

In Confidence

Offices of the Minister for the Environment, Minister for Primary Industries and Minister of Conservation

Chair

Cabinet Economic Growth and Infrastructure Committee**The Government's proposed approach to reform New Zealand's marine protection framework and establish recreational fishing parks in the Hauraki Gulf and Marlborough Sounds****Proposal**

1. This paper seeks your agreement to publically consult on the Government's proposed framework for marine protection reform in the territorial sea, following pre-consultation engagement with iwi and stakeholders in the Hauraki Gulf and Marlborough Sounds.
2. Public consultation will involve the release of the consultation document, *A new Marine Protected Areas Act* (consultation document) for public comment.
3. Since you have last seen the consultation document, it has been updated to reflect consultation with the Conservation Iwi Leaders Group, and to include the introduction of recreational fishing parks in the Hauraki Gulf and the Marlborough Sounds.
4. Cabinet has delegated responsibility for approving the proposals in this paper to the Economic Growth and Infrastructure Committee.

Executive summary

5. The Government has publically committed to progressing marine protection reform in early 2016. The draft consultation document outlines the Government's proposed approach to marine protection reform in the territorial sea (see Appendix One).
6. In September 2015, Cabinet agreed [CAB Min (15) 0097 refers] to share the consultation document with the Conservation Iwi Leaders Group (Iwi Leaders), chaired by Sir Mark Solomon. We have been able to incorporate Iwi Leaders feedback into the draft consultation document without fundamentally changing our pre-election commitment regarding marine protection reform.
7. The consultation document has also been shared with Te Ohu Kaimoana for their information.

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Including the establishment of recreational fishing parks in the Hauraki Gulf and the Marlborough Sounds in the consultation document

9. Since you last considered this consultation document, we have decided to progress our pre-election commitment to establish two recreational fishing parks covering areas of the inner Hauraki Gulf and the Marlborough Sounds as part of the wider reform of marine protection legislation.
10. We intend to consult the proposed recreational fishing parks in the Hauraki Gulf and the Marlborough Sounds at the same time as consulting on the reform of marine protection legislation.
11. This will enable us to seek feedback on the detail of the proposed recreational fishing parks whilst further signalling the Government's ambition for New Zealand to be a world leader in the responsible use, management and protection of our marine environment.

Proposed activity leading up to public release of the consultation document

12. Having engaged with Iwi Leaders and Te Ohu Kaimoana, we are now in a position to consult with the public on the proposed approach to marine protection reform in the territorial sea and establishment of the two recreational fishing parks.
13. Prior to public consultation, we intend to undertake pre-consultation with iwi and local stakeholders in the Hauraki Gulf and the Marlborough Sounds on the proposed recreational fishing parks.
14. There has already been some consideration of how the Hauraki Gulf and Marlborough Sounds marine areas should be managed in the form of Sea Change and Marlborough Marine Futures collaborative fora. Engaging with these groups, iwi and targeted stakeholders at this point in time will acknowledge their interests and will enable us to further understand their views on the proposals for recreational fishing parks.
15. After undertaking pre-engagement we propose to publically consult in late January or early February 2016, with public consultation ending in mid-March 2016. A firm date for public consultation will be set once pre-engagement has been completed.

Authority to make minor amendments to the consultation document

16. To ensure that the Government can respond to issues raised in pre-engagement, we propose the Economic Growth and Infrastructure Committee authorise the marine Ministers to make minor technical amendments to the consultation document, prior to public consultation. These amendments will not alter the substance of the Government's proposal.
17. Following public consultation in early 2016, we will report back to Cabinet on the outcomes of consultation and a finalised proposal for reforming marine protection in the territorial sea and establishing recreational fishing parks in the Hauraki Gulf and the Marlborough sounds in mid-2016.

Background

18. Cabinet has noted that the current approach to marine protection does not deliver the best outcomes for either the marine environment or the economy [CAB Min (15) 0097 refers].
19. The current approach is complex and inflexible, in some instances cannot meet the desired objectives, and consultation and decision-making processes are overly long, costly and cumbersome. The consideration of the effects of existing and future uses is inadequate, which is potentially limiting the sustainable growth of the marine economy.
20. Furthermore, marine protection tools are split across different legislation with a variety of purposes, objectives and decision-making processes. They offer limited protection for biodiversity, and do not work together in a holistic way.
21. In September 2015, Cabinet authorised us to share the draft consultation document to the Conservation Iwi leaders Group (Iwi Leaders) and invited us to report back afterwards to seek approval to release the consultation document for public consultation [CAB Min (15) 0097 refers].
22. The consultation document, *A new Marine Protected Areas Act* (consultation document), proposes a new approach to marine protection in New Zealand's territorial sea, to be delivered through a new Marine Protected Areas Act. The draft consultation document is attached (refer to Appendix One).
23. In September 2014, the Prime Minister with Ministers Smith and Guy announced that a re-elected National Government would introduce two recreational fishing parks. It was proposed that these recreational fishing parks cover areas of the inner Hauraki Gulf and the Marlborough Sounds as part of a wider reform of marine protection legislation.
24. Since the September 2015 Cabinet meeting, the Government has also announced the proposed Kermadec Oceans Sanctuary. This Ocean Sanctuary is scheduled to be established in 2016 under special legislation, separate to the marine protected areas (MPAs) reform. Ocean Sanctuaries are not being proposed as a protection category under the proposed MPA reform.

Comment

25. The consultation document has been amended since it was considered at Cabinet [CAB-15-SUB-0097 refers]. This is to reflect issues raised by the Iwi Leaders and also to include the proposal to establish two recreational fishing parks in the Hauraki Gulf and the Marlborough Sounds.

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28. A small number of the issues raised by the Iwi Leaders need to be considered in more detail by both the Iwi Leaders and the Government before changes are made to the current proposal. Officials will continue to engage with Iwi Leaders to work on these issues together in parallel with the public consultation on the consultation document.
29. Along with these issues raised, the Iwi Leaders consider that the scope of the marine protection reforms should be extended to include the Exclusive Economic Zone and continental shelf.
30. The Iwi Leaders also reflected that releasing the consultation document before Christmas 2015 would not be suitable for iwi/Māori due to being focused on the upcoming consultation on water reform.

Establishment of recreational fishing parks in the Hauraki Gulf and the Marlborough Sounds

31. The Hauraki Gulf and the Marlborough Sounds are two of the most popular areas for recreational fishing in New Zealand. The proposed recreational fishing parks will be reserved predominately for recreational fishing and will enhance the opportunity for New Zealanders to catch fish in the Hauraki Gulf and Marlborough Sounds.
32. Consulting on both the proposed MPA Act and the two proposed recreational fishing parks together will help the Government step towards our ambition for New Zealand to be a world leader in the responsible use, management and protection of our marine environment. It will also enable us to seek feedback on the detail of the proposed recreational fishing parks, resulting in a more efficient and effective consultation.
33. The proposed Hauraki Recreational Fishing Park would extend across the inner Hauraki Gulf, incorporating Statistical Area 7 in Fisheries Management Area 1 and Omaha Bay, and would exclude most commercial fishing activity. However, marine farming will be allowed to continue. Currently, a wide range of species, including snapper, crayfish and kahawai are caught commercially within the area, although it does not account for a significant part of the catches of any of those species.
34. The Marlborough Sounds Recreational Fishing Park would cover the current area of the Marlborough Sounds Blue Cod Management Area and exclude commercial finfishing. This means that marine farming will continue and commercial fishers could continue to fish for species such as paua, scallop and crayfish within the park. Currently, the commercial finfishing catch in the area is

snapper, groper, bass and blue cod but again, it is not a high-value area for commercial finfishers.

35. Some quota holders who will be impacted by the proposed recreational fishing parks will be able to catch their finfish quota outside these new recreational fishing parks. However, other quota holders will be adversely affected.
36. We propose establishing a legal mechanism based on current legislative principles for compensating quota holders. The level of compensation will be decided on following discussions with industry during public consultation.
37. Currently the Government has publically announced that funds would be set aside to compensate for the potential commercial quota loss resulting from the proposed Hauraki Gulf and Marlborough Sounds recreational fishing parks. However, the exact amount of compensation that will be required will not be known until the specifics of the compensation mechanism to be used are determined.

Public consultation and timeframes

38. Having engaged with the Iwi Leaders, we now have an opportunity to consult with the public on the proposed approach to marine protection reform in the territorial sea and the establishment of two recreational fishing parks.
39. Prior to public consultation, we propose to undertake targeted engagement with Iwi and stakeholders in the Hauraki Gulf and the Marlborough Sounds on the two recreational fishing parks.
40. There has already been consideration of how the Hauraki Gulf and Marlborough Sounds marine areas should be managed in the form of Sea Change and Marlborough Marine Futures. Engaging with Iwi and targeted stakeholders before further public consultation has three key purposes:
 - a. recognising their existing interest by engaging early;
 - b. understanding their interests and positions and ensuring their work is taken into account in the proposals for recreational fishing parks; and
 - c. managing the relationship with these groups will allow Iwi and major stakeholders adequate time to fully consider the proposals before public consultation.
41. We propose to release the consultation document in late January or early February 2016, after undertaking targeted engagement, with public consultation ending in mid-March 2016.
42. The consultation document is currently in draft form. To ensure that the Government can respond to issues raised in pre-engagement, we propose the Economic Growth and Infrastructure Committee authorise the marine Ministers to make editorial changes to the consultation document prior to public consultation.
43. Following consultation in early 2016, we will report back to Cabinet on the outcomes of consultation. We will provide recommendations on the preferred approach for reforming marine protection in the territorial sea and establishment of recreational fishing parks in the Hauraki Gulf and Marlborough Sounds. Therefore, our timeframe is as follows:

Table One: Proposed timeframes for the marine protection reforms and establishment of the recreational fishing parks	
Milestone	To be completed by
Pre-engagement with Hauraki and Marlborough iwi and stakeholders on two recreational fishing parks	January 2016
Consultation document released	Late January/early February 2016
Public consultation ends	March 2016
Final policy decisions sought from Cabinet	Late May 2016
MPA Bill introduced to Parliament	August 2016
MPA legislation passed (including consequential amendments to the Fisheries Act 1996)	December 2016

Consultation

44. As discussed above, the Iwi Leaders have been consulted on the proposed approach as outlined in the consultation document. Where appropriate, the consultation document has been updated to reflect their feedback. The further issues raised by the Iwi Leaders will be worked together with Ministers, officials and Iwi Leaders in parallel with the consultation period.
45. The following agencies were involved in development of the draft consultation document: Department of Conservation (DOC), Ministry for the Environment (MfE), Ministry for Primary Industries (MPI), Ministry of Business, Innovation and Employment, Te Puni Kōkiri, the Office of Treaty Settlements and the Treasury. The Department of Prime Minister and Cabinet and the Ministry of Foreign Affairs and Trade have been informed of the proposals in this paper.

