



Submission by the Marlborough Sounds Integrated Management Trust On Proposals for a New Marine Protected Areas Act

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Purpose

1. This is the submission of the Marlborough Sound Integrated Management Trust on proposals to enact new legislation for marine protected areas (MPAs) in New Zealand.
2. The Marlborough Sounds Integrated Management Trust is a Trust established for the sole purpose of enabling community-led resolution of the big issues facing the Marlborough Sounds. Following comment from the Marlborough District Council it has expanded its area of interest to include all of the marine area of the Council's responsibility and these include parts of Tasman Bay, Cook Strait and Cloudy Bay.
3. This submission is based on wide discussion by community and stakeholders in Marlborough, but does not purport to be the views of individuals or organisations involved. This submission was reviewed in draft by those stakeholders, but the Trust has made the final decisions on the content of this submission. It provides positive suggestions for reform of MPA law and grounded examples of the effects of policy options.

Overall

4. First and foremost, we applaud Government for opening up this discussion.
5. We support Government in setting the bar for reform at a high level that would make New Zealand a world leader in marine protected areas formation and management, with a representative network of ecosystems formed in the Territorial Sea, and a whole process that would be planned and integrated.
6. We contend that marine protected areas formation and management needs to be placed in a coherent framework of marine management where MPAs are one tool in the kit to reverse past losses and mitigate against future risks.
7. To achieve this, we suggest the purpose of the legislation should be aspirational: ***“preserving in perpetuity as marine protected areas, for their intrinsic worth and for the benefit, use, and enjoyment of the public, areas of the Territorial Sea of New Zealand that contain biodiversity of such distinctive quality, ecological systems, or natural features so beautiful, unique, or scientifically important that their preservation is in the national interest.”***
8. In the view of the Trust, reform of the marine protected areas legislation is long overdue. However, neither the policy process adopted for reform, nor the proposals presented, are adequate for achieving these aspirational goals. The process has been rushed and the proposals for change are contradictory and incomplete. While we welcome the consultation document as a base for public discussion, we think the process leading to reform should include the features that been associated with other advances in our environmental law, melding expert advice with collaborative problem solving, and accessible to all.



9. What is missing from the document is any adequate description of the necessary administrative structures, resources and policy, planning and implementation. This makes it very difficult for anyone to see how the proposed reforms might work in practice.
10. We think that New Zealand has a real opportunity to build on its experience with collaborative processes in environmental management. We have world leading examples right here, both well advanced and in their beginning stages. At the same time, other countries have moved ahead strongly in policy and management, and we need to actively learn from those experiences. None of this is presented coherently in the document.
11. Therefore, we consider that a further and more comprehensive round of whole of nation discussion is needed before Government proceeds to law drafting.
12. The goal of Government, as presented in the consultation document, is to achieve an adaptable network of representative marine protected areas within the Territorial Sea. The objectives set out for new law are laudable and could be brought up to world standard with a little rewriting. Objective 1 is fundamental, but misses key concepts embedded in other parts of conservation law. While we strongly support the intent of objective 2 for a planned and integrated approach, we are disturbed that the implementation proposals in the document completely fail to support this.
13. So, while we welcome the discussion, we are sorry to say that the proposals are not well thought through, and fall far short of good practice in New Zealand or around the world. For example, worldwide good practice, as recommended by the IUCN, is that the primary purpose of every marine protected area should be nature conservation, and this fundamental principle is breached in the consultation document in making recreational fishing experiences the prime purpose of some MPAs.
14. We support the view of the Marlborough District Council that a more in-depth discussion should be allowed by Government to enable New Zealand to develop a marine protected areas management approach that is truly world leading.
15. In summary:
 - (a) The processes for implementation of the marine protected areas objectives should be one integrated package of policy, planning, administration led by a single agency of Government, and imbued with the best of collaborative practice. Further dividing MPA management amongst three agencies of Government is bound to lead to more confusion, less integration and sub-optimal solutions.
 - (b) Integration needs to be provided for, both in the formation of the network, and integration with complementary aspects of environmental management under the Resource Management Act, Fisheries Act and Biosecurity Act.



