitable? What changes to it, if any, would you like to see?**

**Question 7: Do you think rules should apply to all activities and their effects, or only to currently unregulated effects?**

**Question 8: What are the likely regulatory costs of a rules framework?**

Thirty-six submitters commented on the rules framework. Submissions were received from each of the stakeholder groups.

There was general agreement among the petroleum and minerals industries that some activities should be automatically “permitted” as they were either regulated already or did not have an impact on the environment. These activities include seismic surveys and passage. The New Zealand Defence Force also submitted that they have a number of operations that need to be permitted activities in the interests of national safety. Most environmental NGOs and others, some local authorities and the University of Otago, however, said that all activities should be assessed. WWF suggested that a marine spatial plan could be used to close sensitive areas and identify appropriate areas for specific activities to take place.

Comments from submitters on thresholds for when approval is required for an activity varied. As already mentioned, environmental NGOs submitted that consent and rules are needed for all activities, and so thresholds are not applicable. On the other hand, PEPANZ suggested that thresholds should be set so that only significant effects are addressed. Te Ohu Kai Moana Trustee Ltd submitted that thresholds are useful to avoid unnecessary costs for developers.

The problem of making rules when there is a lack of knowledge about the marine environment was highlighted by a number of submitters. Environment Canterbury suggested there should be a provision to review rules as new information becomes available. Nautilus Minerals and Neptune Resources both emphasised that it is important that rules be clearly defined and like effects treated with like rules. There was agreement among stakeholder groups that consultation is necessary in defining the rules. Environmental NGOs recommended that this should include full public participation.

Twenty-one submitters expressed views on whether rules should apply to all activities or only those that are currently unregulated. Of these submitters, 16 submitted that rules should apply to all activities. These submitters included local government, the minerals industry, the petroleum industry, environmental NGOs, others and the science, academic and research sector. In addition to these 16, Gecko, Greenpeace New Zealand and Aaron Packard, specifically noted that fishing should be included. New Zealand Seafood Industry Council, Todd Energy, Te Runanga o Ngai Tahu, and Te Ohu Kai Moana Trustee Ltd noted that fishing should not be included because it is regulated under the Fisheries Act 1996 and does not permanently occupy space.

Seventeen submitters commented on the likely regulatory costs of a rules framework. Most were unclear on the exact costs. OMV New Zealand identified that it could cost up to \$500,000 for a long-term activity in a highly sensitive environment. WWF and Forest and Bird suggested that the costs of the unsustainable management of resources would exceed the costs of developing a strategic system that sets the framework for current and future activities. JM Beggs commented that a sound regulatory framework should reduce rather than increase costs by establishing thresholds beneath which effects are recognised as sufficiently trivial (or perhaps customary), and so would not require any compliance cost. Telecom New Zealand expressed concern at the cost of the process and possible delays, as there could be penalties incurred if the installation of marine infrastructure is delayed.

### **5.3 Assessment of effects and consideration of applications for EEZ consent**

When an activity is not permitted under mandatory rules, it is proposed that an EEZ consent would be required. A decision-maker would need to approve an application for an EEZ consent. This decision-maker would evaluate the proposal based on the adverse and beneficial effects of the proposed activity, as well as cumulative effects and effects on other activities.

**Question 9: Is this approach to considering applications appropriate for regulating the environmental effects of activities in the EEZ?**

**Question 10: Are there any changes you would make?**

**Question 11: How should thresholds for the level of evaluation be set?**

Thirty-three submitters commented on this section, discussing the assessment of effects and consideration of applications for EEZ consent. Comments were received from all stakeholder groups but not from iwi.

Of the 30 submitters that commented on the approach to considering applications, six (Taranaki Regional Council, Environment Canterbury, OMV New Zealand, University of Otago, Telecom New Zealand and Kathryn Scarlet) specifically submitted that the approach for considering applications was generally appropriate. Greenpeace New Zealand did not agree with the approach, stating that it should be ecosystem-based and incorporate the precautionary principle.

Nine submitters (2, 6, 9, 15, 16, 26, 27, 29, 31) commented on the lack of knowledge of the marine environment and the fact that this could be an issue when considering applications. MIA and Mike Patrick suggested that there should be a staged approach to gathering knowledge to begin addressing this knowledge gap.

Seventeen submitters commented on the process of evaluating an application for an EEZ consent, including the assessment of effects. Neptune Resources submitted that the criteria for evaluation should match those of the Crown Minerals permitting regime. Some environmental NGOs commented that the impacts on biodiversity and values should also be considered. The Green Party recommended that climate change must be a core element of all decisions.

Seven of these 17 submitters (including three environmental NGOs, a petroleum company and a university) supported the use of some form of environmental assessment for assessing effects of activities. This could be an environmental impact assessment, a strategic environmental assessment, or an assessment of environmental effects. WWF submitted that a marine spatial plan, based on a strategic environmental assessment, would be useful. Telecom New Zealand, WWF and Todd Energy commented that any environmental assessment should be scaled to the significance of the potential effects of the proposal. Forest and Bird and the University of Otago supported the use of an independent review panel to review the evaluation process.

Gecko, SANE, Aaron Packard and Kathryn Scarlet commented that information relating to the evaluation of an application for an EEZ consent should be publicly disclosed. Auckland Regional Council suggested that only those possibly affected by the activity should be notified of an application, and that public notification should be for when an application is over a certain scale.

The New Zealand Historic Places Trust suggested that the definition of historic heritage contained in the RMA could be adopted for the EEZ consent regime. The submitter said that the current identification and archaeological site regulatory regime (under the Historic Places Act 1993) could be adopted in the EEZ, so that EEZ consents could apply to general historic heritage matters.

Fourteen submitters commented on how thresholds for the level of evaluation should be set. Gecko, Aaron Packard and Kathryn Scarlet submitted that thresholds could not be set until there is more information on the marine environment. ECO and SANE suggested that thresholds should be set with public consultation. The University of Otago and Forest and Bird said that thresholds should depend on the scale and nature of the proposed activity. MIA and Mike Patrick (in support of MIA) commented that there should be a “learn as you go approach” to setting threshold levels, identifying short, medium and long-term phases of the process. Nautilus Minerals agreed with this idea, stating that thresholds should be founded on the current knowledge base.

WWF and Neptune Resources submitted that thresholds should not be set. WWF disagreed with thresholds as a large number of small-scale activities could have as much impact on the environment as a single large-scale activity. Neptune Resources suggested that thresholds are not necessary if there is an obligation on the proposer to undertake monitoring.

## 5.4 Biosecurity

It is expected that the biosecurity impacts of a project would be included in the evaluation of environmental effects. This would include, for example, the risk posed by the release of new organisms introduced on a new structure. The full scope of the project would be considered, including cleaning and maintenance.

It is not expected that the regime would deal with the deliberate release of organisms into the ocean. A new organism approval regime is not planned.

<b>Question 12: Are biosecurity issues adequately managed by the proposal?</b>
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Twenty-one submitters commented on whether biosecurity issues are adequately managed by the proposals. Of these, nine (including environmental NGOs, individuals and local government) submitted that biosecurity issues are not adequately managed. These submitters generally noted that the issue needs to be more carefully considered. Greenpeace New Zealand suggested that risks should not be controlled by conditions, and that a precautionary and preventative strategy is best.

PEPANZ, OMV New Zealand and Todd Energy commented that biosecurity issues are already adequately addressed by the Biosecurity Act 1993. Todd Energy did suggest, however, that biosecurity could still be addressed in an application for an EEZ consent. Mike Patrick was concerned at including biosecurity in the proposed regime unless it dovetails with the Biosecurity Act 1993. ECO highlighted that UNCLOS limits biosecurity controls to within 24 nautical miles of the coastal baseline. Neptune Resources submitted that biosecurity issues could be dealt with either through this or existing legislation.

WWF and Forest and Bird suggested that biosecurity issues within the proposed regime should be addressed and managed through strategic environmental assessments. These organisations said that the scale, intensity and national importance of any risks need to be considered. Neptune Resources said the biosecurity impacts should be addressed when approval for consent is sought. The Auckland Conservation Board commented that concerns could arise after an EEZ consent is granted, which may then require managing.