Financial implications

46. DOC, MPI and MfE are the lead agencies for MPA reform. MPI are the lead agency for the establishment of the recreational fishing parks in the Hauraki Gulf and Marlborough Sounds.
47. There are short term costs for the reform process, including public consultation and development of the final policy proposals. These costs will be funded from DoC, MPI and MfE's baselines.
48. There may be a budget bid from the lead agencies to resource the implementation of the preferred approach, especially in relation to the proposed recreational fishing parks.
49. The Government has publically announced that funds would be set aside to compensate for the potential commercial quota loss resulting from the proposed Hauraki Gulf and Marlborough Sounds recreational fishing parks. The exact amount of compensation that will be required will not be known until the specifics of the compensation mechanism to be used are determined. Compensation would be finalised and paid out in the years following the establishment of the recreational fishing parks.

Human rights

50. The proposals in this paper and the attached consultation document are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Legislative implications

51. The proposals in this paper and the attached consultation document will require development of new legislation that would replace or reform existing legislation.
52. Further detail on the scope and timing of legislative change will be developed in conjunction with final policy proposals following public consultation.
53. If the proposed Marine Protected Areas Act was progressed, we would aim to introduce the Bill to the House in 2016. This would allow the proposed MPA Act and the recreational fishing parks to be in place by the end of 2016. Table One (above) provides further detail on the proposed timeframes.

Regulatory Impact Analysis

54. The Regulatory Impact Analysis (RIA) requirements do not apply to the proposal at this stage. A Regulatory Impact Statement will be provided when formal regulatory proposals are put to Cabinet further to public consultation.

Publicity

55. Subject to Cabinet approval, we plan to announce the proposed approach to marine protection in the territorial sea and the establishment of recreational fishing parks in the Hauraki Gulf and Marlborough Sounds through the release of the consultation document in late January or early February 2016. The consultation period will run until mid-March 2016.
56. Officials propose to develop a consultation and communications plan before release of the consultation document.

Recommendations

57. The Minister for the Environment, the Minister for Primary Industries and the Ministry of Conservation recommend that the committee:
1. **Agree** to the Ministers for the Environment, Primary Industries and Conservation undertaking pre-consultation with iwi and stakeholders in the Hauraki Gulf and Marlborough Sounds on the proposed recreational fishing parks before undertaking public consultation.
 2. **Agree** to the Ministers for the Environment, Primary Industries and Conservation publically consulting in early 2016 on the Government's proposed approach to marine protection reform in the territorial sea and the establishment of recreational fishing parks in the Hauraki Gulf and Marlborough Sounds, through the consultation document, *A new Marine Protected Areas Act*.
 3. **Authorise** the Ministers for the Environment, Primary Industries and Conservation to make minor and technical amendments to the consultation document, *A new Marine Protected Areas Act* prior to public release of the consultation document.
 4. **Note** that the Ministers for the Environment, Primary Industries and Conservation, and officials will continue to engage with the Conservation Iwi leaders Group to work on the marine protection reform policy together in parallel with the public consultation on the consultation document.
 5. **Note** the potential financial implications of compensating commercial fishers as a result of establishing recreational fishing parks in the Hauraki Gulf and Marlborough Sounds.
 6. **Note** that the Ministers for the Environment, Primary Industries and Conservation will report back to Cabinet in mid-2016 on the outcomes of consultation seeking final policy decisions on the proposed Marine Protected Areas reforms and the establishment of recreational fishing parks in the Hauraki Gulf and Marlborough Sounds.

Hon Dr Nick Smith
Minister for the Environment

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Hon Nathan Guy
Minister for Primary Industries

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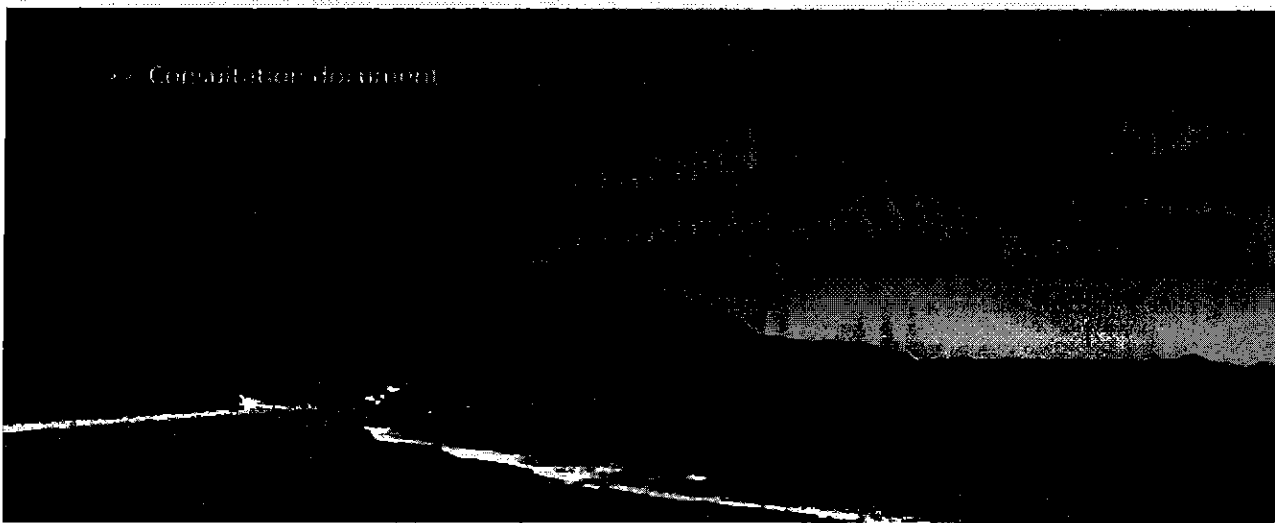
Hon Maggie Barry
Minister of Conservation

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Appendix 1.

Consultation Document "A New Marine Protected Areas Act"

New Zealand Government



» Consultation document

A New Marine Protected Areas Act

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Disclaimer

[Insert disclaimer text here if required]

Acknowledgements

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Table 1: Summary of categories under the proposed new Marine Protected Areas Act

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Message from the Ministers



We need to ensure New Zealand's vast oceans are sustainably managed and protected to support a strong economy, a rich natural environment, and our great kiwi lifestyle. We have good laws with our internationally recognised quota management system under the Fisheries Act 1996 and our Maritime Transport Act 1994. We had no system of environmental management for other maritime activities like mining or petroleum in the EEZ until Government passed the Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012. The next step in improving New Zealand's ocean management is to provide a better system of marine protected areas in the territorial sea.

We are proud that it was a former National Government that passed the Marine Reserves Act in 1971. It was world leading then, but best practice in marine protection has developed significantly in the 40 years since. The Marine Reserves Act 1971 lacks flexibility by only allowing no-take marine reserves. The processes for creating and managing reserves do not work well for local communities, iwi/Māori or business.

These problems have meant that Governments have repeatedly resorted to special legislation to put protection in place in areas like the Sugar Loaf Islands, Subantarctic Islands, Kaikoura and Fiordland, or used tools like fisheries closures under the Fisheries Act 1996 that provide only limited protection. This approach is inefficient, confusing and is not working.

This reform proposes four different types of marine protected areas, just as we have different types of parks and reserves for different purposes on land.

Marine reserves would be the same as under the current Marine Reserves Act 1971, being strictly protected with the purpose of conserving biodiversity in its natural state.

Species-specific sanctuaries would be similar to marine mammal sanctuaries but would also be available to other marine life like albatross or great white sharks, with rules focussed on the specific protection needs of that species.

Seabed reserves would protect areas of the seafloor, and would include prohibitions on seabed mining, bottom trawl fishing and dredging.

Recreational fishing parks would recognise that there are some areas, particularly in sheltered areas close to population centres, where fish offer the most value as a recreational resource for New Zealanders to enjoy.

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These different types of marine protected areas would be managed under a new and improved Act of Parliament. This would enable an integrated approach where a community can simultaneously consider different types of protection.

The proposed new law would require an analysis of the economic potential of an area so the opportunities and costs of any new protected areas are openly considered. It would also encourage a collaborative approach to develop protected areas where iwi/Māori and interested parties like fishers, conservation interests and industry get to work together on better management of our marine environment.

Law reform in this area is difficult and previous attempts have been unsuccessful. There are strongly competing public and private interests as well as multiple government agencies involved. This new approach seeks to find a way forward that recognises the need for a balance between New Zealand taking up the economic opportunities for jobs and growth, while also ensuring we have the right framework for reserves, sanctuaries, and recreational parks in the marine environment.

Alongside our ambition for improving the framework for marine protection tools, for the long term, we are also advancing specific proposals in the Kermadecs, Hauraki Gulf and the Marlborough Sounds.

The Prime Minister announced the 620 000 km² Kermadec Ocean Sanctuary at the United Nations on the 29th September 2015. Applications for seabed mining activities requiring decisions meant the Government needed to resolve its position on the future of this area. This sanctuary will be created by separate legislation. The general marine protection tools in this paper do not include the EEZ with this large proposal covering 15%. Other EEZ proposals may be considered but given the size and significance of the EEZ, would need to be advanced by specific legislation.

We also announced during the 2014 election campaign our policy of creating two recreational fishing parks in the inner Hauraki Gulf and the Marlborough Sounds. These proposals will be delivered as part of this legislative reform and we are seeking feedback on the details. These two recreational fishing parks are about enhancing the opportunity for recreational fishing in our two most popular areas.

We welcome your input into these ideas for improving management of New Zealand's marine space.

Hon Dr Nick Smith
Minister for the Environment

Hon Maggie Barry
Minister of Conservation

Hon Nathan Guy
Minister of Primary Industries



Section 1: Our ocean environment

New Zealand is a globally significant maritime nation. Our marine environment has an extraordinarily rich and unique array of animals, plants and habitats, extending from sea level to a depth of more than 10 kilometres, and from the sub-Antarctic to the sub-tropical. Scientists estimate that as much as 80 per cent of New Zealand's indigenous biodiversity may be found in the sea. Over 15,000 marine species have been identified in our waters, but scientists believe there may be as many as 65,000. That represents around 10 per cent of global marine biodiversity. Our isolation means that many of these species are not found anywhere else in the world.

The ocean also supports our economy and thousands of jobs. Over 1,500 commercial fishing boats operate around New Zealand's coasts, with fisheries adding \$1.5 billion to our exports each year. The oil and gas industry contributes \$2.8 billion to the economy each year, approximately 90 per cent of which is from the sea. Our sea ports move more than 49 million tonnes of exports (99 per cent by weight of all exports) and imports, with a combined value of more than \$75 billion annually.