- (c) *Ad hoc* approaches proposed in the consultation document are outdated and inappropriate. Marine protected areas development should be embedded in integrated coastal and marine management. This also means management that recognises the concept of whole of catchment management (as do the NZ Coastal Policy Statement, National Environmental Standards and the proposed changes to the Fresh Water Management National Policy Statement) to integrate the management of land and sea.
- (d) The role of the tangata whenua should be integrated, respected and fundamental in the overall approach, and the interests of the tangata whenua should be protected throughout.
- (e) The question of compensation has been cast in ways that will distort and disable marine protection initiatives in the future and should be extended to all forms of marine protected area.
- (f) Recreational Fishing Parks as defined in the document are not *marine protected areas* within current usage of the term in New Zealand, or by the IUCN, and should be placed outside the proposal, or integrated into a wider concept of marine parks.
- (g) The ideas in the document about community consensus are under-developed and flawed, even though good practice examples are available in New Zealand.
- (h) Formation of the proposed fishing park in Marlborough should occur through due process that allows a rational boundary to be determined and a practical management regime to be designed. At present it is not at all clear how the proposed approach would integrate with the Marlborough District Council's resource management and planning responsibilities under the RMA; and this is a necessary part of truly integrated management.

16. Elements of a world leading solution for reform could be to:

- a) Only include in the new Act instruments that have conservation as their primary purpose.
- b) Provide for marine parks with zoning for other interests as is done in places like the Great Barrier Reef and use this in the Marlborough Sounds.
- c) Carefully provide for the full range of interests of the tangata whenua.
- d) Provide for integrated coastal management that incorporates best practice in spatial planning and fine scale management based on New Zealand experiences in whole of community collaborative processes.
- e) Provide for recreational fishing zones in the Marlborough Sounds through due process under an integrated approach and within an overarching Marine Park management regime.

The analysis below provides some thinking on how this might be done.



What does world class look like?

17. World class performance in creating and managing marine protected areas happens where this is one tool of integrated, multi-faceted marine management.
18. Such approaches recognise the integrity and complexity of marine systems.
19. They take into account the role of environmental quality, the primary productivity of ecosystems, and the linkages between places, systems, populations and the capacity of water to move things around.
20. The role of marine protected areas is not the same everywhere in the world. New Zealand has sophisticated fisheries management and resource management law and administration. Taking our place as a world leader needs to happen within our social, physical, legal and cultural context. We are a Pacific island nation with a long coastline, low population, and a history that includes grievance and redress in the way new settlers have interacted with indigenous people.
21. In this context world class would as a minimum:
 - a) Involve the formation of a network of ecologically and socially viable marine protected areas that allows for uncertainty, resilience and the dynamics of the marine environment.
 - b) These areas would protect representative portions of marine environments in as close to a natural state as possible.
 - c) The network would include replicates and take into account issues of connectivity with other protected areas and with ecosystems and valued places that might benefit from such connection.
 - d) Also included would be special and unique places valued for their biodiversity, beauty, cultural and social value.
 - e) The myriad interests and contributions of the tangata whenua would be integral to decisions on protection and management and their values would underpin a collective culture of kaitiakitanga.
 - f) Policy, planning and administration would be strongly integrated with related management of fisheries and natural resources.
 - g) Collaborative practices would be the core way of doing business.

Objectives

22. While the objectives suggested in the consultation document are laudable, they are too limited, and appear to be slanted toward economic development over social cultural and environmental objectives.
23. The Act must have an overarching conservation purpose. This is not suggested in the consultation document.



24. The objectives could be better framed and we offer suggestions for better objectives below:

- 1) A network of MPAs that:
 - is representative of the full range of New Zealand ecosystems, biological communities and environments; and
 - includes special places of importance as habitat, for their beauty and for cultural associations; and
 - provides for connectivity and replication that sustains the network.
- 2) Decisions about the formation and management of marine protected areas are made at a regional level in a planned and integrated way, based on sound evidence, to maximise the benefits of conservation to New Zealand and New Zealanders.¹
- 3) Customary rights and values are recognised, giving effect to the principles of the Treaty of Waitangi and delivering the Crown's Treaty obligations.
- 4) Collaboration and local leadership is supported through meaningful engagement with iwi/Māori, communities, stakeholders and the wider public.
- 5) Within the overall objectives of the Act, uses are provided for to the degree compatible with the purpose of each marine protected area.