## 5.5 Co-ordination with other environmental regulation

New environmental regulation needs to be co-ordinated with other regimes. Any use of rules will need to have regard to rules and area controls imposed under these other regimes.

It is proposed that Ministers or agencies with decision-making powers be consulted when applications are being considered and when rules are being developed. Regional councils should also be consulted on activities that cross (or go close to) the boundary between the territorial sea and the EEZ.

**Question 13: Do you agree that consultation between EEZ decision-makers is a practical way to achieve consistency and address cumulative effects? If not, what else would you like to see?**

**Question 14: What kind of mechanisms are appropriate to co-ordinate environmental management under different regimes?**

Twenty-nine submitters commented on co-ordination with other environmental regulation. There was general agreement that consultation between decision-makers is a practical way to achieve consistency and address cumulative effects. However, ECO submitted that this approach was not appropriate as decisions could be dominated by short-term financial benefits rather than consideration of the environment.

Nine (7, 10, 23, 29, 31, 33, 34, 44, 45) submitted that it would be best for a single agency to co-ordinate consultation with other relevant agencies, which would provide a more consistent approach. WWF suggested that this independent agency could administer a marine spatial plan, and that this plan, in addition to consultation, could ensure consistency, address cumulative effects, and reconcile national interests.

Taranaki Regional Council, Gisborne District Council and the Auckland Conservation Board suggested that it is critical to consult with regional councils, particularly for activities that cross or are close to the boundary between the territorial sea and the EEZ. The Auckland Conservation Board submitted that this consultation is vital so that local government can see applications for consents at the earliest stage. This consultation would also provide an opportunity for the public to comment on activities that might have direct benefit to them.

Neptune Resources, the University of Otago, Forest and Bird, and Telecom New Zealand submitted that there should be an independent panel or independent assessment for co-ordinating environmental management in the EEZ under the different regimes. Neptune Resources suggested this would be useful for quantifying effects. Forest and Bird commented that an independent scientific review panel would ensure the integrity of decision-making.

Te Ohu Kai Moana Trustee Ltd highlighted that the Minister of Fisheries should grant concurrence to any approvals because they have responsibility for the Fisheries Treaty Settlement. Te Ohu Kai Moana Trustee Ltd also noted that it is important to ensure Treaty of Waitangi settlements are protected at the highest level, and that there should be no discretionary powers for a Minister to overwrite them.

## **5.6 Nature of EEZ consents**

It is proposed that an approval under the new legislation would be called an “EEZ consent”. This EEZ consent is permission to undertake a specific activity within set parameters. It is proposed that a consent would cover a number of issues, including the location of the activity, the duration of the consent, and monitoring and enforcement requirements. The administering agency would enforce the conditions of a consent.

**Question 15: What are your views on the proposed scope of approvals?**

**Question 16: What matters should be covered to give certainty for sustainable commercial investment in EEZ activities?**

**Question 17: Are there other matters that should be covered by approvals?**

Twenty-four submitters commented on the nature of EEZ consents. There was overall agreement with the proposed scope of approvals. Submitters from the fishing, minerals, science, academic and research and local government sectors specifically stated they agreed with the proposed scope.

ECO, Nautilus Minerals, the New Zealand Conservation Authority and Mike Patrick commented on “use it or lose it” provisions that could be included in an EEZ consent. The New Zealand Conservation Authority and Nautilus Minerals supported the provision, while ECO and Mike Patrick were against it. ECO submitted that this provision could push companies into carrying out activities when they are not ready, resulting in what they called the squandering of scarce resources, with significant economic losses.

Neptune Resources and Mike Patrick commented on the relationship between the requirements for consents under this regime and the Crown Minerals regime. Neptune Resources suggested that the areas an EEZ consent should cover include those that are covered in the Crown Minerals Act 1991 permitting process. Mike Patrick suggested that the term of an EEZ consent should tie in with the term for a Crown Minerals Act 1991 permit for the petroleum or minerals industries.

Te Runanga o Ngai Tahu and the Auckland Conservation Board said that the 35-year timeframe from the RMA for a consent is too long, particularly given the uncertainty of effects in the EEZ. They also mentioned that the RMA offers few opportunities to review consents, which could be an issue given the rapid development of new technologies that may have a lesser environmental impact. ECO recommended the 35-year timeframe for a consent be an exception, subject to periodic review.

Matters submitters considered should be covered by approvals in order to give certainty for sustainable commercial investment included:

- certainty of requirements for the consent process
- certainty of occupation
- security of tenure
- transferability
- minimising the effects of overlapping activities in space/time
- a transparent, fair and low-cost consenting regime
- how competition between space and resources will be dealt with
- what rents and royalties will be required
- whether there will be bonds for post-completion clean-up costs
- whether adaptive management will be applied
- who will monitor consents
- the possibility of renewal of consent if the activity continues beyond initial consent duration

- adequate consultation in the development of rules
- the term of consent should be commensurate with the life of the project.

ECO commented that investors should not expect certainty in an uncertain world, and that it is unreasonable for them to expect this, especially in a rapidly changing biophysical world. However, ECO also noted that investors should be given certainty that there will not be capricious changes, and that the Government should be able to adjust – and policies and permits designed to permit the adjustability of – entitlements as more information and knowledge are gained.

Additional matters suggested by submitters that should be covered by approvals included:

- provision to cancel a consent if adverse effects are more significant than anticipated
- values
- biodiversity
- action in event of accidents
- the inclusion of remediation in de-commissioning/end-of-life provisions
- impacts on marine mammals, seabirds and fish
- adaptive management
- the scale, intensity and longevity of the activity
- social and economic benefits
- periodic review of the consent
- the precautionary principle
- ecosystem management.

## 5.7 Precautionary decision-making

Decisions made under the EEZ regime should recognise uncertainty in any risks to the environment and incorporate a precautionary approach. The precautionary approach suggested in the discussion paper is as follows.

- Decisions to approve or not approve activities, or to mitigate or avoid damage, should be made even when there is a lack of information or when information is poor or uncertain.
- Uncertainty about the effects of proposed activities needs to be recognised and built into decision-making. There needs to be good information about possible effects, and any approvals with adverse effects need to be within the range where the information provides confidence that the effects are understood and can be managed.

**Question 18: Do you have any comment on how precaution should be incorporated into decision-making?**

**Question 19: What do you think is an appropriate balance between precaution and encouraging investment in new activities in the EEZ, given it is a relatively low information environment?**

Thirty-two submitters commented on precautionary decision-making. Of these, 16 submitted in support for the incorporation of precaution. These 16 included the fishing industry, environmental NGOs, others, universities and a regional council. Environmental NGOs, in particular, wanted the precautionary principle to be applied. ECO stated that:

*Precaution should be incorporated through: 1. information sufficiency and scrutiny provisions; 2. formal inclusion of the Precautionary Principle, which is now required in international law; 3. open and accountable government including public disclosure, public input and participation; 4. precaution in favour of the avoidance of environmental harm, not for the status quo; 5. no requirement for compensation when measures are taken to preserve or protect the environment.*

OMV New Zealand, ExxonMobil New Zealand (Exploration) Limited (ExxonMobil New Zealand) and Todd Energy submitted that a precautionary approach is not appropriate. OMV New Zealand said that this approach is not appropriate for the offshore oil and gas industry as they have known effects, and went on to say that these effects are easily identifiable and easy to control. ExxonMobil New Zealand was concerned that a precautionary approach could be open to a wide range of definitions and interpretations, leading to a situation where an applicant needs to prove a negative.