Most of us live near the coast and use the ocean for recreational fishing, boating, swimming and diving. We have about 900,000 recreational boats, and about 20 per cent of us go on over 2.3 million recreational fishing trips each year, catching 17 million fish. Forty-two taiapure and mātaihai reserves provide access to resources that are integral to Māori culture.

Cumulatively these commercial, recreational and cultural activities put pressure on our marine environment, which is intensified by global and local factors such as ocean acidification, sea temperature rise, and land-based runoff. Given our reliance on the ocean, we need to ensure a system is in place to support its ongoing health and productivity.

The Government's ambition is for New Zealand to be a world leader in the sustainable management and protection of our marine environment so New Zealanders can continue to enjoy and benefit from its wealth for generations to come. We also want to be able to market New Zealand's exported seafood as product coming from a nation that is a careful steward of its ocean environment.

The Kermadec Ocean Sanctuary



On 29 September 2015, Prime Minister John Key announced the creation of a 620,000 km² Kermadec Ocean Sanctuary. Legislation creating the Sanctuary will be progressed in 2016 separately to the proposals in this Consultation Document. The purpose of the legislation will be to preserve this important marine area in its natural state.

The Sanctuary will be located in the Kermadec region of the South Pacific Ocean, about 1,000km northeast of New Zealand. Its deep, clear waters are home to an amazing array of marine life and provide an important migration path for many marine species crossing the Pacific. There is nowhere else in New Zealand's Exclusive Economic Zone where you find such a range of tropical, sub-tropical and temperate species of fish, birds and marine mammals co-existing together.

The area is one of the most geologically diverse in the world. It contains the world's longest chain of submerged volcanoes and the second deepest ocean trench with a depth of 10 kilometres.

To date, the isolation of the area and the depth of water has ensured a very low level of human impact but increased activity in fishing, seabed mining and the spread of pollution across the world's oceans makes it important to protect these globally significant pristine areas.

1.1 Purpose of the consultation document

This consultation document sets out the Government's proposal for a new approach to marine protection in New Zealand. Your feedback is welcomed on the proposal and on the questions inserted throughout the text, along with any other information you may want to submit.

Submissions are due by ~~xxxxx~~. Information on how to make a submission is included in section 7.



Section 2: The need for a new approach to marine protection

The Government wants New Zealand's marine management system to achieve an appropriate balance between protecting our marine environment and maximising economic, recreational and cultural opportunities now and in the future.¹ The Government believes this balance is achieved when important representative ecosystems are identified and protected, and the sustainable management of our resources for recreational, cultural or economic benefits is facilitated and optimised.

Marine protected areas (MPAs) are a tool to protect and sustainably manage the marine and coastal environment. They protect examples of different marine habitats and ecosystems, and are most effective when they form a representative and adaptable network.² MPAs perform various functions in addition to protection, such as providing for tourism, recreational enjoyment and economic activities. They also support fisheries management and allow us to better understand the marine environment.

¹ See Appendix B for a table summarising New Zealand's existing marine management legislation.

² New Zealand has committed to establishing a representative network of marine protected areas as a Party to the United Nations' Convention on Biological Diversity.

What is a 'representative network' of marine protected areas?

A representative network is characterised by the representation of different habitats and ecosystems in our marine environment in one or more MPAs. This helps ensure the ability of an MPA network to survive natural catastrophes and major impacts, by replicating each habitat and ecosystem across multiple MPAs within the network. Each MPA in the network should be well managed and of sufficient size and shape to sustain the species and habitats they represent. A well designed and managed MPA network will provide a greater contribution to a healthy marine environment than a collection of individually identified MPAs.



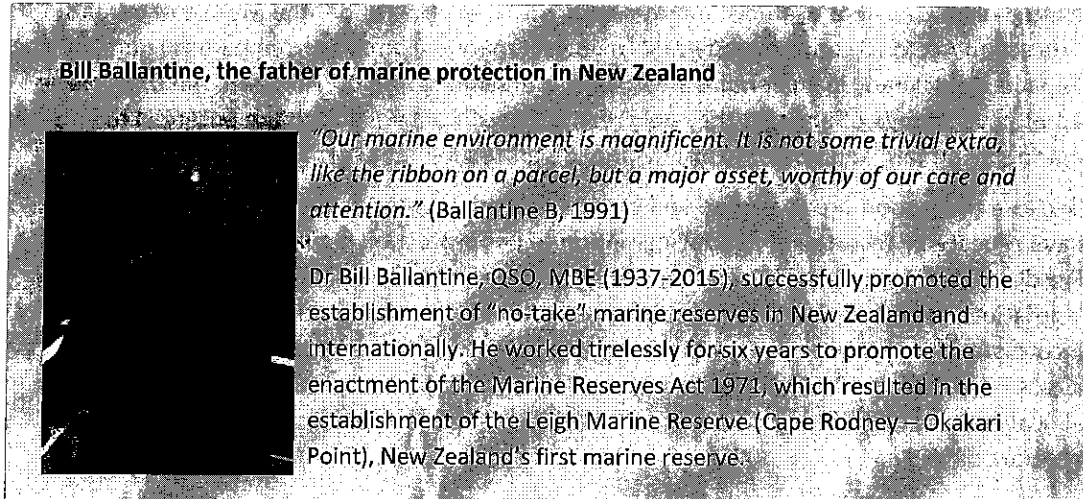
2.1 How marine areas are currently protected

New Zealand was one of the first countries in the world to develop marine protection legislation when it introduced the Marine Reserves Act in 1971. A proposal for a marine reserve may be made at any time by any individual or group that meet the criteria under the Marine Reserves Act 1971. Marine reserves offer the highest level of protection in New Zealand as they generally prohibit the removal of all marine habitats and life, providing a pristine environment for scientific study.

New Zealand has other legislative tools available that offer some marine protection in specific circumstances, including species protection under the Wildlife Act 1953, and marine mammal sanctuaries established under the Marine Mammals Protection Act 1978. These statutes do not provide for a range of marine protection measures, so most marine protection over the past two decades has been put in place using special Acts of Parliament, such as in Fiordland, Kaikoura and the Subantarctic Islands.

Fisheries restrictions under the Fisheries Act 1996 have also been used to provide protection from certain fishing methods within the territorial sea and beyond.

Within the territorial sea, New Zealand currently has 44 marine reserves, eight marine mammal sanctuaries and four benthic protection areas.³ The location of these is shown in Appendix A, and a full list can be found on the consultation website.



2.2 The need for reform

The Government is concerned that the current approach to marine protection is not the most effective for managing our marine environment. The approach is complex and inflexible, and consultation and decision-making processes are overly long, costly and cumbersome.

The Marine Reserves Act 1971 was New Zealand's first dedicated marine protection legislation, but it no longer meets New Zealand's needs. This is because its purpose is too narrowly focussed. Although it enables the complete protection of areas, marine reserves can only be established for the purpose of scientific study.

Other issues with the Marine Reserves Act 1971 are:

- consultation processes are inadequate:
 - there is no single consultative process that helps build broad support
 - consultation is undertaken by the person making the proposal, which can lead to a lack of neutrality
 - the perceived lack of credibility in the process, and the need for a concurrent Ministerial decision leads to unnecessary duplication of consultation
- the Act itself does not specifically reference the Treaty of Waitangi, and provides few mechanisms for iwi/Māori participation in decision-making, although the Treaty provision in the Conservation Act 1987 is referenced
- proposals are considered in isolation, making it difficult to determine a specific area's contribution to a broader network of protected areas.

³ Around the Kermadec Islands the entire territorial sea is occupied by the Kermadec Islands Marine Reserve, and the Kermadec Benthic Protection Area is overlaid on that reserve. Benthic Protection Areas cover the entire territorial sea around the Antipodes, Bounty and Campbell Islands, and have subsequently been augmented by a mix of marine reserves and additional regulations under the Fisheries Act 1996.

New Zealand has a number of other tools that provide some marine protection, but they are split across different legislation with a variety of purposes and decision-making processes. These include the Marine Mammals Protection Act 1978, the Wildlife Act 1953, and benthic protection areas or other fisheries restrictions under the Fisheries Act 1996.

These tools all protect the marine environment in some way, but each on its own offers only limited protection. For example, marine mammal sanctuaries under the Marine Mammals Protection Act 1978 can be established to protect marine mammals from harmful human impacts, particularly in vulnerable areas such as breeding grounds. However, although these areas have a range of benefits they only restrict specific activities with the potential to harm marine mammals, and do not explicitly provide protection for other marine species at risk.

Because these tools are so limited and cannot be implemented as a package, governments have repeatedly resorted to special legislation to put protection in place in areas like Fiordland, Kaikoura, Taranaki, and the Subantarctic Islands.⁴ The process for creating special legislation can be very long, does not provide certainty for communities, and there are inconsistencies in how each area is managed. As with all the other tools, decisions are made on a case-by-case basis. The result is an approach to marine protection that incrementally allocates areas for differing purposes, rather than creating a representative and adaptable network of MPAs.

Summary of issues

Key shortcomings of our current approach to marine protection include:

- decisions on marine protection are made with little coordination
- marine reserves can only be established for the purpose of scientific study
- consultation processes in statute do not provide for a range of tools to be considered through a collaborative process and can lack credibility
- proposals are not considered in a way that minimises costs for all parties involved
- the location of protected areas is not considered in a way that maximises economic and environmental benefits for New Zealand
- consideration of the effects on existing and future uses and values is inadequate, potentially limiting the sustainable growth of the marine economy
- provision for Māori involvement in the development and management of marine protected areas is inconsistent and often inadequate
- it does not address recreational amenity values including those of recreational fishers in high demand areas
- it does not enable the creation of a representative and adaptable network of protected areas across the territorial sea
- it does not provide a dynamic approach for changing or improving protection as new information becomes available or as new threats emerge.

The Government does not consider that the current approach provides adequate protection of the marine environment while growing our economy and allowing New Zealanders now and in the future to enjoy everything the ocean has to offer. To achieve the Government's ambition

⁴ For example, it took 21 years and all of the tools described in this section to achieve comprehensive marine protection around the Subantarctic Islands. The process for developing special legislation took six years, from appointment of a stakeholder forum in 2008 to new legislation in 2014.

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for New Zealand to be a world leader in the sustainable management and protection of our marine environment, our existing approach needs to change.

Questions

1. Do you agree there is a need for reform of New Zealand's approach to marine protection?
2. Are there any key issues that haven't been identified?
3. Are there parts of the existing approach to marine protection that should be retained? Why?



Section 3:

The proposal: a new approach to marine protection

As outlined in section 2, our current approach to marine protection does not deliver a satisfactory system for sustainably managing New Zealand's oceans. We have an opportunity to improve the way we protect and provide for the best use of New Zealand's marine environment.

The Government is proposing a broad new approach that provides protection of all elements of biodiversity while also enabling varying levels of use. It proposes to repeal the Marine Reserves Act 1971, and replace it with a modern and fit-for-purpose Marine Protected Areas Act (MPA Act).

