

Submission: A New Marine Protected Areas Act

Introduction

Thank you for the opportunity to submit on the consultation document “A New Marine Protected Areas Act” (MPAA).

Marlborough District Council (Council) has responsibility under the Resource Management Act (RMA) for managing approximately 725,000 hectares (ha) of coastal waters from mean high water springs to 12 nautical miles (Figure 1). This comprises the Marlborough coastal marine area (CMA).

This area includes the north-western section of Tasman Bay around D’Urville Island, parts of Cook Strait and the exposed waters off the East Coast of the upper South Island. The extensive ~1800 km coastline reflects the network of indurated and sheltered bays within the Marlborough Sounds, including Port Underwood, Tory Channel, Queen Charlotte and Pelorus Sounds, D’Urville Island, and Croisilles Harbour. Marlborough’s coastline amounts to about 10% of New Zealand’s coastline according to Land Information New Zealand.

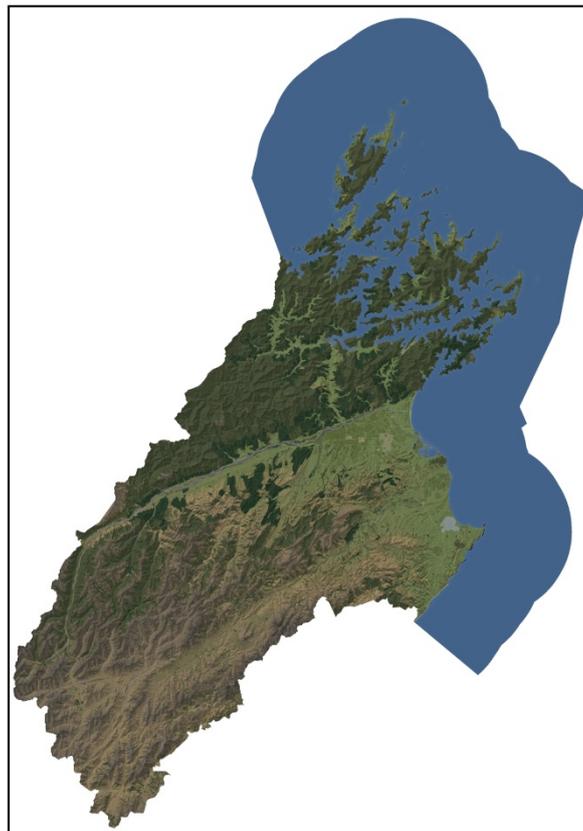


Figure 1: Marlborough District Council’s administrative boundaries

Council's statutory functions include the regulation of many activities within the CMA, and also regulation of surrounding land-uses which influence coastal water quality and biodiversity. These activities are managed and monitored to give effect to the purpose of the RMA (set out in section 5 RMA), and include:

- Provision and allocation of aquaculture space
- Granting permits for structures, such as for marine farms, moorings, and jetties
- Management and monitoring of discharges on water quality
- Setting cumulative limits for environmental effects
- Maintenance of biodiversity
- Protection of significant habitats for indigenous vegetation and indigenous fauna
- Monitoring of the state of the coastal environment

In addition, Council has statutory management responsibilities in the CMA under the Maritime Transport Act, the Biosecurity Act and the Local Government Act.

Council is guided in its regulatory and non-regulatory roles initiatives by the aspirations of its community. For example, Council has funded the community-led Marlborough Marine Futures collaborative process since 2014 (www.marlmarinefutures.org.nz) as it values community conversations about how to better integrate management to improve the condition of coastal ecosystems, particularly within the Marlborough Sounds.

Council has also recently invested significant resources in the science and monitoring of coastal ecosystem processes that influence water quality and biodiversity. The information gathered has shown that inter-tidal and sub-tidal habitats important for biodiversity are under considerable stress, with damage and destruction of biogenic (living) habitats an increasingly worrying trend (www.marlborough.govt.nz/Environment/Coastal.aspx).

Council is particularly concerned about the effects of dredging and bottom-trawling in the Marlborough Sounds, and the ongoing damage and destruction of biogenic habitats. These habitats are formed by living organisms and are essential to maintaining biodiversity by providing complex structures for different species.