*Ad hoc*ery and integration

25. *Ad-hoc* marine protected area applications are inappropriate and should not be provided for in the new legislation. Marine protection and utilisation planning should be conducted in a collaborative manner from the outset, focussing on actual or likely risks/threats to biodiversity.

26. Suitable planned, collaborative approaches should include the following elements:

- a) The 'bottom-up', collaborative, consensus-building and tangata whenua-led approach championed by Te Korowai o Te Tai o Marokura. Te Korowai planning was integrated, focussing on

¹ Hard decisions can be required as good marine protected areas will not only include the special and representative, but will be placed like the Leigh Marine Reserve where people can readily experience them and understand experientially the true richness of the undisturbed marine environment. The active formation of the network should occur at a regional level. By this we mean integrating bioregional consideration with social dynamics and patterns. In practice the region considered needs to be large enough to include closely linked biophysical processes and allow issues of representativeness, replication and connections between areas to be considered. At the same time boundaries need to encompass workable communities of interest. In the Top of the South Island, for example, the bioregion fairly can fairly neatly be divided into two for planning purposes in a way that accommodates both the social and biophysical considerations.



protecting the full range of rights, interests and values of an area not just marine protection or biodiversity conservation alone and focussing on actual or likely risks/threats to these rights, interests and values.

- b) The 'top-down', Government-facilitated approach such as the South East marine protected area Forum. All such entities should include sufficient Tangata Whenua representation as determined by the Tangata Whenua (this may include both commercial and non-commercial representation).
 - c) Integrated planning initiatives from communities and councils such as the Marlborough Marine Futures Project and the Sea Change project for the Hauraki Gulf.
27. Dividing MPA management amongst three agencies of Government is bound to lead to more confusion, less integration, and sub-optimal solutions. The Ministry for Primary Industries has marine management capability, but no experience in MPA management, and a sustainability culture at variance with the conservation focus of MPAs. The Department of Conservation has limited marine capability, a good history of managing MPAs, but struggles to give this priority when it is so busy managing a third of the land area of NZ. The Ministry for the Environment has little or no operational capability, little experience in marine management, and no experience of managing MPAs. What is needed is more unified and integrated management, not less.
28. Integration with other aspects of land and sea management are fundamental to an effective approach to forming and managing marine protected areas. This includes implications of the management of the land on the sea, of one part of the marine environment on another, and implications of the management of the sea on the land.
29. Creating a marine protected area where the values are destroyed by the downstream effects of inappropriate land or freshwater use makes little sense. Our stakeholders advocate an effects based approach very much in keeping with the philosophy of the RMA, and are concerned to see the policy and planning linkages explicitly provided for.
30. Marine protected areas that form supposed oases of biodiversity in an otherwise depleted environment are also of little value. This means that effective two-way linkages with fisheries management are important. Likewise, marine protected areas that are compromised by biotic invasions due to poor overall marine biosecurity make no sense. Integration with biosecurity management therefore needs to be understood and provided for.
31. Land managers in Marlborough have also have pointed out that there are reverse sensitivities that are not so immediately apparent. Creation of marine protected areas can lead to land use controls or activities that compromise what can be done on the land. Again careful and explicit connecting or policy and regulatory regimes for land and sea are required to take this into account.



32. Aquaculture interests are also concerned to see good articulation of marine protected area formation and marine farming recognising the interactions of these two activities.

Role of Tangata Whenua

33. The tangata whenua have a broad range of rights and interests that need to be well integrated into the formation of marine protected areas and protected in these processes.

Government led planning for marine protected areas

34. With regard to any marine protected area planning conducted by Government departments, tangata whenua must be given the opportunity for input and participation into such planning before the measures are made public or are assessed by a Board of Inquiry. Any such Board should include sufficient tangata whenua representation.