As part of the Government's proposed reform of the marine protection framework, it is also intends to establish new recreational fishing parks in the Hauraki Gulf and Marlborough Sounds. Chapter 5 provides more detail about each of the proposed recreational fishing parks.

3.1 Objectives of the new Marine Protected Areas Act

The new MPA Act will meet the following objectives:

1. A representative and adaptable network of marine protected areas (MPAs) is created over time to enhance, protect and restore marine biodiversity in New Zealand's territorial sea.
2. Decisions about environmental protection and economic growth are made in a planned and integrated way, based on sound evidence, to maximise the benefits to New Zealand.

3. Customary rights and values are recognised, ensuring the principles of the Treaty of Waitangi are met and the Crown's Treaty obligations are delivered.
4. Collaboration is supported through meaningful engagement with iwi/Māori, local communities, business, and the wider public.
5. Varying levels of protection and use are provided for, including consideration of all existing and future uses and values.
6. New Zealand's international obligations in relation to the marine environment are met.

3.2 Four categories for marine protection

The new MPA Act will provide four categories with different levels of protection. This will mean that protection can be designed to meet the specific environmental needs of an area, while taking into account existing and future values and uses.

The highest level of protection will continue to be provided by marine reserves, but the other categories will allow for varying levels of use alongside protection, enabling sustainable management of our marine environment.

The four categories proposed are:

1. Marine reserves
2. Species-specific sanctuaries
3. Seabed reserves
4. Recreational fishing parks.

The new MPA Act will set out the purpose of each of the four categories. This will include which activities are allowed or prohibited in all areas protected in a particular category. For example, seabed mining will be prohibited in all seabed reserves. See Table 1 for a summary of the purpose and proposed scope of each category.

Specific objectives for particular areas will be determined on a case-by-case basis, but must be consistent with the purpose of the relevant category. This means it will be possible to apply different restrictions within MPAs of the same category. For example, the restrictions in place for a species-specific sanctuary to protect great white sharks would differ from those required in a sanctuary to protect coral.

The new MPA Act will allow the creation of MPAs in New Zealand's territorial sea, which reflects the current scope of the Marine Reserves Act 1971. The territorial sea is where there is currently the highest level of competition for access and resources, where the risks to marine biodiversity are greatest, and where a large number of economic, recreational and cultural activities take place. Because of this, we know more about the marine environment in the territorial sea than in other areas under New Zealand's jurisdiction.

Decisions on marine protection in the territorial sea can be made taking into account an existing knowledge base, and often with clearly identified values and interests. As our knowledge of the marine environment in New Zealand's Exclusive Economic Zone and continental shelf increases over time, there may be a case for extending the proposed categories of protection to these areas, or any new proposals beyond the Kermadecs Ocean Sanctuary could be progressed by way of special legislation.

Table 1: Summary of categories under the proposed new Marine Protected Areas Act

		Marine reserve		Species-specific sanctuary		Seabed reserve		Recreational fishing park	
Purpose	To preserve and protect areas in their natural state for the conservation of marine biodiversity. These areas will protect not only unique and special sites, but also representative sites that exemplify important ecosystem features and values.	To preserve and protect areas in their natural state and will be strictly protected. There will be no fishing or petroleum or minerals activity within marine reserves.	These areas will be managed in their natural state and will be strictly protected. There will be no fishing or petroleum or minerals activity within marine reserves.	To preserve and protect one or more named species while allowing sustainable use. These sanctuaries will provide the ability to establish spatial protection for marine species at sea and on land areas used by the species, including those protected under the Marine Mammals Protection Act 1978 or the Wildlife Act 1953.	Which activities are restricted or prohibited will vary according to factors such as the ecology of the particular species, the components of the ecosystem that are important to that species, or any specific protection objectives the community may have. Fisheries resources will be managed using established tools under the Fisheries Act 1996, where appropriate, in a manner consistent with the purpose of the sanctuary.	To preserve and protect the seabed environment while allowing sustainable use. Seabed reserves will control activities that impact the seabed and a zone above it.	To enhance the enjoyment and value of recreational fishing in high demand areas by reducing the impact of commercial fishing and enabling recreational fishers to take more responsibility for the impacts of their activities in these areas and the sustainability of the fishery.	To preserve and protect the seabed environment while allowing sustainable use. Seabed reserves will control activities that impact the seabed and a zone above it.	Commercial fishing will generally be prohibited for the main recreational species. Specific parks might allow commercial fishing to continue for certain species. Customary fishing will continue. Ongoing management of fisheries resources (eg making of regulations prohibiting commercial fishing) will be carried out under the Fisheries Act 1996. Marine farming will not be affected and some petroleum or minerals activities could be allowed.
Proposed scope of category									
Lead agency	Department of Conservation	Department of Conservation	Department of Conservation	Department of Conservation	Department of Conservation	Ministry for the Environment	Ministry for the Environment	Ministry for Primary Industries	Ministry for Primary Industries
Current approach	Marine reserves are established under the Marine Reserves Act 1971 and through special legislation, but can be established only for scientific purposes.	Marine reserves are established under the Marine Reserves Act 1971 and through special legislation, but can be established only for scientific purposes.	Marine reserves are established under the Marine Reserves Act 1971 and through special legislation, but can be established only for scientific purposes.	Individual species are currently protected through the Wildlife Act 1953 and Marine Mammals Protection Act 1978.	Individual species are currently protected through the Wildlife Act 1953 and Marine Mammals Protection Act 1978.	Some areas of the seabed in the territorial sea are protected through benthic protection areas under the Fisheries Act 1996, but are only protected from the effects of bottom trawling and dredging.	Some areas of the seabed in the territorial sea are protected through benthic protection areas under the Fisheries Act 1996, but are only protected from the effects of bottom trawling and dredging.	Equivalent areas can be created under the Fisheries Act 1996 and through special legislation (eg, Sugar Loaf Islands). They are managed under the Fisheries Act 1996.	Equivalent areas can be created under the Fisheries Act 1996 and through special legislation (eg, Sugar Loaf Islands). They are managed under the Fisheries Act 1996.

Examples of how the marine protected area categories could be used

The Tonga Island and Horoirangi marine reserves in Tasman Bay are examples of how a **marine reserve** works. No fishing of any kind is permitted, and the seafloor cannot be disturbed in any way. Recreational activities are permitted, such as snorkelling, diving, kayaking and boating. Today there are more than seven times as many crayfish and 40 times as many blue cod over 30 centimetres than when the Tonga Island Marine Reserve was created 20 years ago. In the Horoirangi Marine Reserve, which was created in 2006, crayfish are 3.5 times more abundant, and a third of blue cod are over 30 centimetres, compared to just 1.7 per cent outside the reserve.

A **species-specific sanctuary** could be established to provide comprehensive protection to any species at particular sites. For example, a sanctuary could be designed to protect albatross, great white shark, or blue whale feeding or breeding areas. Activities that may adversely affect the species would be restricted, such as seismic surveying or certain fishing methods.

A **seabed reserve** could be established to protect specific habitats or ecosystems in particular areas of the seafloor. For example a reserve could be designed to protect seagrass or mussel beds. Activities that may affect these habitats or ecosystems would be restricted, such as boat anchoring or mooring and bottom-fishing methods.

The Sugar Loaf Islands Marine Protected Area is an example of how a **recreational fishing park** may work. All commercial fishing is prohibited in the area except surface trolling for kingfish and kahawai. Recreational fishing is allowed, subject to certain restrictions on methods and species.

Questions

4. Do you support the outlined objectives of the new Marine Protected Areas Act?
5. Are there additional objectives that should be included in marine protection reform?
6. Are the four categories proposed for marine protection an appropriate way to achieve a representative and adaptable network of marine protected areas (objectives 1, 2, 5 and 6)?
7. If the options outlined in Table 1 were applied in an area of interest to you, what impact would that have on your existing or future activities?

3.3 The economic value of MPAs

Sustainably managing our ocean means allowing for the use and development of our marine resources, as well as their protection. We are already doing this on land, for example by allowing conservation areas under the Conservation Act 1987 to be located in the same area as permitted areas under the Crown Minerals Act 1991.

MPAs will provide economic benefits to New Zealand, including supporting productive fisheries (eg, through protecting spawning and nursery habitats), increasing and enhancing tourism activities, and sustaining food harvesting.

For example, recreational fishing generates economic spin-offs for tourism operators, retailers and service industries. Recreational fishing parks will enhance these benefits by establishing

areas where fisheries can be managed solely for recreational outcomes, the quality of the fishing experience can be improved, and participation in fishing can be actively encouraged. In this way, recreational fishing parks will support the realisation of better value from New Zealand's coastal fisheries.

The growing marine tourism sector also generates significant economic revenue for New Zealand:

- About 375,000 people visited the Leigh Marine Reserve (Cape Rodney – Okakari Point) in North Auckland in 2007.
- The Poor Knights Islands Marine Reserve has been rated by aquatic legend Jacques Cousteau as one of the top 10 dive spots in the world. A single commercial diving operator takes about 12,000 visitors there each year, adding significant value to the Northland economy.

Recognising economic interests

In some areas, putting protection in place may have an impact on existing and future uses of the marine environment. The new process for establishing MPAs will ensure effects on users are minimised, where this can be done without compromising necessary environmental protection. Where an area of the territorial sea has been suggested for marine protection, the economic potential of the area will be given full consideration. An independent assessment of the economic impact of a proposed MPA will be required as part of the decision-making process.

The Government recognises that establishing MPAs may affect some existing property and use rights in the marine environment. We propose the following methods to ensure the effects on those rights are mitigated or minimised.

Fishing

Commercial fishing in New Zealand is managed through the Quota Management System, which enables sustainable economic value to be gained from fisheries resources.

The current Marine Reserves Act 1971 and the Marine Mammals Protection Act 1978 do not make any provision for compensation when a marine reserve or sanctuary is established. The Fisheries Act 1996 also makes it clear that the Crown is not liable to pay compensation where measures are taken for sustainability, which includes biodiversity protection.

The Government is proposing a different approach with the establishment of recreational fishing parks, the purpose of which is to enhance the recreational fishing experience by reducing commercial fishing effort in the area. The effect on commercial fishing may be similar to a situation where a marine farm is established and impacts the rights of quota holders to the point where compensation may be justified.

Compensation will not be paid to quota owners in relation to the establishment of seabed reserves, species-specific sanctuaries or marine reserves because they are measures taken for the purpose of ensuring sustainability.

All fishing activities will continue to be managed under the Fisheries Act 1996. The integrity of rights and interests recognised under the Marine and Coastal Area (Takutai Moana) Act 2011 and existing arrangements for non-commercial customary fishing will be fully recognised and maintained.