The ongoing loss of habitats from dredging, trawling, and sedimentation over the last 150 years has reduced the abundance of fish, particularly within the Marlborough Sounds. Council's historical ecosystem research has revealed a dramatic loss of abundance of small fish, such as the Picton bloater (herring), and also larger recreationally and commercially sought-after species, such as hāpuku, blue cod and snapper.

Council observes that there are currently only a handful of marine protected areas in the Marlborough CMA. Council notes that this situation does not reflect a widespread desire within the community to protect fragile ecosystems from further degradation. Council is also aware that previous initiatives to establish marine reserves have been frustrated by the complexity of the consultation processes in the existing legislation.

Council welcomes the Government's consultation document, and wishes to make the following points.

1. Need for Reform

Council SUPPORTS the need for reform of the marine protection legislative framework.

2. Objectives of Reform

Council SUPPORTS the objectives of the proposed Marine Protected Areas Act, as set out in section 3.1 of the consultation document. Council recommends that an additional objective be included to make an explicit connection with the goals of the New Zealand Biodiversity Strategy, and the objectives and policies of the New Zealand Coastal Policy Statement (NZCPS), in relation to maintain and protecting biodiversity.

Council REQUESTS that the Marine Protected Areas legislation be clearly integrated with existing statutory frameworks, and that those linkages should be included within the objectives of the MPAA. For example, Objective 1 of the NZCPS seeks to safeguard the integrity and functioning of the coastal environment and sustain its ecosystems by maintaining or enhancing biological and physical processes. Goal Three of the NZBS aims to maintain and restore a full range of remaining natural habitats and ecosystems to a healthy functioning state, to achieve viable populations of all indigenous species across their natural range.

RECOMMENDATION 1:

That an additional objective be inserted into the Marine Protected Areas Act to give effect to the NZ Biodiversity Strategy and the NZ Coastal Policy Statement.

3. Guidance on a regional representative network of MPAs and targets for protection

An objective of the MPA reform is to create a representative and adaptable network of MPAs to enhance, protect and restore marine biodiversity in New Zealand's territorial sea. However, Council notes that there is a lack of guidance in the consultation document about how this is to be done at a regional scale. Council is also interested in understanding how the outcomes of the legislation will be measured in terms of achieving regional targets for protection. This is important for measuring the success of the MPAA. Council suggests that the biogeographic scale provides a cogent basis on which to create regionally representative networks.

Council notes that the marine biogeographic zones identified by the Department of Conservation (DoC) and the Ministry of Fisheries (now Ministry for Primary Industries (MPI)) straddle regional council boundaries (Figure 2). The Marlborough CMA is nested within the North and South Cook Strait biogeographic zones. Marine protected areas currently total just 2% of the total North Cook Strait and only 1.4% of the South Cook Strait biogeographic zones.¹

¹ <http://www.doc.govt.nz/about-us/science-publications/conservation-publications/marine-and-coastal/marine-protected-areas/coastal-marine-habitats-and-marine-protected-areas-in-the-new-zealand-territorial-sea-a-broad-scale-gap-analysis/>

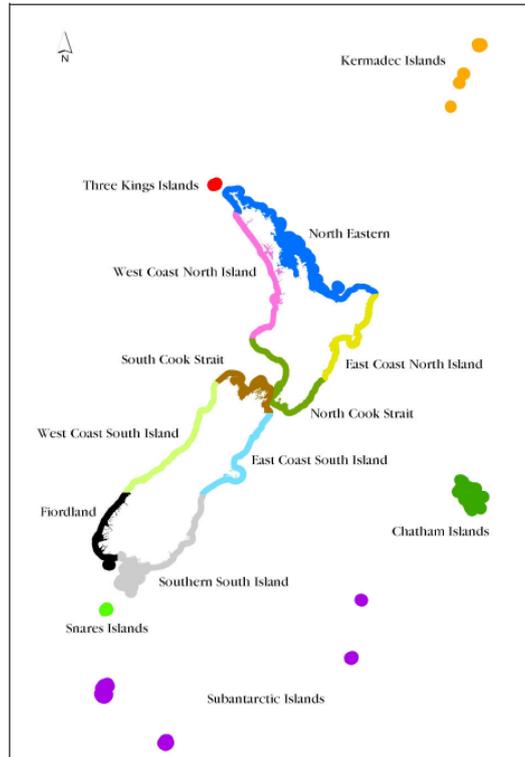


Figure 2: Marine biogeographic areas (Department of Conservation and Ministry of Fisheries 2011).