Statutory safeguards

35. Statutory safeguards are needed including:
- a) A Treaty clause (“to give effect to...”). In terms of tangata whenua interests the formation and management of marine protected areas should at least match those for terrestrial areas. Therefore, the Treaty recognition should match that in the Conservation Act section 4 - *This Act shall so be interpreted and administered as to give effect to the principles of the Treaty of Waitangi.*
 - b) A requirement for those exercising functions, duties or powers to act in a manner consistent with the provision of the 1992 fisheries settlement.
 - c) An undue adverse effects test for customary, commercial and non-commercial rights and interests (including but not limited to fishing).
 - d) Provision that Recreational Fishing Parks not derogate from the capacity of tangata whenua to form mataitai, taiapure and rahui, even when those could conflict with the Park and its management.

Process

36. We support the proposal to prevent Ministers from making amendments to recommended marine protected area resulting from collaborative processes or Boards of Inquiry. Applications should be referred back to the relevant entity for further work if Ministers are not willing to approve/decline in their current state as each proposal will have delicately balanced trade-offs.
37. The consultative document, however, reveals a very limited understanding of how community consensus can emerge and what that means. Consensus decision making can only succeed when participants agree to forgo the right of veto. Dale Hunter writes “*Individuals take on a*



commitment to reach agreement by consensus and give up the right of veto.”²

38. Community consensus needs to include all affected interests and be able to meet their core needs. A process that is only about the formation of marine protected areas cannot do this. The needs of tangata whenua, commercial fishers, tourism operators and local communities need to be accommodated in a comprehensive set of solutions in which the formation of marine protected areas forms a vital, but not an isolated, component.
39. The community consensus will never be absolute. It has been recognised in such processes around New Zealand that there are vocal individuals whose role means that they can never agree. For example, in the process for the Port of Auckland politicians were expressly excluded from the Stakeholder Working Group. Similarly, participants in the Hauraki Gulf Sea Change process recognised that professional lobbyists could not effectively participate in a process that required every sector to give something up to reach agreement.
40. Conversely, the Te Korowai process adopted a model where the people with generational commitment to the place made the core trade-offs supported by wise advisors from the public agencies, science community and officers of the tribal authority TRONT. The nature of the consensus required for Ministers to implement the results of a collaborative process needs to be clearly articulated in the legislation and in the parameters for each process.
41. As proposed in the consultation document a range of Ministers need to be convinced that a proposal should proceed. The text in Appendix C of the consultation document refers to the role of officials in this. In our experience this has the potential to stymie most good proposals. In the policy process within Government for Kaikoura some officials acted in a highly partisan manner, defending the putative interests of industries well beyond the point the industry representatives themselves advocated.
42. In practice, under the processes set out in the consultation document this means Cabinet agreement will be required for any proposal to advance past the first hurdle. Kaikoura achieved this but only after the expenditure of more than \$250,000 of public funds and a thousand hours or more of input gifted from each of the members of Te Korowai. Therefore, there needs to be a front end where processes can get enough momentum to have any chance of making it over that first formal hurdle.
43. We do not support the proposal for economic assessments of effects as proposed in the consultation document. We support a requirement for more comprehensive assessment that include economic, environmental, social and cultural effects; both positive and negative. Such assessment needs to include the longer time frames associated with natural and social processes, and not get caught up into the discounting approaches used by economists that can devalue future benefits.

² The art of facilitation – Dale Hunter with Stephen Thorpe, Hamish Brown and Anne Bailey 2007



‘Rebalancing’

44. It is wrong to equate, as the consultation document does, marine reserves and marine protected areas with sustainability measures under the Fisheries Act in an attempt to avoid compensation. ‘Protecting and preserving’ are not equivalent to ‘sustainable use’.
45. The displacement of fishing effort with the establishment of a marine reserve or marine protected area can:
 - a) Seriously undermine the sustainability of the remaining fishery in a QMA (especially for species susceptible to serial depletion such as blue cod or sedentary species such as pāua); and
 - b) Can thus seriously undermine the ‘currency’ of the 1992 fisheries settlement.
46. When any type of marine protected area is established in the future, the affected fisheries should be ‘rebalanced’ by removing displaced catch from the system and compensating fisheries rights owners for their losses.
47. Displaced commercial catch can be removed by reducing the Total Allowable Commercial Catch, and displaced recreational catch can be removed by adjusting recreational fishing controls (e.g., daily bag limits).
48. The Marine Reserves Act’s safeguards for existing fishing activities should also be retained in any new law. We see this as a fair proposition considering oil and gas permit holders receive absolute protection in the proposed new MPA Act, whereas fisheries rights holders receive no protection at all.
49. Removing fishing displacement with marine protected area establishment would remove the need for monitoring of such effects (proper monitoring of such effects could prove to be expensive).