Oil, gas and minerals

Growing the economic value of the oil, gas and mineral mining industries is one key element of the Government's Business Growth Agenda. Permits for oil, gas and mineral mining can be granted for prospecting, exploration and mining under the Crown Minerals Act 1991.⁵

To provide certainty to the oil, gas and mineral mining industries, it is proposed that no category of MPA can be established in areas where there are petroleum or mineral mining, prospecting or exploration permits under the Crown Minerals Act 1991 for the life of the permit, unless the permit holder agrees. This recognises the significant and ongoing investment made by permit holders undertaking petroleum or mineral mining, prospecting or exploration activities in a particular area.

The proposed approach gives certainty to industry without unnecessarily impeding progress in developing New Zealand's network of MPAs.

Questions

8. Does the approach take account of the way the fishing sector operates? Why/why not?
9. Does the approach take account of the way the oil, gas and minerals sector operates? Why/why not?
10. Are there other economic interests that we haven't covered?
11. Is the new Marine Protected Areas Act likely to have the intended effect that decisions about environmental protection and economic growth are made in an integrated way (objective 2)? Why/why not?

⁵ For more information about petroleum and mineral permits see www.nzpam.govt.nz/cms/investors/permits.



Section 4:

How it will work: a new process for establishing marine protected areas

4.1 Improved and integrated decision-making

The current legislative processes for establishing protected areas are complex, can be divisive, and do not allow for planned and integrated decision-making. The proposed MPA Act will have an improved decision-making framework, and will support collaboration and meaningful engagement with iwi/Māori, fishers, local communities, business, and the wider public. Ministers will work together to make sure the best decisions are made to ensure the sustainable management of our marine environment.

Identifying and proposing areas for protection

Achieving an appropriate balance between protection and economic, recreational and cultural opportunities requires a good understanding of our marine environment. In general, we need to improve our knowledge so we can make good decisions about which areas of our ocean to protect.

The Government will continue gathering information about the marine environment in a systematic way, including through scientific research and engagement with iwi/Māori, local communities, business and the wider public. Initiatives are already underway that will support this process. For example, the Government has committed \$31.3 million over five years to the Sustainable Seas National Science Challenge, which includes conducting research to develop a better understanding of the dynamics and sensitivities of our ocean and coastal systems.

Proposals to establish a marine protected area (MPA) will only be advanced if they adequately describe the environment and the benefits of protection, and assess the economic impacts on current and future uses in a particular area. The MPA Act will include criteria for determining what information is needed and whether the information provided in a proposal is sufficient. They will be initially considered by a lead Minister, who will determine whether the proposal is consistent with the objectives of the MPA Act.

Which Minister takes the lead will depend on the category of MPA under consideration:

- marine reserves and species-specific sanctuaries – Minister of Conservation
- seabed reserves – Minister for the Environment
- recreational fishing parks – Minister for Primary Industries.

Multiple categories of protection may be required in some areas to reflect different environmental and community needs. The process in situations such as this, including which Minister takes the lead, has yet to be determined.

Initiating an MPA proposal

Once a proposal has been received by a lead Minister, other Ministers whose responsibilities may be affected by the proposal will be involved in the process. This is because MPA proposals are likely to have effects on a wide range of areas of interest to New Zealand. For example, ships might pass through a species-specific sanctuary, or a seabed reserve might be located in an area suitable for a new telecommunications cable.

The Ministers of Conservation, Primary Industries, Environment and Māori Development will be automatically involved in every proposal. Other Ministers who may be involved include the Ministers of Energy and Resources, Transport, Communications, Foreign Affairs and Trade, and Defence.

The relevant Ministers will make a joint decision on which proposals should be advanced or not. Ministers will need to take into account the urgency of the issues and the resources available to support the development of MPA proposals.

The new process for initiating MPA proposals will allow Ministers to take a planned approach to designing a representative and adaptable network of MPAs in the territorial sea over time. Existing and future values and uses of the environment will be considered to secure the sustainable use of our oceans through the protection of important ecosystems and biodiversity.

Making decisions on MPA proposals

Once relevant Ministers agree to initiate an MPA proposal, consultation and further information-gathering will be undertaken in one of two ways:

- **Collaborative process:** A collaborative process will be self-governing, but will be given clear terms of reference by Ministers that will include assessment criteria against which the proposal must be evaluated. It will enable collaboration between all interested parties, including fishers, iwi/Māori, local communities, business, and the wider public. This will ensure that the interests of all parties will be taken into account, including consideration of the impacts of a proposal on each party. The process will require public consultation as well as an independent economic assessment. Once consensus has been reached on a proposal, a recommendation will be made to relevant Ministers. If consensus cannot be reached, Ministers can choose to refer the proposal to a board of inquiry.

- **Board of inquiry process:** A board of inquiry will be appointed by Ministers and chaired by an Environment Court Judge. Ministers will be required to ensure board members have skills relevant to the proposal, including fishing, marine science, conservation, tikanga and mātauranga Māori, and economic expertise. The Board will be given clear terms of reference that will include assessment criteria against which the board must evaluate the proposal. A full public consultation process and an independent economic assessment will be required. At the conclusion of the process, the board will make a recommendation to relevant Ministers.

The relevant Ministers will jointly decide which process is more appropriate for a particular proposal. The decision as to which process is best for a proposal will be made on a case-by-case basis. Examples of how the two processes may work are provided in Appendix C.

There is intended to be a constructive tension between the alternative processes. If there is goodwill and willingness to compromise between key stakeholders, the collaborative process will be preferred. This process offers interested parties a more direct input into any proposal. However, it relies on consensus to progress, and could allow a single party to unreasonably block progress. The existence of the board of inquiry process enables a robust decision to be made on an MPA proposal without a consensus if parties' views are or are likely to be too divergent.

Benefits of the collaborative process

Collaborative processes are a proven approach to making decisions where there are multiple stakeholder views. The collaborative approach will be most applicable where there is an issue with a strong local or regional interest. It will support meaningful engagement with iwi/Māori, local communities, business and the wider public. The main advantage of the collaborative process is that it allows the community itself to decide what it values and make trade-offs. It encourages stakeholders to share their ideas openly from the beginning of the process and discourages adversarial engagement. The process is designed to ensure that the interests of, and impacts on all parties are considered. Successful collaboration results in outcomes that are driven and widely supported by the community.

Benefits of the board of inquiry process

The board of inquiry process suits proposals of national significance or direction, or those where a collaborative process would be unlikely to reach consensus. The benefits of the process are timely and consistent decisions made by independent board members with relevant expertise. Boards of inquiry will be able to take a planned approach to questions of both protection and use, and how proposals are able to contribute to the existing network of MPAs.

The collaborative and board of inquiry processes will recommend the appropriate level of protection and use to the relevant Ministers, as well as which activities will be prohibited or allowed in a proposed MPA. Criteria for this decision will be included in the terms of reference for both processes, and may include:

- the costs and benefits of the proposal to the environment and the economy
- the proposal's contribution to a representative and adaptable network of MPAs
- whether the area is currently protected in any way

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- the effect on existing and future uses and values of the area
- the effect on Treaty rights and obligations
- alignment with international best practice and commitments.

Once the relevant Ministers receive a recommendation, they may choose to accept or reject it, or refer it back for reconsideration or amendment. Ministers will not be able to change recommendations. The proposed MPA Act will specify how and when decisions may be challenged.

The new MPA Act will ensure a planned approach is taken to the creation of a representative and adaptable network of MPAs in the territorial sea over time. It will set out clear procedures and decision points, giving applicants and other participants certainty about the process in which they are engaging and the outcomes they may expect.

Supporting marine planning exercises

A number of existing tools are available to support boards of inquiry and collaborative processes. For example, Seasketch is currently being used for a number of marine planning exercises in New Zealand and around the world (see www.seasketch.org). Tools like this make it possible to map information and identify gaps and overlapping interests in the marine environment, and will play an important role in progressing marine protection.

Packaging protection tools

In some circumstances, achieving comprehensive protection may require the use of tools beyond the four categories proposed for the new MPA Act. For example, a proposal may include an area that is best protected using a customary tool (e.g. taiapure or mātaītai reserves)⁶, or a recreational fishing tool under the Fisheries Act 1996.

The new MPA Act will enable the implementation of these tools alongside the proposed MPA categories in a timely and coordinated way, so that a collaborative process can develop a package of marine protection tools including areas set aside for other uses e.g. customary.

Aligning decisions

People wishing to undertake activities allowed within an MPA may still have to go through a consenting process under the Resource Management Act 1991 (RMA). However, decisions made on all uses of the marine environment will be closely aligned to avoid duplication and improve integration of the marine management system.

⁶ A taiapure is a local management tool established in an area that has customarily been of special significance to iwi or hapū as a source of food or for spiritual or cultural reasons. Mātaītai reserves recognise and provide for customary food gathering by Maori and the special relationship between tangata whenua and places of importance for customary food gathering. Mātaītai reserves can be declared over identified traditional fishing grounds where there is a special relationship with tangata whenua.

The new MPA Act will provide for MPAs in the territorial sea to be recognised in regional coastal plans. Decision-makers under the RMA will be required to take MPAs into account when making decisions on proposed activities, including whether:

- an MPA is in place in the consent application area
- the proposed activity will affect an adjacent MPA
- a species/ecosystem in the consent application area is otherwise protected as part of the representative network of MPAs.

Over time, RMA decision-makers will be able to consider whether the MPA network provides sufficient protection for elements of the marine environment affected by the application before them. For example, activities that will affect a particular species in an application area could be allowed if the overall integrity of the species was maintained across its range.

Reviewing MPAs

The proposed MPA Act will allow the periodic review of new MPAs. This will help the MPA network to remain representative and adaptable, and to meet its objectives. A review may be a condition of the establishment of an MPA, or may be triggered by particular events, such as the emergence of a new threat or new technology, or the discovery of a valuable new resource. Whether an MPA would be subject to a future review would be decided at the time the MPA is established but it would not apply to any existing MPAs except where already required.

Reviews will be undertaken by either a board of inquiry or through a collaborative process. The outcome of a review should be consistent with the original purpose of the MPA. In exceptional circumstances, MPAs could be revoked if a review identifies that this would deliver better outcomes for our ocean.

The timing of reviews will be flexible, and will take into account the purpose for which the MPA was established. For example, if an MPA is established to protect a particularly long-lived slow-growing species, then the timing of its review should reflect the time required for that species to demonstrate a response to any management regime put in place. MPAs could also be subject to a generational review to recognise the Māori view that decisions made by contemporary generations should not tie the hands of future generations.

Any review provisions already in place for existing marine protected areas will be retained in line with their current timetable or statutory requirements.