Five submitters (9, 10, 28, 29, 31) talked about adaptive management in their submission. Four of these (Todd Energy, Neptune Resources, MWH New Zealand Ltd and Mike Patrick) submitted that this approach was preferable to a precautionary approach. Neptune Resources stated that:

*Sustainable development of the EEZ requires a regulatory regime that encourages an exploratory, experimental approach to environment protection and management issues, and emphasises the value of continuous monitoring and periodic adjustment of management regimes and perhaps consent conditions.*

Opinion was split on the balance between precaution and encouraging investment. Thirteen submitters specifically commented on this issue. Seven of these submitters (three environmental NGOs, one local authority, one university and two individuals) supported precaution over investment. WWF noted that further research, alongside pilots, should be undertaken before consents are granted. Six of the 13 (submitters from the petroleum industry, fishing industry and two individuals) submitted that development should be allowed, albeit with acknowledgement of a degree of uncertainty. An individual in support of the latter approach noted that a risk management framework could be applied that stimulated government and industry investment in marine research. In addition, Telecom New Zealand commented that a regulatory regime that imposes the precautionary principle on international cables outside the territorial sea would lack a legal basis.

## **5.8 Existing activities and interests**

The legislation should give guidance about when and whom to consult in the preparation of an application for EEZ consent. Iwi, stakeholders (such as industry with operations in the EEZ and non-government organisations with expertise in the EEZ) and some members of the public will have an interest in a proposed activity in the EEZ.

**Question 20: What are your views on the adequacy of the proposals for managing effects on other activities and interests?**

**Question 21: Do you think redress should be considered when an existing activity is affected by a new activity?**

Twenty-two submitters commented on the proposals for managing effects on existing activities and interests. There was a clear distinction between submitters from environmental NGOs and industry. Environmental NGOs (and the Green Party) favoured giving greater weight to environmental concerns and even the introduction of payments from resource users for the use of “public goods”. Submitters from all industry sectors favoured a more market-based approach, with arbitration guided by a government regime being used to resolve disputes. A common thread was the problem involved in defining the effects of resource use when there is so little knowledge about the EEZ environment.

Commenting on the adequacy of proposals for managing effects on other activities and interests, submitters from the petroleum and minerals sector noted, given the high costs of some activities, that it is important to ensure affected and interested parties are clearly defined. PEPANZ, for example, expressed concern that the rights of interested and affected parties should be clearly defined because the costs of any delays to a project can run into hundreds of thousands of dollars a day. Industry submitters noted that the proposed system should focus on fixing existing gaps in the legislation and regulations in the EEZ.

Greater Wellington Regional Council noted that managing effects would require a properly constructed oceans policy rather than a specific piece of legislation for the EEZ. The Council also believes that the proposals should be explicit about the difference between effects on existing activities and competition for the same space or resource.

The New Zealand Seafood Industry Council submitted that the role for the Government should be to establish a regime that will provide resource users with appropriate incentives to make trade-offs between themselves.

Several submitters commented on the need for clear guidance about national benefit for deciding between competing applications for an area of the EEZ. Te Ohu Kai Moana Trustee Ltd, for example, did not agree with an approach that could result in an attenuation of the fisheries settlement rights without direct agreement between the applicant and iwi.

Greenpeace New Zealand suggested that the proposals did not make proper provision for the future establishment of marine protected areas and marine reserves. It recommended that a moratorium be imposed on consents for any new activities in the EEZ until future plans for marine protected areas are developed and candidate areas identified. Several environmental NGOs submitted that activities that provide the greatest national benefit should not be limited to economic and cultural factors but must also include environmental factors.

Of those who commented on the adequacy of the proposals for managing effects on other activities and interests, 15 generally supported redress for an existing activity when it is affected by a new activity. Environment Canterbury, MIA, and Nautilus Minerals pointed to the need for detailed information about the area in question to allow accurate assessment of the effect of the new activity on the existing activity.

Many submitters noted the difficulty in quantifying costs to existing users of new developments when so little is known about the EEZ environment, and see a need for more detailed information. An example of the need for detailed information about the area was given by Nautilus Minerals, who noted that “fisheries could argue mineral exploration diminishes fish stocks, while mineral exploration companies would argue it is in fact fishing that diminishes fish stocks”. The minerals industry submitted that it is important to be able to correctly identify which activity, if any, is responsible for effects on the environment or others using the area.

There was wide support for the use of arbitration as part of the redress process for resolving issues that arise from the introduction of new activities into an area. Some submitters preferred the use of privately agreed arbitration instead of government-mandated redress to resolve resource-use issues. The Auckland Conservation Board believed that it is essential that avenues for redress be built into all permit reviews and consents issued.

Several submitters were also concerned about the cumulative effects of activities in the marine environment. Several of the environmental NGOs considered that redress for the environmental impact of activities should be paid by those using the resource. The environmental NGOs noted that there should be no redress for activities to protect or preserve the marine environment or for other sustainability measures.

ECO noted that where rival commercial benefits are in conflict, both should pay society (or Maori) resource rents for the benefits they gain. ECO commented that these resources are public, and permission to use them should always be subject to the sovereignty of the Crown (or Maori).

## **5.9 Consultation on applications for EEZ consent**

The legislation should give guidance about when and who to consult in the preparation of an application for EEZ consent.

The discussion paper proposed that the EEZ be managed at the national scale by central government. This is appropriate because there is a strong national and international community of interest in the EEZ. The level and nature of the interest from the public is different to that for activities on land and in nearshore coastal environments, where people are directly or proximately affected by activities.

**Question 22: What consultation provisions would you like to see?**

**Question 23: What interests do you or your group have in the EEZ which should be taken into account through consultation?**

**Question 24: How do you think the process and costs of consultation should be shared between applicants and the Government?**

There was wide support from submitters for consultation provisions, not just on EEZ consents but also in the development of EEZ environmental rules. Since the rules will set the general management framework, and will define when activities need consent, they were seen as being as important as the consent procedures. WWF considered that rules should form part of a marine spatial plan, to be developed in consultation with stakeholders.

Local government submitters pointed out the need for consultation on applications with all local authorities. This consultation would ensure consistent management, and the ability to draw on local government marine management experience.

There was some debate about how wide the opportunity for consultation should be. Industry submitters tended to favour consultation focused more on stakeholders with a particular interest in proposals. Neptune Resources, for example, mentioned “stakeholders of merit”. Todd Energy submitted that intensive RMA-style consultation would not be appropriate. MIA noted the importance of the Government working closely with EEZ operators. Industry submitters noted the desirability of a centralised consenting agency to manage consultation.

Some other submitters, such as environmental NGOs and the Green Party, supported more general public consultation on rules and applications, based on a wider public interest in biodiversity and intrinsic values. ECO, for example, noted that “values are at stake”, not just matters of expertise.

Te Ohu Kai Moana Trustee Ltd, Te Runanga o Ngai Tahu and the Green Party noted the importance of honouring kaitiakitanga (or guardianship) and shared decision-making. These submitters also noted the importance of actively protecting the interests of iwi in the fisheries settlement, along with other interests in the EEZ.

When commenting on interests that should be taken into account via consultation, industry submitters noted the value of EEZ resources and activities, not just to individual developers but to the country as a whole. Telecom New Zealand, for example, noted “the critical impact of international submarine communication cabling infrastructure for New Zealand and for its own business”, and the need to “maintain submarine cable connectivity to meet the Government’s policy objectives in numerous sectors”.

MIA stated that:

*... minerals exploration and prospecting are low-impact, knowledge-generating activities, with high public value and therefore all encouragement ought to be given for the generation of that knowledge, increasing the value of the Crown’s mineral estate.*

Neptune Resources noted that appropriate government bodies are currently in place to represent public interest. This submitter suggested that decision-making rests with the Government, and due process should not be undermined by groups with the potential to cause delays. They went on to say that iwi and environmental NGOs with expertise in the EEZ would need to define their cultural attachment or expertise. Neptune Resources also noted the value of educating the public to understand company objectives and operations to avoid misunderstandings.

Local government noted an interest in cross-boundary issues between the territorial sea and the EEZ. These issues include where offshore facilities require onshore facilities.

Environmental NGOs and some individuals noted their interest in biodiversity and ecosystems-based management, and sustainable management for future generations. For example, Greenpeace New Zealand stated its interest in “the promotion and perpetuation of non-use values and the protection of biodiversity, preservation of the natural marine environment, and restoration of degraded marine ecosystems in the EEZ”. In many cases, these submitters’ interests went beyond environmental assessment of individual activities; for example, WWF proposed marine spatial plans and strategic environmental assessment.