Concessions, tourism and research

50. The proposals as set out in the consultation document would produce some very onerous and probably unintended effects if a Recreational Fishing Park was legislated for the Marlborough Sounds. As proposed, a wide range of activities would come under a concessions regime, as operates on land-based reserves and in national parks.
51. This would capture tourism activities including water taxis, charter fishers, diving, marine transport, commercial filming, recreation events and research to name a few. Under current DOC processes each of these would need a license and would pay concession fees which might equate to 7% of gross revenue under current practice.
52. Other questions to consider are - should tangata whenua receive discounted rates or be exempt from concession for some activities? Should tangata whenua have to pay for access permits for research and monitoring in their own rohe moana?



53. Transitional provisions would be required to ensure that current operators are deemed to hold concessions until due process was completed and others prevented from using the new laws to displace them.

Generational reviews

54. Generational reviews, including an opportunity to dis-establish marine protected area if appropriate, have not yet been discussed in Marlborough, but this approach is known to be supported by tangata whenua.

Oil and gas

55. Areas for consideration as MPAs should not be constrained by the likes of potential oil, gas or mineral prospects.

EEZ

56. The EEZ is out of scope for the new marine protected area Act under the proposals in the consultation document. This will affect Marlborough most in the north where the Cook Strait canyon cuts across the boundary and where ecologically significant areas off Durville Island continue offshore. Marine protection areas formation in the EEZ should be fully explored in developing new MPA legislation.

Types of MPAs

Marine reserves

57. Continuing provision for no-take marine reserves is supported.

Species specific sanctuaries

58. Species specific sanctuaries are supported, and we suggest extending them to unique communities such as biogenic habitats.

Seabed reserves

59. We support the idea of seabed reserves, and suggest extending to idea of stratum protection so pelagic areas could be protected.

Recreation fishing parks

60. Recreational Fishing Parks are not marine protected areas. They are not supported for inclusion in a new MPA Act in their proposed form. They should remain under the Fisheries Act. They are a tool which can distort biodiversity conservation rather than enhancing it.
61. The IUCN says that recreational fishing parks are not marine protected areas *per se* although marine protected areas may use fishing closures as a management tool.

Temporary or permanent fishing closures that are established primarily to help build up and maintain reserve stocks for fishing in the future, and have no wider conservation aims or achievements are not considered to be marine protected areas. For example, Norway, Iceland and the Faroe Islands close areas to fishing at short notice if the percentage of juveniles



or by-catch goes above a certain number. These areas do not qualify as marine protected areas.

IUCN's advice is that areas set aside purely to maintain fishing stocks, particularly on a temporary basis, should not be considered to be protected areas even though they may well reflect good fishery management. For such sites to meet IUCN's definition of a protected area, managers would need to address the overall health and diversity of the ecosystem and have a stated primary aim to this effect.³

62. The primary characteristic of a marine protected area for the IUCN is that *as stated throughout this document marine protected areas must first meet the definition of a protected area and thus be primarily managed for nature conservation⁴.*
63. The proposal to establish such a mechanism should be referred to the fisheries review process that is currently underway.
64. However, should this tool remain in a new Marine Protected Areas Act, fisheries management safeguards need to be implemented for each park at the outset including:
 - a) Regulating recreational charter fishing inside the park.
 - b) Setting new, reduced recreational fishing limits including:
 - i. Individual and combined daily bag limits that reflect the intent of 'fishing for a feed'.
 - ii. Vessel limits.
 - iii. Accumulation limits.
 - c) Recreational fishers being required to report their catch.