DoC and MPI identified in 2011 that Marlborough’s coastal waters are also under-represented in marine reserves.¹ The 619 ha Long Island Kokomohua Marine Reserve is the sole marine reserve (Figure 3). It equates to less than 0.1% of Marlborough’s CMA. The proportion rises to 2% if the 14,680 ha Cook Strait Cable Protection Zone is included (Figure 3) New Zealand currently has a target of 10% for protection in marine reserves.¹ Council is aware of the compelling scientific evidence of the ecological benefits of marine reserves for habitat protection and recovery, and the increased abundance of fish within reserves which spill-over into fished areas.² Council would WELCOME the creation of more marine reserves in the Marlborough CMA. Council sees this as a matter of urgency for achieving the sustainable management of the CMA, and favours the creation of reserves after an inclusive and collaborative process (see recommendations 7 and 8).

RECOMMENDATION 2:

That the MPAAs specify the scale at which a representative network of marine protected areas is to be defined for each region.

² See Willis (2013) and references therein: Willis, T.J. 2013 Scientific and biodiversity values of marine reserves: a review. DoC Research and Development Series 340. Department of Conservation, Wellington. <http://www.doc.govt.nz/documents/science-and-technical/drds340entire.pdf>

Davidson, R.J.; Richards, L.A.; Abel, W.; Avis M. 2014. Long Island-Kokomohua Marine Reserve, Queen Charlotte Sound: update of biological monitoring, 1992 –2014. Prepared by Davidson Environmental Limited for Department of Conservation, Nelson. Survey and Monitoring Report No. 796. <http://www.doc.govt.nz/Documents/conservation/marine-and-coastal/marine-protected-areas/long-island-monitoring-report.pdf>

RECOMMENDATION 3:

That the MPAA defines criteria that a regional network of marine protected areas has to achieve to be considered representative.

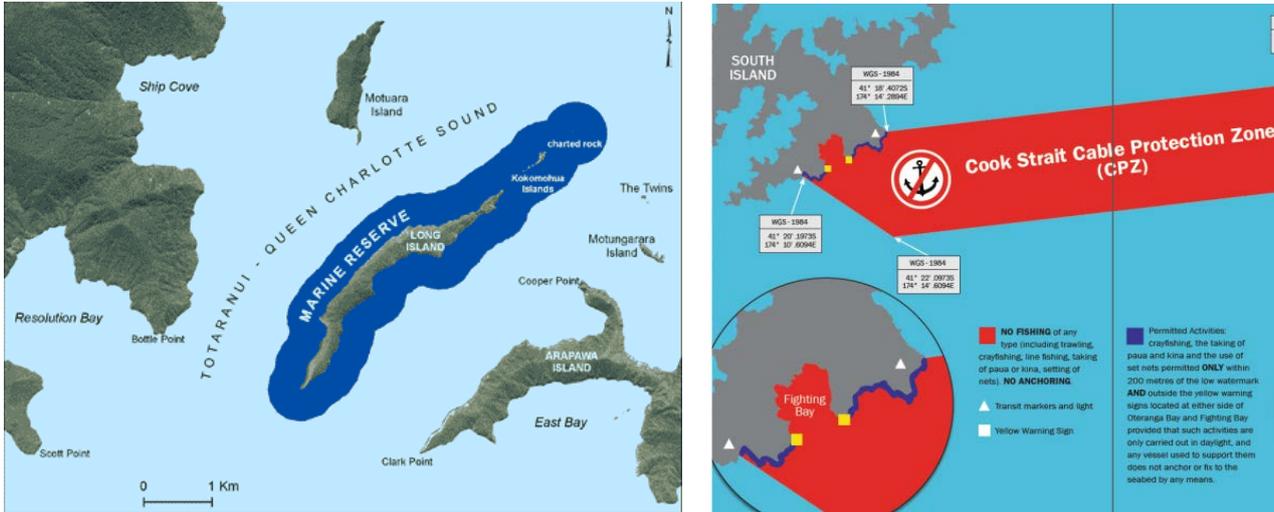


Figure 3: Long Island Kokomohua Marine Reserve within Queen Charlotte Sound (left) and the Cook Strait Cable Protection Zone eastwards from Fighting Bay in outer Port Underwood (right).