Some submitters noted issues of particular importance to Maori. The Green Party pointed to a need for recognition of kaitiakitanga and shared decision-making. Te Runanga o Ngai Tahu submitted that the proposals failed to recognise the role of iwi as a Treaty partner and the special rights associated with this. This submitter referred to the exclusive Treaty development right fisheries claim and the outcome of the Ngai Tahu Maori Trust Board v Director-General of Conservation [1995] Court of Appeal case. Te Runanga o Ngai Tahu noted that in this case it was made clear that to adhere to the Treaty principles, consultation needs to be given real consideration, and in some circumstances actual preference to be given to the substantive interests of Ngai Tahu. Te Ohu Kai Moana Trustee Ltd submitted that its over-riding concern was protection of the Treaty fisheries settlement, and to advance the interests of iwi individually and collectively, primarily in the development of fisheries, fishing and fisheries-related activities.

In terms of the process and costs of consultation, environmental NGOs and some other groups favoured applicants meeting the costs of consultation. Other submitters noted, however, that this position is not justified in all cases. Those supporting the applicant meeting the costs suggested that since activities would provide economic benefits to the applicants, it was appropriate for them to meet consultation costs. Greater Wellington Council, for example, submitted that the tax payer should not pay for the private exploitation of the nation’s resources.

WWF suggested a levy to facilitate public engagement in an EEZ management framework. ECO similarly suggested that applicants should pay a percentage of the value of their proposal into a fund for public consultation and public expert reports, support for environmental legal aid and participation costs. Other submitters noted that developments in the EEZ have a public good element (e.g., economic benefits to New Zealand as a whole), and greater information about the EEZ will support the management of environmental effects responsibly in the future.

In general, industry submitters supported costs either lying where they fall, or being supported by the Crown. Telecom New Zealand submitted that consultation costs should lie where they fall, stating that this would reflect the real value of the competing stakeholder interests.

MIA submitted that while minerals exploration is in the public good arena, full-scale mining may be more of a private good. This, it suggested, would mean the costs of establishing an EEZ process and consultation focused on minerals exploration should be borne by the Crown. Nautilus Minerals submitted that all those involved in consultation should cover their own costs, and that ultimately the Government will generate rent from the economic activity.

## 5.10 Cost recovery

It is proposed that new legislation provide for a cost-recovery regime. This regime would include the recovery of the costs of receiving and processing applications, and ongoing administration and other costs (such as monitoring and enforcement) of an EEZ consent. The regime would also include the costs of any additional research required to assess environmental effects.

**Question 25: Do you agree that a cost recovery regime is necessary?**

**Question 26: On what basis should cost recovery be charged, and what level of charging is appropriate?**

Twenty-five submissions explicitly answered yes or no to the need for a cost recovery regime. Of these, 19 agreed and three disagreed with cost recovery, and three agreed to limited cost recovery. The latter three commented that it should be recognised there are industries already having costs recovered under other legislation. These submitters also suggested the contribution some activities make to the knowledge base should be recognised. All submitters that responded to this question from local government, environmental NGOs, iwi, the telecommunications industry, others and the petroleum industry, generally supported the need for a cost recovery regime. Submitters from the minerals and fishing sectors were split in their support.

Twenty-one submissions discussed how to recover costs and which costs could be recovered. Te Ohu Kai Moana Trustee Ltd identified two broad options for cost recovery: a fisheries approach or an RMA approach. This submitter identified that a fisheries approach recovers costs where government services benefit a harvester, but it does not recover costs for public good and service. An RMA approach recognises that private and public services may be bundled together, and low levels of cost recovery are set across all activities. Taranaki Regional Council proposed that the principles set out in the RMA and Local Government Act 2002 be followed. Greater Wellington Regional Council proposed that charging regimes should be worked out for renewable and non-renewable resources, recognising their inherently different nature in terms of sustainability. TIA supported a cost recovery regime that would fund research into environmental effects, to ensure the right decisions are made to balance commercial activity and the protection of marine biodiversity.

A common concern among submitters from the fishing, petroleum, minerals and telecommunications industries was that other fees being recovered by ministries already regulating these activities needed to be acknowledged. These submitters also highlighted that their obligations under international law need to be recognised. They commented that the cost recovery regime should be the simple recovery of actual and reasonable costs to cover the permitting application process, possibly with rates independently determined in relation to the work undertaken. These submitters also noted that information on the EEZ environment can be gained through some of the activities of these sectors (e.g., minerals exploration), which should be encouraged and actively supported, and therefore the costs of services provided in the public interest should not be included.

Many other submissions supported the above view. These submitters added that the rate of cost recovery should depend on the degree of public good, national interest and the environment (i.e., it should be broken down into areas of responsibility), and that cost recovery may be appropriate when a stream of benefit flows from an activity derived from a Crown-owned natural resource in the EEZ. JM Beggs noted that cost recovery should not reach levels that are burdensome on environmentally responsible commercial activities. This submitter also commented that applicants would expect to fund research, but should have full control over the conduct of the research.

Environmental NGOs that responded to this question and the Auckland Conservation Board supported the recovery of costs from using natural resources and for these to be borne by the applicant. Costs these submitters suggested should be included were for: administration, monitoring, assessing effects, regulation and enforcement of activities, public participation, and when a consent is appealed or reviewed. Greenpeace New Zealand proposed that all costs be recovered and that a liability regime could ensure the appropriate level of bond and/or insurance is paid by resource developers prior to development. WWF suggested it is important that the proposed outcomes remain focal to an EEZ management framework, and that the interests of the public (not individual companies) be central to the process. Te Runanga o Ngai Tahu proposed that costs recovered from private companies profiting from the use of “commons” be used for further research and monitoring.

## 5.11 Rentals, royalties and other benefits

The discussion paper sought feedback on whether it would be appropriate to charge rentals or royalties, or to capture other kinds of benefits, such as those discovered through biological prospecting activities. To capture benefits, clear justification would be needed. Charging would also need to be considered in the legal context of New Zealand’s international rights and obligations in the EEZ.

**Question 27: Do you think rentals and royalties should be charged for use of EEZ resources, and why?**

Twenty-five submissions responded to this question. Seventeen expressed support for some form of rental and royalty charge, six disagreed, and two considered there was not enough detail or that it was too early in the process to comment on the appropriateness of these charges.

Six (including local government, environmental NGOs, others and an individual) submitted their support for charging rentals and royalties when the profits from activities end up overseas or when the resource use is exclusive. These submitters suggested the charging of rentals and royalties would ensure the greatest national benefit for New Zealand. Environment Canterbury and KASM commented that these charges should not be seen as compensation for effects, and should not be set at “token” levels.

Nautilus Minerals suggested rents should be in place to ensure companies perform against exploration title requirements. This submitter highlighted that there is a royalties regime in place for land-based minerals, so in principle the EEZ regime should be the same as that used onshore. SANE added that sustainability is strengthened by using pricing regimes. Local Government New Zealand also suggested that local government development levies be applied as part of the consent process when development in the EEZ also has significant impacts on land use and infrastructure onshore.

Greater Wellington Regional Council submitted that a charging regime for renewable resources should benefit the people of New Zealand in a way that ensures the resource remains sustainable. This Council also questioned whether exploitation of finite assets for no benefit to the people of New Zealand should be allowed. In terms of non-renewable resources, Wellington Recreational Marine Fishers Association suggested an area should be leased and royalties charged at a very high rate in recognition that the resources are non-renewable. ECO recommended there be different resource rental and royalty charges for the extraction of resources, and externality payments for environmental harm and for the occupation of public space. Auckland Conservation Board noted that aquaculture installations could require a different regime (e.g., rentals on space), because this activity bears additional costs in feeding their resource before benefiting from the product. This submitter recommended that a proportion of these monies needs to be tagged for research and conservation purposes in the offshore marine area.