Questions

12. What do you think would be the best process for initiating MPA proposals in areas where multiple categories of protection may be needed?
13. Are the proposed marine protected areas decision-making processes (collaborative process and board of inquiry process) the best way of achieving our objectives (2, 3, 4 and 5)? Why, or why not?
14. What are the advantages and disadvantages of having two different decision-making processes? Is one of the processes preferable to the other, or are there alternative decision-making processes that would better achieve the desired outcomes (objectives 2, 4 and 5)?

15. Do you agree with the proposed review arrangements? Why/why not? Are there any additional approaches that should be considered for reviewing marine protected areas?

4.2 Improving Iwi/Māori involvement

Iwi/Māori interests in the ocean include safeguarding taonga and mahinga kai (food gathering locations and resources), spiritual practices, commercial fishing, and customary rights. Iwi/Māori resource management ethos provides for sustainable use so marine biodiversity is enhanced and is not subject to unacceptable risks.

The Marine Reserves Act 1971 does not explicitly recognise the kaitiakitanga role of iwi/Māori in the marine environment. A key purpose of the new MPA Act will be to appropriately recognise the Treaty and strengthen iwi/Māori involvement in marine protection processes, iwi/Māori participation will be an important part of any consensus that may be reached. To achieve this purpose, the MPA Act will:

- include a Treaty clause that is consistent with the current levels of statutory recognition of Treaty of Waitangi obligations and responsibilities
- provide meaningful iwi/Māori involvement in all stages of marine protection processes, including the establishment of MPAs and their management ensure that legislative reforms will not result in any inconsistencies with the provisions of Treaty settlement legislation
- maintain the integrity of rights and interests recognised under the Marine and Coastal Area (Takutai Moana) Act 2011
- ensure that existing arrangements for non-commercial customary fishing, including taiapure and mātaimai reserves are fully recognised and maintained
- enable customary management areas to be included in integrated marine protection packages where appropriate
- require that any advisory committees on MPAs include representation of iwi/Māori.

Questions

16. Are the proposed decision-making processes sufficient to ensure customary interests, rights and values are appropriately taken into account, Treaty of Waitangi principles are met, and decisions are consistent with the Crown's historical Treaty settlement obligations (objectives 3 and 4)? If no, what are your concerns?



Section 5: Recreational fishing parks

We know that there are increasing numbers of users of the inshore marine space, resulting in growing pressures on some fish stocks and increased tension between recreational and commercial fishers. There are some areas, particularly in sheltered areas close to population centres, where certain fish species offer the most value as a recreational resource for New Zealanders to enjoy.

The Government proposes to establish recreational fishing parks to enhance the enjoyment and value of recreational fishing in these high demand areas by reducing the localised impact of commercial fishing. They will enable recreational fishers to have more say in how the value of the recreational experience can be enhanced and to assume greater responsibility for how fisheries in these areas are managed. There is strong resistance to sustainability limits on recreational fishers when commercial fishing is competing for the same resource.

While commercial fishing will generally be prohibited for the main recreational species, specific parks might allow commercial fishing to continue for certain species. Customary fishing and marine farming will not be affected by the creation of recreational fishing parks and some petroleum or minerals activities could be allowed.

It is proposed that the new MPA Act will create a framework for establishing recreational fishing parks. It is also proposed that parks in two of our key recreational fishing areas – the Hauraki Gulf and the Marlborough Sounds – will be created under the new legislation.

The Hauraki Gulf Recreational Fishing Park

The Hauraki Gulf is one of New Zealand's recreational fishing hotspots. It sits within Fisheries Management Area 1 (FMA1), which extends from North Cape to the western Bay of Plenty. The Snapper fishery in FMA1 is the largest recreational fishery in the country, and on a typical summer's day on the Hauraki Gulf, there can be up to 6,900 recreational vessels on the water carrying around 21,000 fishers. There are also about 80 commercial fishing vessels fishing in the Hauraki Gulf which may be competing with recreational fishers for catch and space. There are some restrictions that currently apply to commercial areas in the Hauraki Gulf due to marine reserves and some specific local restrictions and closed areas.

Location of the proposed Hauraki Gulf Recreational Fishing Park

The precise boundaries for the proposed Hauraki Gulf Recreational Fishing Park will require careful consideration. The draft proposal is that the park extends across the inner Hauraki Gulf, incorporating Statistical Area 7 in FMA1 and Omaha Bay (see Map 1 below).

Species

While it is proposed that most commercial fishing activity would be prohibited in the proposed Hauraki Gulf Recreational Fishing Park, commercial fishing of some species could continue where there is limited overlap between users and a strong rationale for it to continue remains. For instance, it may be desirable to continue to allow commercial harvesting of kina to control its impact on seagrass habitats for juvenile snapper.

Within the area indicated in Map 1, the key species targeted by recreational fishers in the proposed area are Snapper, Flatfish, Kahawai, John Dory, Gurnard, Tarakihi, Trevally, and Scallops. It is proposed that these finfish species would be exclusively recreational in the park area. The park could exempt species like kina where commercial harvest is desirable to protect habitat for juvenile snapper, or species that have limited recreational harvest like sea cucumber.



Map 1 – Possible location for a Hauraki Gulf Recreational Fishing Park based on Statistical Area 7 in FMA1 and Omaha Bay.

The Marlborough Sounds

The Marlborough Sounds is another important area for recreational fishers in New Zealand. There is a considerable amount of recreational fishing effort in the Marlborough area, which tends to be concentrated in Queen Charlotte and Pelorus Sounds, and around D'Urville Island. Recreational fishing effort is highest over the summer holiday months when there is an influx of visitors.

Blue cod is the primary species targeted in this fishery. As fishing effort has intensified and gear has improved, the fishery has suffered localised depletion, with the decline in blue cod abundance being particularly acute in the enclosed waters of the inner Marlborough Sounds. This has resulted in the fishery being closed for two years from 2009-2011 managed through tighter catch restrictions. A new regime for Blue Cod recreational fishing applies from December 20th 2015 following a process of public engagement and consultation.

Commercial fishing is constrained in some areas of the Marlborough Sounds for some times of the year. There is pressure from recreational users for this to be further restrained because of the importance of the recreational fishery to the local community and tourism sector.

Location of the proposed Recreational Fishing Park

The precise boundaries for the proposed Marlborough Sounds Recreational Fishing Park will require careful consideration. The proposal would be for the park to cover the current area of the Marlborough Sounds Blue Cod Management Area (see Map 2 below).

Species

It is proposed that the Marlborough Sounds Recreational Fishing Park would affect only commercial fin-fishing. This would mean that, within the park, commercial fishers could continue to harvest species such as paua, scallop and crayfish under the QMS. Within the area indicated on Map 2, the key finfish species targeted by recreational fishers are Blue Cod, Snapper, Flatfish, Hapuku and Bass. Commercial fishers also target these species as well as School Shark.

Place holder for referencing the most up to date blue cod management measures in the Marlborough section.



Map 2 - Possible location of a Marlborough Sounds Recreational Fishing Park based on the Blue Cod Management Area.

Compensation for commercial fishers

Commercial fishing in New Zealand is managed through the Quota Management System, which enables sustainable economic value to be gained from fisheries resources. While the Fisheries Act 1996 is clear that the Crown is not liable to pay compensation where measures are taken for sustainability (including biodiversity protection), recreational fishing parks are created to enhance the recreational fishing experience.

The Government is therefore proposing to develop a specific compensation approach for recreational fishing parks. This approach will be similar to the situation where a marine farm is established and it impacts the rights of quota holders to the point where compensation may be justified.

In recreational fishing parks, a case-by-case assessment will be carried out that recognises the particular characteristics of the commercial fisheries in the area. Compensation will be paid to quota owners when the impact on commercial fishing is deemed to be materially significant, consistent with relevant criteria to be included in the proposed MPA Act.⁷

The amount payable will be determined through an evidence-based assessment of impact on commercial fishing for quota species – taking into account the boundaries of the park and whether there are to be any measures that would mitigate the effect of a general prohibition on commercial fishing, such as seasonal or species exemptions.

When it comes to compensation, the Government recognises the fisheries' management incentives surrounding ownership of quota, which encourages a long-term view and a focus on sustainability.

Management and reporting

The management of recreational fishing parks will need careful consideration, including how they will link with existing marine management processes. For the proposed recreational fishing parks in the Hauraki Gulf and Marlborough Sounds, linkages will need to be made with Sea Change and the SNA1 Working Group initiatives in the wider Auckland region, and Marlborough Marine Futures and the Blue Cod Management Group in Marlborough. The lead agency for Recreational Fishing Parks will be the Ministry for Primary Industries, although there will be the opportunity for a greater role for recreational fishers in the management decisions on recreational fishing for species in the areas that are exclusively recreational.

Monitoring the outcome of creating a proposed Recreational Fishing Park will also be a vital part of its ongoing management. Monitoring could include looking at how the displacement of commercial fishing may have affected other fishing areas, and any impact on the abundance of fish stock. It could also include monitoring of the recreational fishing experience and we would like to explore options regarding how this could be assessed. This could include the option of requiring reporting of recreational fishing catch, now made much more convenient with mobile phone and internet technology. This information would enable more effective management of sustainability and could help provide a database for consultation on the management of the recreational fishery.

⁷ A form of the Undue Adverse Effects test (UAE test), similar to the one currently used when commercial fishing is affected by proposed aquaculture activity, will be used to determine whether and what amount of compensation is payable. As with the existing aquaculture UAE test, if quota owners disagree with the proposed level of compensation, they will be able to have their offer of compensation assessed through an independent resolution process under the Arbitration Act 1996. The assessment will be made by an independent arbitrator and includes the right of appeal to the High Court on points of law.

Questions

Please be clear as to whether your responses apply to the Hauraki Gulf, Marlborough Sounds or both proposed areas.

17. Do you support the proposal for Recreational Fishing Parks in the Hauraki Gulf and Marlborough Sounds?
18. What do you think should be the boundary lines for the recreational fishing parks? In the Hauraki Gulf, could we use the Statistical Area 7 of Fishing Management Area 1 (see Map 1)? In the Marlborough Sounds, could we use the Blue Cod Management Area (see Map 2)? Are these boundary lines easily recognisable, i.e. would prominent landmarks help with identifying the boundaries of the park when you are on a boat?
19. Do you think commercial fishing should be allowed to continue for some species within recreational fishing parks? If so, what species would you allow and why?
20. What do you think about the proposed compensation scheme for commercial fishing affected by the creation of recreational fishing parks?
21. What do you think about who should manage the recreational fishing parks? How could the park management work together with existing groups?
22. Do you think management of the Recreational Fishing Park would be enhanced by a requirement for reporting fish caught given the new mobile phone and internet technology available for such reporting?



Section 6: Implementation

Successful implementation of marine protected areas (MPAs) requires strong community and Government support and involvement. The Government is committed to ensuring the proposed reforms successfully implement a representative and adaptable network of MPAs that meets the objectives outlined in section 2.