The special case of Marlborough

65. The proposals as advanced to legislate in a Recreational Fishing Park in Marlborough are not supported.
66. Such an approach does not allow due process in which the implications can be understood and good decisions made.
67. Due process needs to address issues of boundaries, shift of effort, management and implications for communities. These include the consequences of the policy of compensating quota holders and not lessees of quota with the flow-on effects of loss businesses and community members. For example, our stakeholders on Durville Island are concerned about the transfer of effort and say *that if the recreational fishing park (RFP) was to go ahead within the currently proposed boundaries, there would be an enormous pressure on marine life at the western side of our island (including such natural treasures as Greville Harbour and the Mill*

³ http://cmsdata.iucn.org/downloads/uicn_categoriesamp_eng.pdf

⁴ Ibid



Arm) and the eastern side of the Sounds on the other side of Tory Channel towards Port Underwood.

68. As advanced in the consultation document, the proposed Fishing Park pre-emptively blocks the formation of any further no-take marine reserves in the Marlborough Sounds.
69. An alternative of a Marine Park with a core conservation purpose, and which excludes commercial fishing and establishes clear objectives for recreational fishing areas, could be much better fit.
70. If the Recreational Fishing Park is to be established by the legislation it should only be done as the foundation for a more comprehensive solution for the Marlborough marine environment; such as true Marine Park of the type established for the Great Barrier Reef and at Monterey in California, in the USA.
71. The Fishing Park proposal is supported by some sectors in Marlborough and strongly opposed by others. Ministers have indicated that they see it as an election promise and intend to proceed with it.
72. None of the rest of the scheme for improving marine protected areas formation in the consultation document rests on legislating in two marine parks. In fact, doing so cuts across the collaborative philosophy evident in the rest of the document.
73. However, even if Government defers formation of the Marlborough Sounds Recreational Fishing Park to due process under the Act, even that process as currently proposed would not lead to fully integrated solutions for the Marlborough marine environment.
74. If Government is irrevocably committed to making the Recreational Fishing Park in Marlborough, a possible approach might be to:
 - a) Pull the **initial** boundary of Recreational Fishing Park back to the mouths of Queen Charlotte and Pelorus Sounds. This would give recreational fishers priority access to the area that they most heavily fish, and reduce the effect on the commercial fishers considerably while the issues in the area were being properly analysed.
 - b) Require in the Act a 3-year review of the Park to create integrated management; including marine reserve formation, taiapure and mataitai, integration with the RMA and marine farm considerations (note that in the Hauraki Gulf a 2-year process proved inadequate).
 - c) Appoint a governance board for the Fishing Park charged with conducting the review as well as interim management of the Park. The Board would need to encompass the full range of interests including land use and marine farming as well as fishing and environmental interests.
 - d) Support Marlborough Marine Futures formation of a Stakeholder Working Group that could morph into the governance board while the legislation is being prepared in order to encourage community commitment.



- e) Explicitly bring iwi into to the core process rather than have a parallel process for their interests, this was a critical success factor in Kaikoura.
 - f) Set a wider boundary for the review than for the Fishing Park, the Marlborough District Boundary is the logical one.
 - g) Give the governance board a wide brief that includes consideration of land use effects, benthic ecosystem protection and working with iwi to sort out how their customary interests can be protected.
 - h) Have an MOU between central Government and the Marlborough District Council on how this process would interface with the RMA plan process.
 - i) Establish and resource an Expert Advisory Group to assemble the required science (noting that much of the science will be sourced from the existing research programmes but their priorities might need to be influenced).
 - j) Require that the governance board also bring forward a recreational fishing regime that would ensure sustainability of the fisheries within the area closed to commercial fishing.
 - k) Give powers to the Ministers to enact the solutions advanced by the governance board where those solutions are within the ambit of the new Act, and require others exercising powers and functions under other Acts to listen and respond to their recommendations on a package of solutions (this would include the RMA, Biosecurity Act, Maritime Transport legislation, Fisheries Act and perhaps other parts of the Conservation legislation).
75. An alternative might be to add a Marine Park concept as a part of the legislation and then to adopt a two-step process for Marlborough. Step one would be to legislate in a Marine Park for the Marlborough Sounds limiting its initial application to excluding commercial fin fishing from the inner Sounds. Step two would be then to do the investigations needed to establish every else about the Marine Park. This option is much the same as above, but is clearer in its objectives throughout and has the added benefit of providing the basis for other such Marine Parks to be established elsewhere in New Zealand. Rather than a “governance board” this approach would allow Government to appoint an “establishment board” engaged only in a collaborative strategic process free of the constraints imposed by being involved in day to day management.