Te Runanga o Ngai Tahu noted that, given Ngai Tahu's rights under the Treaty of Waitangi, there should be some entitlement for that iwi to rentals, royalties and other benefits, particularly as the Foreshore and Seabed Act 2004 only operates to 12 nautical miles.

Among those submitters that did not support rental and royalty charges, the main reason given was that many of the activities that are likely to occur in the EEZ are already charged rentals and royalties under existing legislation. Some submitters suggested that such charges under the EEZ regime would be viewed as duplication. The University of Otago added that rental or royalties should not be charged for activities that give rise to zero resource depletion. Telecom New Zealand commented that under UNCLOS they have express freedom to lay, operate and repair international cables, and that therefore no royalties or rentals should be charged for these activities.

New Zealand Seafood Industry Council suggested the proposals contained no context or analysis in terms of which rentals, royalties or other benefit payments could be appropriately considered. Te Ohu Kai Moana Trustee Ltd suggested the question of ownership of mineral resources had not been satisfactorily resolved between the Treaty partners, and that extending any regime beyond these could not be agreed to. This submitter suggested that predetermining issues of ownership would be unacceptable. Todd Energy also noted that while they supported having rental and royalty charges set at reasonable levels, it should be remembered that New Zealand benefits from the exploration and development of the EEZ's economic resources.

## 5.12 The decision-maker

The discussion paper proposed that decisions on applications and any rules be made by a Minister, or kept at arm's length by an independent decision-making body. Both models are used in New Zealand.

**Question 28: Who should make the final decisions on: 1) rules; 2) applications? The Minister, the administering department, or an independent agency?**

**Question 29: Should rights of appeal to these decisions (other than judicial review) be provided? If so, what should they be?**

Thirty-six submitters commented on the decision-maker. Although the discussion paper gave the option of selecting a different decision-maker for rules than for applications, generally all those who responded to this question selected the same decision-maker for both rules and applications.

Nine submitters supported an independent agency to make final decisions on the rules and applications for EEZ consents (1, 8, 21, 23, 28, 30, 32, 35, 38), with some noting support for the escalation of decision-making to a Minister if the application is contentious or of significant risk. Eleven submitters supported having a Minister as the preferred final decision-maker (10, 19, 27, 28, 29, 31, 33, 37, 44, 45, 46). Greenpeace New Zealand supported the Minister as the final decision-maker on just the applications.

Other options for the final decision-maker put forward were Cabinet to make decisions on rules (Greenpeace New Zealand), or an inter-departmental agency to make decisions on both rules and applications (Environment Canterbury). PEPANZ recommended having one agency to handle cross-boundary applications across the territorial sea and EEZ, which was supported by Northland Regional Council. Chatham Islands Council also supported this, submitting that local and central government should be partners in the decision-making process. Four submitters (6, 9, 36, 43) recommended that collaboration with stakeholders (including iwi) needs to be part of the decision-making process.

Thirteen submitters suggested that rights of appeal should be provided other than judicial review (1, 2, 6, 9, 13, 17, 21, 27, 31, 34, 37, 45, 46), with three (31, 34, 45) recommending the involvement of the Environment Court. Reasons given for when appeals could be made were if:

- the decision is not aligned with the purpose of the legislation
- the decision was made with inadequate information
- there are competing rights to a resource or space
- the decision relates to whether a new activity could cause undue adverse effects on iwi fisheries settlement.

Greenpeace New Zealand also recommended that the cost of appeal be covered by the applicant. OMV New Zealand suggested that to avoid delays or postponements, appeals could be dealt with at official/ministerial level.

Neptune Resources did not agree with there being the right of appeal, unless the decision was based on inadequate information. Auckland Conservation Board did not agree to the right of appeal other than by judicial review, to ensure consistency and clarity of decisions, and to confer a status to those decisions. This submitter suggested that this process would signal the importance of decisions based on sound criteria, rather than give an impression that decisions could be made lightly and easily overturned.

Tasman District Council commented that the paper had no discussion about why some existing legislation includes appeal rights but other legislation does not.

## 5.13 Administering agency

Responsibility for a new regime could lie with an existing agency or a new agency. Determining the best agency includes consideration of capability, cost effectiveness and conflict of interest with other functions and powers. An agency will also require appropriate resourcing.

The discussion paper proposes the roles and possible agencies for the administering agency.

### Question 30: Do you have a preferred administering agency, and why?

Thirty-three submitters commented on a preferred administering agency. A number of submissions commented on the appropriateness of several agencies, as indicated in Table 1.

**Table 1: Support for or against the possible agencies listed in the discussion document\***

Agency	Number of supporting submissions	Number of submissions against
Department of Conservation	1	4
Maritime New Zealand	7	1
Ministry for the Environment	10	2
Ministry of Economic Development	8	1
Ministry of Fisheries	0	5

\* Included is support for the agency as an independent lead or as part of a joint administering agency.

Other suggestions by submitters for the administering agency, outside the list provided in the discussion paper, were:

- a new agency, or “one stop shop” (seven submissions supported)
- a joint agency comprising of Department of Conservation, Ministry of Fisheries and Ministry of Economic Development (one submission supported)
- the Ministry of Transport (one submission against)
- the National Institute of Water and Atmospheric Research Ltd (one submission supported)
- a joint government/industry board (one submission supported)

- a joint/interdepartmental agency to consider cross-boundary issues (three submissions supported)
- the agency for which the legislative gap has been identified (one submission supported).

The requirements of the administering agency were discussed by a number of submitters. Suggestions were that the agency:

- have an independent mandate
- create a new institutional framework, as well as co-ordinating and collaborating with relevant sectors and between government departments in order to take an ecosystem approach
- not assign its responsibility to any existing agency if it does not fit with the core business or purpose of that agency
- involve the New Zealand Defence Force, to assist with the monitoring and enforcement of regulations
- establish an independent scientific advisory board to provide impartial advice to the administering agency, decision-maker, stakeholders and public.

Reasons for supporting the Ministry for the Environment as administering agency included its perceived neutrality, minimal conflicts of interest, and experience in leading oceans policy. Environment Canterbury, Local Government New Zealand and Tasman District Council noted that in order to fulfil this function, the Ministry for the Environment must be adequately resourced.

Reasons for supporting Maritime New Zealand as administering agency included familiarity with environmental administration and that its operational role is well aligned with the proposed EEZ regime. It was also suggested that Maritime New Zealand is experienced in the promulgation and administration of environmental rules. ECO suggested the formation of a new oceans agency which might be a division of Maritime New Zealand with new powers.

Auckland Conservation Board suggested the Department of Conservation should be the administering agency, because it has an environmental, not economic, focus. MIA suggested that the Ministry of Economic Development would be the best body to co-ordinate a whole-of-government approach. Nautilus Minerals suggested that some form of environmental council could be established.

## 6 Legislative Options

The form the new legislation takes will depend on the final content of the policy and the administrative requirements. The two broad options given were to amend an existing statute or to create new stand-alone legislation. Existing statutes that could be amended are the Territorial Sea, Contiguous Zone and Exclusive Economic Zone Act 1977 (TSCZEEZ) or the Maritime Transport Act 1994

**Question 31: Do you consider the regime should be in separate legislation or should be incorporated in existing legislation?**

Twenty-three submitters responded to the question of legislation. Seven submitters from the petroleum and minerals industries and one from science, academic and research, supported amending existing legislation. Fifteen submitters from local authorities, environmental NGOs, the fishing and telecommunications industries, others and the science, academic and research community supported the introduction of separate legislation. An individual submitter considered it premature to ask which option is preferred as, in their opinion there are problems with existing legislation relating to the territorial sea, contiguous zone and EEZ where there are overlaps and gaps.

Of those that supported the amendment of existing legislation, PEPANZ and Todd Energy suggested modifications to the Maritime Transport Act 1994. These two submitters suggested that EEZ consenting could be incorporated into the Maritime Transport Act 1994 as it contains the objective of “ensuring environment sustainability” and Maritime New Zealand is responsible for “protection of the marine environment in and beyond New Zealand”.