6.1 Transitioning existing marine protected areas

New Zealand already has tools to protect the marine environment, including marine reserves and marine parks. The first step in implementing this proposal will be to ensure these tools are incorporated into the new Marine Protected Areas Act (MPA Act).

As far as possible, the outcomes of collaborative processes that are already in progress will be transitioned into the new MPA Act. The Government will work with communities to ensure the best outcomes for areas as they transition to the new regime.

The proposed transition process for each of the four categories in the new MPA Act is outlined below.

Marine reserves

New Zealand has 44 marine reserves, established either through the Marine Reserves Act 1971 or special legislation. It is proposed that all 44 marine reserves will transition into the new MPA Act. There will be no change to the levels of protection afforded to any marine reserve or to existing marine reserve advisory committees. Any specific provisions already in place will

remain. For example, there will be no change to the review of Moutere Ihupuku/Campbell Island Marine Reserve required under the Subantarctic Islands Marine Reserves Act 2014.

Species-specific sanctuaries

A number of existing tools provide protection to specific marine species in certain areas of the territorial sea. All of these will transition into the proposed new MPA Act and will become species-specific sanctuaries, including:

- all marine mammal sanctuaries established under the Marine Mammals Protection Act 1978
- the whale sanctuary and New Zealand fur seal sanctuary established under the Kaikōura (Te Tai o Marokura) Marine Management Act 2014
- some species in some places protected under the Wildlife Act 1953.

There will be varying levels of protection and use within species-specific sanctuaries depending on the species in question, spatial considerations, and existing management regimes. For example, within the West Coast North Island Marine Mammal Sanctuary, restrictions on fishing and mining differ across the sanctuary. Restrictions such as these will remain, but any future changes to the regime will be made under the new MPA Act. Fishing activities will continue to be managed under the Fisheries Act 1996.

Seabed reserves

There is currently no tool equivalent to seabed reserves, but the Fisheries Act 1996 provides limited protection for specific areas of the seabed in the territorial sea and beyond. This includes benthic protection areas and seamount closures, which prohibit bottom trawling and dredging fishing methods. When these areas were created they were only assessed for the fisheries-related benefits.

Under the new MPA Act, benthic protection areas within the territorial sea or parts of them could be assessed as candidates for transition to seabed reserves. Whether an area transitions to the new MPA Act will depend on whether it meets the purpose of the category.

It is proposed that any area that does not become a seabed reserve will continue to be managed under the Fisheries Act 1996.

Recreational fishing parks

Existing recreational fishing areas will need to be transitioned into the new MPA Act. Mimiwhangata Marine Park and Sugar Loaf Islands Marine Protected Area both provide biodiversity protection and recreational fishing opportunities, while generally excluding commercial fishing activities. No changes are proposed to existing provisions, and both areas will be recognised as recreational fishing parks. Other existing areas that prohibit or limit commercial fishing activities may also be transitioned into the MPA Act as recreational fishing parks once they have been assessed.

Customary management areas

A number of community-based forums have been established around New Zealand to guide planning processes in the local marine environment (e.g. Fiordland, Kaikoura, South-East Otago). These forums have developed integrated management packages that provide for the protection of the marine environment and its sustainable use through a variety of legislative

instruments, including customary management areas (taiapure-local fisheries and mātaihai reserves).

Although the proposed MPA Act will reduce the need for multiple legislative instruments to achieve protection objectives in some cases, customary management areas will remain the most appropriate way of achieving protection objectives in some cases. The proposed MPA Act will therefore enable the use of customary management areas alongside the proposed MPA categories to create integrated management packages.

Other area-based restrictions

Several other marine management tools are in place in New Zealand, including some fisheries closures and cable protection zones. These restrictions are often established for the purpose of protecting infrastructure, but may have a protective effect. Where these tools do not clearly align with the four categories proposed under the new MPA Act, they will be retained under their existing legislation.

Questions

23. Do you agree with the proposed arrangements for transitioning existing marine protected areas? If no, what are your concerns?
24. Do you agree that customary management areas should be able to be used alongside the proposed MPA Act to create integrated management packages? If no, what are your concerns?
25. What would be required to ensure the integrity of current protected areas is maintained while achieving the objectives of the new Marine Protected Areas Act (section 3.1)?

6.2 Involving communities in managing MPAs

Communities play an important role in managing New Zealand's existing marine reserves, and their involvement in managing MPAs will be strengthened under the new MPA Act. For example, there is likely to be a high degree of interest in recreational fishing parks, so recreational fishers will be encouraged to take greater responsibility in decision-making within these parks.

Māori involvement in managing MPAs will also be strengthened, including membership of any advisory boards created under the new MPA Act.

6.3 Managing commercial activities in marine reserves

The current Marine Reserves Act 1971 does not enable the management of commercial recreation and tourism activities within marine reserves. By contrast, tourism operations on public conservation land are managed through a concessions system. It is proposed that the new MPA Act will similarly enable the management of commercial recreation and tourism activities in MPAs. This will provide a more consistent approach to managing commercial recreation and tourism activities on land and in the marine environment.

6.4 Compliance and law enforcement

It is important that restrictions in MPAs are adequately enforced, and that provision is made to address any offences. The proposed MPA Act will make sure offence provisions for all four categories of MPAs are consistent with other relevant legislation for protected area management, resource use, and effects management.

New Zealand has a developed system for combined maritime law enforcement, including use of conservation, fisheries, naval, air force, and police capacity. Compliance and law enforcement provisions for all MPAs will operate within this system.

6.5 Monitoring and reporting

Monitoring will play an important role in the new MPA Act, by providing information on which management decisions can be based. It will also inform any reviews of a specific MPA or the broader network. For example, the connectivity of MPAs may be assessed to see how well the network is functioning, and whether any changes need to be made.

The status of MPAs will be regularly reported on, to assess progress towards achieving the objectives set out in this proposal.

Questions

26. Are the proposed approaches sufficient to ensure communities are involved in managing marine protected areas? Are there alternative approaches that would better ensure community involvement in managing marine protected areas?
27. What role can iwi/Māori play in managing marine protected areas? Are the proposed approaches sufficient to ensure iwi/Māori are involved in managing marine protected areas?
28. Do you agree with managing commercial tourism activities in marine protected areas in a similar way to how they are managed on public conservation land? Why/why not?



Section 7: Consultation process

7.1 How to make a submission

The Government welcomes your feedback on this consultation document. The questions, posed throughout this document, are summarised below. They are a guide only and all comments are welcome. You do not have to answer all the questions.

To ensure your point of view is clearly understood, you should explain your rationale and provide supporting evidence where appropriate.

There are three ways you can make a submission:

- Use our online submission tool, available at www.mfe.govt.nz/more/consultations.
- Download a copy of the submission form to complete and return to us. This is available at www.mfe.govt.nz/marine/xxxx. If you do not have access to a computer we can post a copy of the submission form to you.
- Type up or write out your own submission.

DRAFT – not Government policy – 8 Dec 2015

If you are posting your submission, send it to [name of consultation], Ministry for the Environment, PO Box 10362, Wellington 6143 and include:

- the title of the consultation (add name here)
- your name or organisation name
- postal address
- telephone number
- email address.

If you are emailing your submission, send it to [add email address for submissions] as a:

- PDF
- Microsoft Word document (2003 or later version).

Submissions close at 5.00pm on [date] 2015.

7.2 Contact for queries

Please direct any queries to:

Phone: [add number]

Email: [add email address]

Postal: [name of consultation], Ministry for the Environment, PO Box 10362, Wellington 6143]

7.3 Publishing and releasing submissions

All or part of any written submission (including names of submitters), may be published on the Ministry for the Environment's website, www.mfe.govt.nz. Unless you clearly specify otherwise in your submission, the Ministry will consider that you have consented to website posting of both your submission and your name.

Contents of submissions may be released to the public under the Official Information Act 1982 following requests to the Ministry for the Environment (including via email). Please advise if you have any objection to the release of any information contained in a submission and, in particular, which part(s) you consider should be withheld, together with the reason(s) for withholding the information. We will take into account all such objections when responding to requests for copies of, and information on, submissions to this document under the Official Information Act.

The Privacy Act 1993 applies certain principles about the collection, use and disclosure of information about individuals by various agencies, including the Ministry for the Environment. It governs access by individuals to information about themselves held by agencies. Any personal information you supply to the Ministry in the course of making a submission will be used by the Ministry only in relation to the matters covered by this document. Please clearly indicate in your submission if you do not wish your name to be included in any summary of submissions that the Ministry may publish.

7.4 Questions to guide your feedback

Section 2: The need for a new approach to marine protection

1. Do you agree there is a need for reform of New Zealand's approach to marine protection?

2. Are there any key issues that haven't been identified?
3. Are there any parts of the existing approach to marine protection that should be retained? Why?

Section 3: The proposal: a new approach to marine protection

4. Do you support the outlined objectives of the new Marine Protected Areas Act?
5. Are there additional objectives that should be included in marine protection reform?
6. Are the four categories proposed for marine protection an appropriate way to achieve a representative and adaptable network of marine protected areas (objectives 1, 2, 5 and 6)?
7. If the options outlined in Table 1 were applied in an area of interest to you, what impact would that have on your existing or future activities?

Recognising economic interests

8. Does the approach take account of the way the fishing sector operates? Why/why not?
9. Does the approach take account of the way the oil, gas and minerals sector operates? Why/why not?
10. Are there other economic interests that we haven't covered?
11. Is the new Marine Protected Areas Act likely to have the intended effect that decisions about environmental protection and economic growth are made in a planned and integrated way (objective 2)? Why/why not?

Section 4: How it will work: a new process for establishing marine protected areas

12. What do you think would be the best process for initiating MPA proposals in areas where multiple categories of protection may be needed?
13. Are the proposed marine protected areas decision-making processes (collaborative process and board of inquiry process) the best way of achieving our objectives (2, 3, 4 and 5)? Why, or why not?
14. What are the advantages and disadvantages of having two different decision-making processes? Is one of the processes preferable to the other, or are there alternative decision-making processes that would better achieve the desired outcomes (objectives 2, 4 and 5)?
15. Do you agree with the proposed review arrangements? Why/why not? Are there any additional approaches that should be considered for reviewing marine protected areas?

Improving Māori involvement

16. Are the proposed decision-making processes sufficient to ensure customary interests, rights and values are appropriately taken into account, Treaty of Waitangi principles are met, and decisions are consistent with the Crown's historical Treaty settlement obligations (objectives 3 and 4)? If no, what are your concerns?

Section 5: Recreational fishing parks

Please be clear as to whether your responses apply to the Hauraki Gulf, Marlborough Sounds or both proposed areas.