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Appendix one - Answering the questions

In the interests of providing a complete response to the consultation document we provide brief answers to the questions it poses.

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

Yes. The current system is neither well integrated with other aspects nor likely to achieve the objective of a representative network.

2. Are there any significant issues that haven't been identified?

Yes, there are many. Most relate to the lack of integration in management and decision making. This is between decisions for land and sea, protection and utilization, and active management such as biosecurity risk reduction.

3. Are there parts of the existing approach to marine protection that should be retained? Why?

Yes. New Zealand has led the world in the formation of no-take marine reserves while in many places attempted multiple use approaches have conferred little real in the way of gains.

4. Do you support the outlined objectives of the new MPA Act?

No. While the objectives suggested are laudable they are too limited. The Act should have an overarching conservation purpose. This is not suggested in the consultation document. The objectives can be framed better as for example the first objective could better be: A network of MPAs that:

- is representative of the full range of New Zealand ecosystems, biological communities and environments; and
- includes special places of importance as habitat, for their beauty and for cultural associations; and
- provides for connectivity and replication that sustains the network.

5. Are there additional objectives that should be included in marine protection reform?

Yes. As above.

6. Are the four categories proposed for marine protection an appropriate way to achieve a representative and adaptable network of MPAs (objectives 1, 2, 5 and 6)?

No. There is no process described in the document for the formation of a **network**. The categories do not cover the range of circumstances that need to be considered (e.g. pelagic protection zones, special biological communities etc.). Ad hoc use of these categories could not lead to integrated and effective management.

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?

Thwart them. As above, our purpose of integrated management for the marine environment of Marlborough would be blocked by these proposals.

8. Does the approach take account of the way the fishing sector operates? Why/why not?



No. There is no understanding reflected of the way recreational, customary and commercial fishing interact with one another in Marlborough or with other activities such as marine farming that draw on the same primary production of the sea.

9. Does the approach take account of the way the oil, gas and minerals sector operates? Why/why not?

No. As described the large areas provided for exploration for minerals block the formation of marine protected areas even though the impacts of mineral, oil and gas exploitation apply only to very limited areas. This approach is therefore inappropriate and needs rethinking.

10. Are there other economic interests that haven't been covered?

Yes, there are many. The document suggests that concessions in MPAs are only about activities such as tourism while making comparisons with concession in terrestrial protected areas. Concession in terrestrial protected areas cover all commercial activities on those lands from tourism to telecoms. If this approach were adopted a very wide range of commercial maritime interests would be affected.

11. Is the new MPA 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?

No, because the documentation completely fails to describe how this might occur. There is nothing here to respond to.

12. What do you think would be the best process for initiating MPA proposals in areas where multiple categories of protection may be needed?

Community led stakeholder collaboration funded by central Government.

13. Are the proposed MPA decision-making processes (collaborative process and board of inquiry process) the best way of achieving our objectives (2, 3, 4 and 5)? Why/why not?

No. They are ad hoc case by case. There is no planned integrated approach described. Everything begins with the idea of having one or more MPAs. Experience shows that everything needs to begin with the idea of the community and stakeholders sorting out how to care for their marine environment and resolve conflicts associated with competing or damaging activities. This has been well understood and documented from the coastal zone management discussions from the 1970s to the present day but have somehow been sidelined in development of the current policy document.

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)?

This is difficult to answer when the underlying idea of initiation is flawed. The idea of encouraging communities to sort out their issues and having a pathway to implement their conclusions and agreements is, however, strongly supported.