MIA suggested that very little legislation should be required at this transitional time. This submitter commented that if the critical issue is to collect knowledge and information about the effects of activities on the ecosystem, then that could be done under existing legislation by requiring 100 per cent observer coverage over every activity. MIA submitted that under the consent (and its monitoring and compliance), the data required on the effects of an activity on the ecosystem could be appropriately defined on a case-by-case basis. This submitter also noted that whether there are gaps or not in existing legislation, an overarching principle should be that:

*... all activities in the EEZ, their possible interactions with other activities, and with the environment (chemical, physical, and biological) will be appropriately controlled and co-ordinated. The degree of control and quanta of information required for activities and their effects needs to be designed for the EEZ.*

Nautilus Minerals recommended using the Papua New Guinea model for offshore legislation for seabed mining. This submitter said that the regulatory and permitting process in Papua New Guinea is similar to the RMA and could be modified for the New Zealand EEZ environment.

Three submitters that supported the option of stand-alone new legislation also commented on the option of amending existing legislation. Comments were that:

- although it may be more appropriate to have separate legislation, it was not a strong preference (Te Ohu Kai Moana Trustee Ltd)
- the TSCZEEZ could be extended into an environmental statute, but whichever option is chosen, it would need clear and certain purpose and scope, should be closely related to existing legislation, and should be able to drive change in that legislation if needed (MWH New Zealand)
- if stand-alone legislation is introduced, it would need to provide for the integrated management of the territorial sea and EEZ (Northland Regional Council).

Of the submitters that supported the introduction of stand-alone legislation, a common reason given was to have a clear purpose that could provide direction, and could operate across all other statutes operating in the EEZ. Auckland Conservation Board suggested that this clear purpose would mean the protection of the integrity of the marine environment stood above trade considerations or economic matters.

Environment Canterbury suggested that this environment required a whole-of-government approach, with a purpose differing from the existing legislation. Taranaki Regional Council noted that any “add-on” to an existing statute could be inconsistent with the purpose of the parent statute. Local Government New Zealand recommended the development of a New Zealand oceans (or EEZ) Act. This submitter also commented that strong links were needed between an EEZ management framework and existing management of the territorial sea.

Auckland Regional Council suggested that any new legislation needs to ensure sustainable management and provide an appropriate process for considering proposals. At the same time the legislation should avoid undue requirements and costs, which may result in deterring appropriate development and use of EEZ resources.

WWF recommended the introduction of an oceans policy, bringing all management issues under one document or act. This new act, WWF suggested, could then form the base for modernising the Fisheries Act 1996, Marine Reserves Act 1971 and Marine Transport Act 1994.

Greenpeace New Zealand outlined terms of reference for new stand-alone legislation, which it suggested could achieve and maintain good environmental status in the EEZ while allowing environmentally sustainable development projects to proceed. This submitter recommended adopting the following four goals to underpin new legislation:

- to preserve and protect, allow recovery, and restore the function and structure of marine biodiversity and ecosystems in order to achieve and maintain good ecological status of these ecosystems
- to phase out pollution in the marine environment to ensure there are no significant impacts or risk to human and/or on ecosystem health, and/or on uses of the sea
- to contain the use of marine resources and goods and other activities in marine areas to levels that are sustainable and that do not compromise uses and activities of future generations, nor the capacity of marine ecosystems to respond to changes
- to apply the principles of good governance, both within New Zealand’s waters and globally.

## 7 Other Relevant Comments made by Submitters

Comments made by submitters that were not in direct response to the questions posed in the discussion paper are summarised in this section. Following are the common themes that came through in submissions.

- There is a need to ensure that adequate and appropriate resources would be allocated for governing, enforcing, decision-making, researching and knowledge-building to effectively and sustainably work with the offshore environment.
- An overarching oceans policy should ideally be developed first, to set the framework for this type of regime. This overarching policy should be transparent, easy to follow and pragmatic, and should not to weaken or undermine existing legislation.
- Any activity carried out in the EEZ should be done so sustainably, and be managed using international best practice models where available, or in a way that sets international best practice.
- Environmental NGOs tended to support an ecosystem-based approach to managing the EEZ.
- Lack of information needs to be considered as any policy is developed. Information needs to be appropriately utilised and weighted, including drawing from international “lessons learnt”.
- There is a need to have clear rights and responsibilities for commercial users, recreational users, academic and research users, and any future user groups.

Chatham Islands Council suggested the discussion paper be amended to include “and improving regulation of the socioeconomic effects in New Zealand’s Exclusive Economic Zone upon the Chatham Islands”. This submitter also recommended using commonsense reasoning to recognise the more isolated regions of the Chatham Islands and the Chatham Rise, and the Kermadec Islands and the Kermadec Ridge.

Telecom New Zealand suggested the discussion paper should be revised to reflect the fact that in the event of any conflict between express freedoms in UNCLOS and general but unspecified national goals, the express freedoms in UNCLOS would prevail (as discussed by legal opinion in their submission).

The New Zealand Marine Sciences Society and the Otago Conservation Board noted that the Department of Conservation (and the Marine Reserves Act 1971) is responsible for the protection of deep-water habitats, and that provision should be made for such protection.

Auckland Conservation Board proposed:

*Potential Seabed Food Cultivation: In the interests of the nation, the seabed of New Zealand’s Exclusive Economic Zone should be subjected to intensive scientific monitoring to establish potential seabed appropriate stratum to develop future marine agricultural farming (not aquaculture as we know it today with supporting structures but a new defined marine food produce planted in the seabed for harvesting similar to commonly grown vegetables on land).*

Greenpeace New Zealand recommended the establishment of an interconnected network of marine reserves in the EEZ. This submitter advocated a moratorium on consents in the EEZ until the “designation and enforcement of substantial marine areas fully protected from all human activities” are established. Greenpeace New Zealand suggested incorporating 40 per cent of the EEZ into marine reserves within the next 10 years. This submitter commented that the impacts of commercial fishing, aquaculture, mineral and oil exploitation on oceanic ecosystem function and integrity are not well known, and that New Zealand must manage the full spectrum of human activities that have an impact on EEZ ecosystems, and develop associated indicators of pressure and change in the marine environment.

# Appendix 1: List of Those Sent a Hard Copy of the Discussion Paper

Petroleum and minerals industries and relevant associations	Academic, research and science community and professional organisations
<p>Austral Pacific Energy (New Zealand) Limited            AWE New Zealand Pty Limited            BP Oil New Zealand Limited            Bridge Petroleum Limited            Chevron New Zealand Limited            Dillon Petroleum Limited            Discovery Geo Corporation            Energy Petroleum Holdings Limited            Genesis Energy            Global Resource Holdings            Grande Energy Company            Green Gate Limited            Greymouth Petroleum Limited            Gull Petroleum New Zealand Limited            Highland Exploration Corporation            Hugh Green Energy Limited            L&amp;M Petroleum Limited            Lakes Oil NL            Macdonald Investments Limited            McKenzie Petroleum Limited            Meridian Energy            Mobil Oil New Zealand Limited            Nautilus Minerals (New Zealand) Limited            Neptune Resources New Zealand Group            New Zealand Oil and Gas            New Zealand Overseas Petroleum Limited            New Zealand Minerals Industry Association            Ocean Harvest International Limited            OMV New Zealand Limited            Origin Energy Resources New Zealand Limited            Petroleum Exploration Production Association of New Zealand            Petroleum Resources Limited            Pogo New Zealand            Rio Tinto Mining and Exploration Limited            Seafield Resources Limited            Shell Exploration New Zealand Limited            Shell Petroleum Mining Company            Shell Todd Oil Services</p>	<p>Arete Ltd            Auckland University of Technology            Cawthron Institute            Centre for Advanced Engineering            Enfocus            Institute of Geological and Nuclear Sciences            Institute of Nautical Surveyors            National Institute of Water and Atmospheric Research            New Zealand Coastal Society            New Zealand Conservation Authority            New Zealand Historic Places Trust            New Zealand Marine Sciences Society            New Zealand Planning Institute            Opus International            Resource and Environmental Management Ltd            Resource Management Law Association            Royal Society of New Zealand            Saunders Unsworth            University of Auckland            University of Canterbury            University of Otago            Victoria University            Waikato University</p>
	<p><b>Telecommunications industry</b></p>
	<p>Telecom</p>
	<p><b>Ports</b></p>
	<p>CentrePort            Port of Auckland            Port of Greymouth            Port of Marlborough New Zealand            Port of Napier            Port of Nelson Limited            Port of Otago            Port of Taranaki            Port of Tauranga            PrimePort Timaru            South Port</p>