17. Do you support the proposal for recreational fishing parks in the Hauraki Gulf and Marlborough Sounds?
18. What do you think should be the boundary lines for the recreational fishing parks? In the Hauraki Gulf, could we use the Statistical Area 7 of Fishing Management Area 1 (see Map 1)? In the Marlborough Sounds, could we use the Blue Cod Management Area (see Map 2)? Are these boundary lines easily recognisable, i.e. would prominent landmarks help with identifying the boundaries of the park when you are on a boat?
19. Do you think commercial fishing should be allowed to continue for some species within recreational fishing parks? If so, what species would you allow and why?
20. What do you think about the proposed compensation scheme for commercial fishing affected by the creation of recreational fishing parks?
21. What do you think about who should manage the recreational fishing parks? How could the park management work together with existing groups?
22. Do you think management of the Recreational Fishing Park would be enhanced by a requirement for reporting fish caught given the new mobile phone and internet technology available for such reporting?

Section 6: Implementation

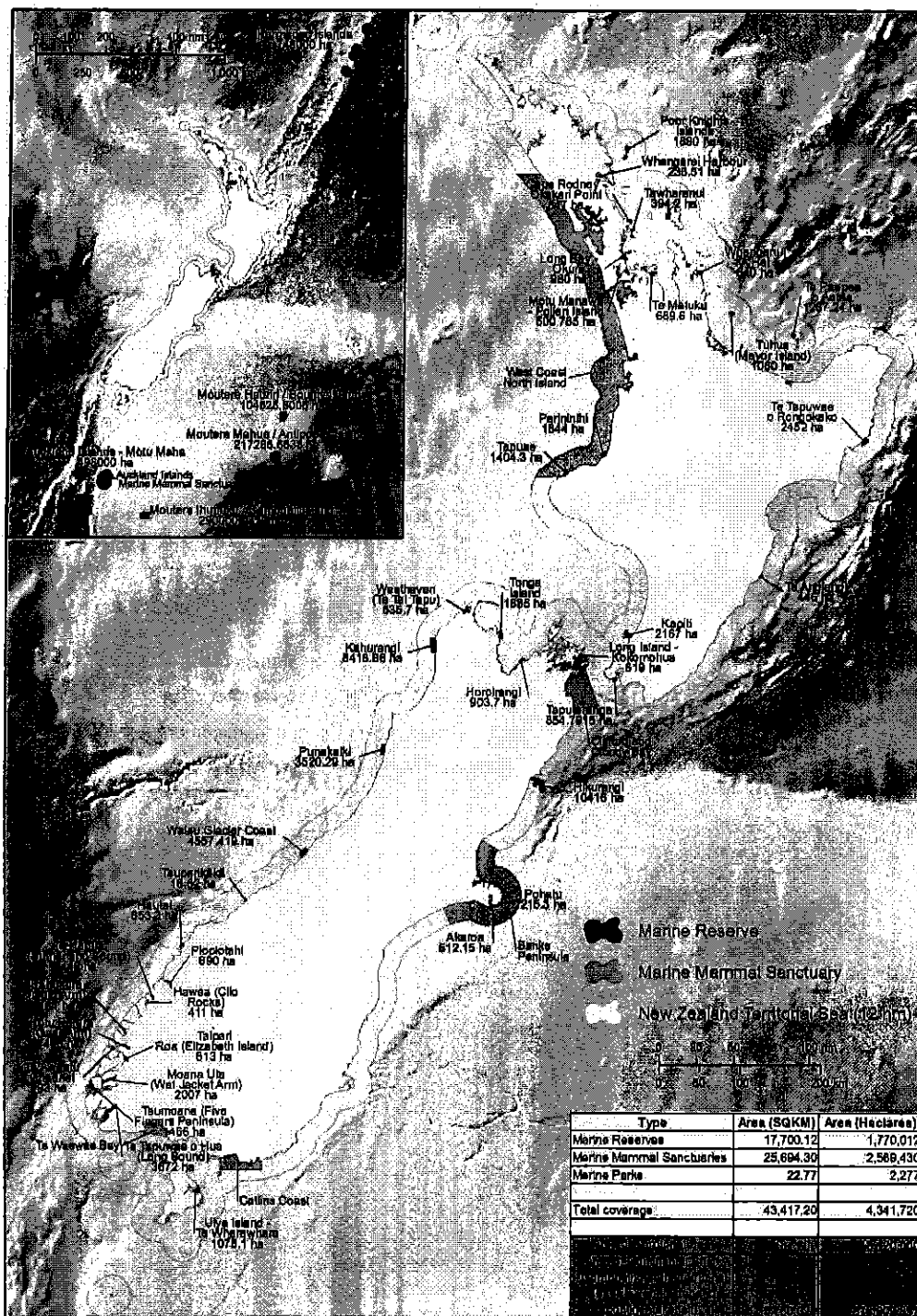
23. Do you agree with the proposed arrangements for transitioning existing marine protected areas? If no, what are your concerns?
24. Do you agree that customary management areas should be able to be used alongside the proposed MPA Act to create integrated management packages? If no, what are your concerns?
25. What would be required to ensure the integrity of current protected areas is maintained while achieving the objectives of the new Marine Protected Areas Act (section 3.1)?
26. Are the proposed approaches sufficient to ensure communities are involved in managing marine protected areas? Are there alternative approaches that would better ensure community involvement in managing marine protected areas?
27. What role can iwi/Māori play in managing marine protected areas? Are the proposed approaches sufficient to ensure iwi/Māori are involved in managing marine protected areas?
28. Do you agree with managing commercial tourism activities in marine protected areas in a similar way to how they are managed on public conservation land? Why/why not?

7.5 What happens next?

Once submissions have been considered, further work will be undertaken to refine the proposals and draft the new Marine Protected Areas Act.

The Government intends to progress this work into a Bill to be introduced to Parliament. Further opportunity to engage with the development of the new Marine Protected Areas Act will be available through the Local Government and Environment Select Committee process.

Appendix A: Marine protection in New Zealand's territorial sea



Note: Around the Kermadec Islands the entire territorial sea is occupied by the Kermadec Islands Marine Reserve, and the Kermadec Benthic Protection Area is overlaid on that reserve. The proposed Kermadec Ocean Sanctuary will cover the area currently protected by the Kermadec Benthic Protection Area. Benthic Protection Areas cover the entire territorial sea around the Antipodes, Bounty and Campbell Islands, and have subsequently been augmented by a mix of marine reserves and additional regulations under the Fisheries Act 1996.

Appendix B: Existing marine management legislation in New Zealand’s territorial sea

Issue	Relevant legislation
Effects management <i>(excluding fisheries)</i>	Resource Management Act 1991
Fisheries management <i>(including effects)</i>	Fisheries Act 1996
Marine reserves	Marine Reserves Act 1971
Species protection <i>(including seabirds, some fish and corals)</i>	Wildlife Act 1953 <i>(not continental shelf)</i> Marine Mammals Protection Act 1978 <i>(not continental shelf)</i>
Biological security	Biosecurity Act 1993
Shipping	Maritime Transport Act 1994
Access to minerals	Crown Minerals Act 1991
Historic heritage	Historic Places Act 1993
Seabed rights	Marine and Coastal Area (Takutai Moana) Act 2011
Treaty settlements	Various Acts
Special legislation resulting from community- or stakeholder-based initiatives	Kaikōura (Te Tai o Marokura) Marine Management Act 2014 Subantarctic Islands Marine Reserves Act 2014 Fiordland (Te Moana o Atawhenua) Marine Management Act 2005 Sugar Loaf Islands Marine Protected Area Act 1991

Appendix C: Examples of how processes for creating marine protected areas may work

Case study 1: Collaborative process

A local community group has joined forces with tourism operators. They want to reduce negative impacts on toheroa shellfish by preventing activities in a small area of the coastline on 90 Mile Beach known to be important breeding grounds for the species.

Although the area is small, the success of the species could have wider benefits for a community that relies heavily on tourism and fishing operations to contribute to their local economy.

The area was not identified through the government's oceans research programme, but the local community feels strongly about this issue and has completed a joint proposal requesting that a species-specific sanctuary be established.

The proposal is assessed by officials against several criteria, including whether there is enough information to make the case for a sanctuary, and how the creation of a sanctuary would contribute to New Zealand's broader network of marine protected areas.

The community group has done a good job of getting together all readily-available evidence and have been working hard to get the buy-in of other local stakeholders including local iwi and recreational fishers. Government officials provide some feedback on the proposal before it is formally presented to Ministers.

Because this proposal is for a species-specific sanctuary, the proposal is presented to the Minister of Conservation. The Minister considers the proposal and presents it to their colleagues, and a joint decision is made to progress the proposal.

Iwi and fishers have agreed in principle to the proposal, but still have some reservations about how the sanctuary might impact on them. The submitters consider that they can come up with an approach that works for everyone and have expressed an interest in taking forward their proposal in a collaborative way.

It is agreed that the collaborative approach is appropriate, and Ministers set terms of reference for the collaborative approach including the maximum area of coverage that can be proposed, and a reporting timeline.

The collaborative group has formed a governance board which includes representation from iwi and fishers, and the board is expecting to submit an update report to Ministers in the coming months. The update will include an economic impact assessment commissioned by the governance board that shows both the costs and benefits to the area, and particular stakeholders, associated with the development of a sanctuary.

Case study 2: Board of inquiry process

Research commissioned by government agencies and undertaken by NIWA identifies extensive beds of large kelp off the East Cape of New Zealand. The researchers consider that the kelp beds should be protected, as the taxonomy and natural history of the kelp is not yet fully understood. Kelp beds are highly productive ecosystems that create habitat for juvenile fish and marine invertebrates.

Relevant agencies jointly advise Ministers that a seabed reserve would be a suitable response to protect the kelp beds.

The area in question is located within a current exploration permit area under the Crown Minerals Act. Officials meet with the permit holder to establish how the proposed seabed reserve would impact activities. Satisfied that the reserve could be established (with alterations) without compromising the investment already made by the exploration company, officials formally present a proposal to the Minister for the Environment, because it is for a seabed reserve.

The Minister considers the proposal and presents it to their colleagues. The proposal outlines that there could be some effects on fishing in the area, so a joint decision is made to progress the application, but via a Board of Inquiry. The independent board of inquiry process is chosen because the reserve could form a significant component of the national system of reserves, and because there may be significant implications for different industries.

Ministers establish the terms of reference for the board of inquiry, including when they expect a recommendation to be made, and appoint the board. The board commissions an economic impact assessment and calls for submissions on the proposal.

After the inquiry process the board provides its advice to Ministers that a seabed reserve be established. The proposed reserve area has been altered slightly from the original proposal to take account of oil and gas activities occurring under an existing permit in close proximity to the proposed reserve. Even with amendments to the reserve area it has not been possible to address all concerns raised by the fisheries industry. However, the board found that the impact on fishing would be minor, and that the environmental benefits of protection would exceed those impacts.

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