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

No. Yes. MPAs should be reviewed within the context of the area and environment in which they exist in an integrated way with complementary regimes such as Resource Management and Fisheries planning.



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 not, what are your concerns?*

No, not at all. Customary interests are complex as are Treaty rights. There are also matters of culture that can only be appreciated in an appropriate context. Ideally this leads to increased understanding and harmony within communities. The proposed processes cannot achieve that in the way that Te Korowai did in Kaikoura. It is important that policy makers understand this in proposing legislative frameworks.

The following responses apply to the Marlborough Sounds only.

17. *Do you support the proposal for a recreational fishing park in the Marlborough Sounds?*

No. However, we do support the formation of substantial recreational fishing areas in the Marlborough Sounds through an appropriate process.

18. *What do you think should be the boundary lines for the recreational fishing park? In the Marlborough Sounds, could we use the Blue Cod Management Area (see map 2)? Are these boundary lines easily recognisable, that is, would prominent landmarks help with identifying the boundaries of the park when you are on a boat?*

More ad hoc proposals like these cannot replace collaborative processes without creating inequities, anomalies and inconsistency. We are not yet ready to recommend appropriate lines for recreational fishing areas in the Marlborough Sounds but participants in our forums have indicated that this can be done and they are willing to work together on solutions.

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?*

No. We do not support recreational fishing parks per se, only as part of more integrated solutions.

20. *What do you think about the proposed compensation scheme for commercial fishing affected by the creation of recreational fishing parks?*

They should be extended to fishers affected by all MPA formation.

21. *What do you think about who should manage the recreational fishing parks? How could the park management work together with existing groups?*

Each MPA complex, such as a Marlborough Sounds Marine Park, should be managed by an authority resembling the Great Barrier Marine Park Authority.

22. *How should benefits and changes created through the proposed parks be monitored? How could this work?*

Benefits and changes should be monitored in an integral programme that relates all aspects of management. Such a Park makes no sense on its own.

The following comments relate to the proposed new Act as a whole.

23. *Do you agree with the proposed arrangements for transitioning existing MPAs? If not, what are your concerns?*

We have no specific concerns with the transitional arrangements as proposed.



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 not, what are your concerns?*

No. To make real sense of things customary management needs to be considered as an integral part of marine protection, not *alongside* it. A bicultural care of the sea comes from bringing strands together. The fundamental expression of what is needed for marine protected areas might come better from concepts and practices such as kaitiakitanga for the mauri of Tangaroa, for example. This has been the experience in both Marlborough and Kaikoura.

25. *What would be required to ensure the integrity of current protected areas is maintained while achieving the objectives of the new MPA Act (section 3.1)?*

This is a big question and the answer will be quite different in different places. In Marlborough embedding the Long Island Marine Reserve in the Marlborough Sounds is likely to lead to loss of integrity as the increased recreational fishing effort and blocking of further no take marine reserves in its vicinity would prevent it from becoming part of connected network.

26. *Are the proposed approaches sufficient to ensure communities are involved in managing MPAs? Are there alternative approaches that would better ensure community involvement in managing MPAs?*

No. The division of MPA management into 4 parts relating to the 4 types of reserves will militate against effective community involvement. Fiordland and Kaikoura will give you better model to work with where the community representatives are working with stakeholders to deal with the issues relating to a defined geographic area with all its different zones.

27. *What role can iwi/Māori play in managing MPAs? Are the proposed approaches sufficient to ensure iwi/Māori are involved in managing MPAs?*

Iwi and other Maori entities can play roles from being sole managers, to being co-managers, to being citizen advisors. All of these need to be provided for.

28. *Do you agree with managing commercial tourism activities in MPAs in a similar way to how they are managed on public conservation land? Why/why not?*

This idea needs more exploration. At present some activities, such as marine mammal tourism, are managed for the protection of the species. Others such as charter fishing are only managed for the safety of the customers. Importing the DOC concessions management system into the sea is probably too crude to work effectively. In these areas there is more to consider than just tourism activities. There is a full range of commercial activities. There is also the issue of resource rentals as already provided for under the Resource Management Act but not used by Regional Councils for reasons that also need to be understood.