<b>Petroleum and minerals industries and relevant associations</b>	<b>Fishing industry and relevant associations</b>
Swift Energy New Zealand Limited Tag Oil (New Zealand) Limited Tap (New Zealand) Pty Ltd Todd Exploration Limited Todd Taranaki Limited Trans-Orient Petroleum Limited Vector Limited Westech Energy New Zealand Western Exploration Limited Widespread Energy Limited	Antons Seafoods Limited Aotearoa Fisheries Aquaculture New Zealand Deepwater Stakeholder Group Fishing Vessel Owners Association Independent Fisheries Limited KPF Investments Limited Mariner Holdings Limited New Zealand Big Game Fishing Council New Zealand Federation of Commercial Fishermen New Zealand Marine Farming Association New Zealand Recreational Fishing Council New Zealand Seafood Industry Council Ocean Products Limited Option 4 Sanford Limited Sealord Group Ltd Simunovich Fisheries Solander Fisheries Southern Cross Quota Holdings Limited Talleys Fisheries Limited Te Ohu Kai Moana Vela Fishing
<b>Environmental non-government organisations</b>	
Antarctica New Zealand Council of Outdoor Recreation Association of New Zealand Ecologic Foundation Environment and Conservation Associations of New Zealand Environmental Defence Society Friends of the Earth New Zealand Greenpeace New Zealand Royal Forest and Bird Protection Society World Wildlife Fund New Zealand	
<b>Government</b>	<b>Local authorities</b>
Department of Conservation Department of Internal Affairs Department of Prime Minister and Cabinet Land Information New Zealand Local Government New Zealand Maritime New Zealand Ministry of Agriculture and Forestry Ministry of Culture and Heritage Ministry of Defence Ministry of Economic Development Ministry of Fisheries Ministry of Foreign Affairs and Trade Ministry of Health Ministry of Justice Ministry of Research, Science and Technology Ministry of Tourism Ministry of Transport New Zealand Customs Service New Zealand Food Safety Authority Office of the Parliamentary Commissioner for the Environment State Services Commission Te Puni Kokiri The Treasury	Auckland Regional Council Chatham Islands Council Environment Bay of Plenty Environment Canterbury Environment Southland Environment Waikato Gisborne District Council Greater Wellington Regional Council Hawke's Bay Regional Council Horizons Regional Council Marlborough District Council Nelson City Council Northland Regional Council Otago Regional Council Taranaki Regional Council Tasman District Council West Coast Regional Council
	<b>Other relevant groups</b>
	Chatham Islands Enterprise Trust Fiordland Marine Guardians Insurance Council of New Zealand Royal New Zealand Navy Seaworks

Iwi	Iwi
Hauraki Maori Trust Board	Te Aupouri Maori Trust Board
Hokotehi Moriori Trust	Te Aupouri Negotiations Company
Kurahaupo ki te Waipounamu Trust	Te Kaahui o Rauru
Maniapoto Maori Trust Board	Te Kohitanga o Te Arawa Waka
Muaupoko Tribal Authority Inc	Te Kupenga o Ngati Hako Inc
Nga Taonga o Ngaitakoto Trust	Te Patiki Trust
Ngai Tai Umupuia Te Waka Totara Trust	Te Patukirkiri Iwi Inc
Ngai Tamanuhiri Whanui Charitable Trust	Te Pou a Haokai
Ngaitai Iwi Authority	Te Pumautanga O Te Arawa Trust
Ngaiterangi Iwi Inc	Te Roroa Development Co Ltd
Ngaruahine Iwi Authority	Te Runanga A Iwi O Ngapuhi
Ngati Apa ki Te Waipounamu Trust	Te Runanga A Rangitane O Wairau
Ngati Hei Trust	Te Runanga o Ati Awa ki Whakarongotai Inc
Ngati Kahu ki Whangaroa Trust Board	Te Runanga o Ngai Tahu
Ngati Kahungunu Iwi Inc	Te Runanga O Ngati Apa Soc Inc
Ngati Koata No Rangitoto ki te Tonga Trust	Te Runanga o Ngati Awa
Ngati Kuri Trust Board	Te Runanga o Ngati Hauiti
Ngati Maru ki Hauraki Inc	Te Runanga O Ngati Kuia
Ngati Maru Pukehou Trust	Te Runanga o Ngati Manawa
Ngati Mutunga O Wharekaui iwi Trust	Te Runanga o Ngati Mutunga
Ngati Porou ki Hauraki Trust	Te Runanga o Ngati Pikia
Ngati Pukenga Iwi ki Tauranga Trust	Te Runanga o Ngati Porou
Ngati Pukenga ki Waiau Society Inc	Te Runanga o Ngati Pukenga ki Tauranga
Ngati Rahiri Tumutumu Trustees' Society Inc	Te Runanga o Ngati Ruanui Trust
Ngati Ranginui Iwi Society Inc	Te Runanga O Ngati Tahu Ngati Whaoa Inc
Ngati Rarua Iwi Trust	Te Runanga o Ngati Tama
Ngati Tama Manawhenua ki Te Tau Ihu Trust	Te Runanga o Ngati Whare Iwi Trust
Ngati Tara Tokanui Trust	Te Runanga o Ngati Whatua
Ngati Tuwharetoa (Bay of Plenty) Settlement Trust	Te Runanga O Raukawa
Ngati Tuwharetoa Fisheries Charitable Trust	Te Runanga o Taranaki Iwi Inc
Ngati Wai Trust Board	Te Runanga o Te Rarawa
Ngati Whanaunga Incorporated	Te Runanga O Te Whanau
Ngati Whatua o Orakei Maori Trust Board	Te Runanga o Toa Rangatira Inc
Port Nicholson Block Claim Team	Te Runanga O Whaingaroa
Rangitane o Tamaki nui a Rua	Te Runanga-A-Iwi O Ngati Kahu
Rangitane o Wairarapa	Te Runanganui O Rangitaane
Raukawa Trust Board	Te Runanganui o Te Arawa
RONAN	Te Ruunanga a Iwi o Ngati Tamatera Inc
Rongowhakaata Charitable Trust	Te Uri o Hau Settlement Trust
Tainui Taranaki ki te Tonga Ltd	Te Whiringa Muka
Tanenuiarangi Manawatu Incorporated	The Ngati Paoa Trust
Taranaki Iwi Trust	Tuhoe Fisheries Charitable Trust
Te Aitanga a Mahaki Trust	Tuhoe-Waikaremoana Maori Trust Board
Te Arawa Lakes Trust	Tuhourangi Runanga a Iwi
Te Atiawa Iwi Authority	Tuwharetoa Maori Trust Board
Te Atiawa ki te Upoko o te Ika a Maui Potiki Trust	Waikato Raupatu Lands Trust
Te Atiawa Manawhenua ki Te Tau Ihu	Whakatohea Maori Trust Board
Te Atiawa (Taranaki) Settlements Trust	Whanganui River Maori Trust Board
Te Aupouri Fisheries Trust	

Other relevant associations	Other relevant associations
Aotearoa Wind and Tidal Energy Association Association of Agents and Ship Owners Maritime Union New Zealand New Zealand Association of Shipping Agents	New Zealand Marine Transport Association New Zealand Merchant Service Guild New Zealand Shipping Federation Tourism Industry Association

## Appendix 2: Newspaper Notifications

Notification of the release of the discussion paper and for public consultation and details of how to make a submission were published on 11 August 2007 in the following regional newspapers.

- *Daily Post* (Central North Island)
- *Dominion Post* (Wellington)
- *Manawatu Standard* (Manawatu)
- *New Zealand Herald* (Auckland)
- *Northern Advocate* (Northland)
- *Otago Daily Times* (Dunedin)
- *The Press* (Christchurch)
- *Southland Times* (Southland)
- *Taranaki Daily News* (Taranaki).

# Appendix 3: Workshop Attendees

Date of workshop and government officials in attendance	Stakeholder group and attendees
<p><b>Tuesday 28 August</b></p> <p>Ministry for the Environment (MfE) – Daniel Brown, Ginny McLean, Nicky Blackman, Suzanne Doig, Todd Kriebler</p> <p>Ministry of Economic Development (MED) – Barry Winfield</p> <p>Maritime New Zealand (MNZ) – John Marshall</p>	<p><b>Petroleum, minerals and telecommunications</b></p> <p>John Pfahlert, Petroleum Exploration and Production Association of New Zealand (PEPANZ)</p> <p>Bill Armstrong, Todd Energy</p> <p>Mike Patrick</p> <p>JM Beggs</p> <p>John Feenan, Neptune Resources New Zealand Group (Neptune Resources)</p> <p>Mike McGrath, Telecom New Zealand</p> <p>Lionel Carter, International Cable Protection Committee</p> <p>Clyde Bennett, Tap Oil</p> <p>Nicholas Cavaye, OMV New Zealand Limited</p> <p>Doug Gordan, Neptune Resources</p> <p>Cameron Taylor, ExxonMobil (Exploration) New Zealand Limited</p> <p>Samantha Smith, Nautilus Minerals</p>
<p><b>Monday 3 September</b></p> <p>MfE – Ginny McLean, Nicky Blackman, Suzanne Doig, Nick Vincent</p> <p>MNZ –Tara Ross-Watt</p>	<p><b>Science/research/academic</b></p> <p>Ian Wright, National Institute for Water and Atmospheric Research (NIWA)</p> <p>Malcolm Clark, NIWA</p> <p>Ray Wood, Institute of Geological and Nuclear Sciences</p> <p>Joanna Mossop, Victoria University of Wellington</p> <p>Karen Scott, University of Canterbury</p> <p>Keith Probert, University of Otago</p> <p>Grant Robertson, University of Otago</p> <p>Keith Hunter, University of Otago</p>
<p><b>Tuesday 4 September</b></p> <p>MfE – Ginny McLean, Nicky Blackman, Suzanne Doig</p> <p>Ministry of Fisheries – Jennie McMurrin</p>	<p><b>Fishing</b></p> <p>Nici Gibbs, New Zealand Seafood Industry Council Limited</p> <p>Tania McPherson, Te Ohu Kai Moana Trustee Limited (Te Ohu Kai Moana)</p>
<p><b>Tuesday 18 September</b></p> <p>MfE – Ginny McLean, Nicky Blackman, Suzanne Doig, Riki Ellison, Todd Kriebler</p> <p>Te Puni Kokiri – Arnu Turvey</p>	<p><b>Iwi</b></p> <p>Herena Stone, Te Runanga o Ngai Tahu</p> <p>Craig Lawson, Te Ohu Kai Moana</p>
<p><b>Wednesday 19 September</b></p> <p>MfE – Ginny McLean, Nicky Blackman, Suzanne Doig</p>	<p><b>Environmental NGOs</b></p> <p>Cath Wallace, Environment and Conservation Organisations of New Zealand (ECO)</p> <p>Mike Hagler, Greenpeace New Zealand</p> <p>Sian Prior (consultant representing World Wildlife Fund New Zealand)</p> <p>Kirsty Knowles, Royal Forest and Bird Protection Society (Forest and Bird)</p> <p>Barry Weeber, ECO</p>

Date of workshop and government officials in attendance	Stakeholder group and attendees
<p><b>Monday 24 September</b>  MfE – Ginny McLean, Nicky Blackman, Suzanne Doig  Department of the Prime Minister and Cabinet – Ken Kirkpatrick</p>	<p><b>All stakeholders and iwi</b>  John Pfahlert, PEPANZ  John Feenan, Neptune Resources  Glenn Creed, Neptune Resources  Kate Barker, Local Government New Zealand  Barrie Saunders, Saunders Unsworth  Cath Wallace, ECO  Mike Patrick  Sam Smith, Nautilus Minerals  Bill Armstrong, Todd Energy  Tania McPherson, Te Ohu Kaimoana  Kirsty Knowles, Forest and Bird  JM Beggs</p>

# Appendix 4: List of Submitters

Submissions were received from the following.

Submission number	Submitter	Sector category
1	Taranaki Regional Council	Local government
2	Environment Canterbury	Local government
3	Petroleum Exploration and Production Association of New Zealand	Petroleum
4	Northland Regional Council	Local government
5	New Zealand Historic Places Trust	Other
6	New Zealand Minerals Industry Association	Minerals
7	OMV New Zealand Limited	Petroleum
8	Institute of Geological and Nuclear Sciences	Science/academic/research
9	Mike Patrick	Individuals
10	Greater Wellington Regional Council	Local government
11	Auckland Regional Council	Local government
12	New Zealand Conservation Authority	Other
13	New Zealand Seafood Industry Council Limited	Fishing
14	Piers Davies and Paul Myburgh	Individuals
15	Gecko, Students of Aotearoa Network for our Environment	Environmental NGO
16	Aaron Packard	Individuals
17	Greenpeace New Zealand	Environmental NGO
18	New Zealand Marine Sciences Society	Science/academic/research
19	Kiwis Against Seabed Mining Inc	Other
20	Chatham Islands Council	Local Government
21	Green Party of Aotearoa New Zealand	Other
22	Otago Conservation Board	Other
23	World Wildlife Fund New Zealand	Environmental NGO
24	ExxonMobil New Zealand (Exploration) Limited	Minerals
25	JM (Mac) Beggs	Individuals
26	Kathryn Scarlet	Individuals
27	Wellington Recreational Marine Fishers Association	Fishing
28	Todd Energy	Petroleum
29	Neptune Resources New Zealand Group	Minerals
30	Local Government New Zealand	Local government
31	MWH New Zealand Limited	Other
32	University of Otago	Science/academic/research
33	Royal Forest & Bird Protection Society of New Zealand Inc	Environmental NGO
34	Telecom New Zealand Ltd	Submarine cables/ telecommunications
35	University of Otago	Science/academic/research
36	Students of Aotearoa Network for our Environment	Environmental NGO
37	Nautilus Minerals	Minerals
38	Tourism Industry Association of New Zealand	Other
39	Gisborne District Council	Local government
40	New Zealand Defence Force	Other
41	Tasman District Council	Local government

Submission number	Submitter	Sector category
42	National Institute for Water and Atmospheric Research	Science/academic/research
43	Te Runanga o Ngai Tahu	Iwi
44	Auckland Conservation Board	Other
45	Environment and Conservation Organisations of New Zealand	Environmental NGO
46	Te Ohu Kai Moana Trustee Limited	Fishing

# Appendix 5: List of Abbreviations

DOC	Department of Conservation
ECO	Environment and Conservation Organisations of New Zealand Inc
EEZ	Exclusive Economic Zone
ExxonMobil	ExxonMobil New Zealand (Exploration) Limited
Forest and Bird	Royal Forest & Bird Protection Society of New Zealand Inc
Green Party	Green Party of Aotearoa New Zealand
KASM	Kiwis Against Seabed Mining Inc
MED	Ministry of Economic Development
MfE	Ministry for the Environment
MFish	Ministry of Fisheries
MIA	New Zealand Minerals Industry Association
MNZ	Maritime New Zealand
NGO	non-governmental organisation
PEPANZ	Petroleum Exploration and Production Association of New Zealand
RMA	Resource Management Act 1991
SANE	Students of Aotearoa Network for our Environment
TIA	Tourism Industry Association of New Zealand
TSCZEEZ	Territorial Sea, Contiguous Zone and Exclusive Economic Zone Act 1977
UNCLOS	United Nations Convention on the Law of the Sea
WWF	World Wildlife Fund New Zealand