4. Interaction of the Resource Management Act with Marine Protected Areas Act.

Council has a statutory responsibility under the RMA to maintain biodiversity in its region (section 30(1)(ga), RMA). Council also has to protect significant habitats for indigenous fauna with the CMA as a matter of national importance (section 6, RMA). Council has the ability to control the effects of activities on significant habitats vulnerable to seabed disturbance, in particular seabed trawling and dredging.

To give effect to its responsibilities, Council identified ecologically significant marine habitats based on the available knowledge in 2011.³ These included biogenic habitats (e.g., Figure 4) and areas identified as important for whales, dolphins and seabirds (Figure 5). Monitoring of subtidal sites in 2015 showed damage to some fragile biogenic habitats, and destruction of values at three sites. The causes of the loss and damage to significant habitats were attributed to seabed trawling, dredging and sedimentation from forestry.

In response, Council is planning to prohibit seabed disturbance to maintain biodiversity at sites assessed as significant under section 6 of the RMA. This protection is to take effect upon notification of the forthcoming Marlborough Environment Plan. There is a potential overlap with the proposed MPA seabed reserves.

³ Davidson RJ, Duffy C, Gaze P, Baxter A, DuFresne S, Courtney S, Hamill P. 2011. Ecologically significant marine sites in Marlborough, New Zealand. Coordinated for Marlborough District Council and the Department of Conservation by Davidson Environmental Ltd. <http://www.marlborough.govt.nz/Environment/Coastal/Coastal-Ecosystems/Significant-Marine-Sites.aspx>

The MPA consultation document does not acknowledge the statutory responsibilities that regional councils have under the RMA to protect significant seabed sites. Council REQUESTS that the relationship between the MPAA and the RMA is clarified.

This request for clarification applies to the proposed Seabed Reserves and Species-Specific Sanctuary MPA tools. It also applies to the regulation of plantation forestry under the proposed National Environment Standard (NES) promulgated under the RMA. The NES as consulted on in 2015 does not provide mechanisms for Council to mitigate sedimentation inputs into the CMA from adjoining land and river inputs.

RECOMMENDATION 4:

That clarification is provided on the relationship of the Marine Protected Areas Act with the Resource Management Act.



Figure 4: Biogenic habitat in Pelorus Sound (left) - note the number of blue cod in the background (photo: Danny Boulton); and bottom-trawl equipment dragged over biogenic habitat (photo: Rob Davidson).

5. Coordination and Integration

In addition to greater clarity in legislative arrangements, Council also recognises the need to coordinate with central government agencies in managing Marlborough's coastal waters. Currently Council works with DoC and MPI on specific operational issues as they arise. However, management at a strategic policy level is not well-integrated between the agencies. This has been identified by the community with the establishment of the Marlborough Marine Futures process to better address long-standing environmental issues in the CMA.

DoC manages a number of land reserves in the Sounds, in addition to the Long Island Kokomohua Marine Reserve. It also has statutory marine mammal protection and other wildlife management responsibilities. MPI manages fishing and the environmental effects of fishing on biodiversity under the Fisheries Act. This includes management of Benthic Protected Areas (BPAs). Consequently, MPI has built up knowledge and expertise in seabed habitat identification and management throughout New Zealand's marine waters.

In contrast, the Ministry for the Environment (MfE) currently has no statutory mandate to manage marine biodiversity, yet is proposed under the MPAA to manage seabed reserves. Council would like to understand why MfE is now to become an operational agency under the MPAA. Council is CONCERNED that the entry of MfE into coastal management will add to the complexity of biodiversity management, and potentially lead to coordination and integration issues between the different agencies, as well as duplication of resources.

Council would like to see the management of MPAs be informed by best practice examples of integrated management from around the world. There was no mention in the consultation document of the merits and lessons from the Great Barrier Reef Marine Park Authority for example. Similarly, lessons from the Fiordland Guardians model would be instructive for how to effectively integrate different agencies responsibilities.

RECOMMENDATION 5:

That the rationale for MfE to manage seabed reserves be clearly articulated, along with an explanation of how the benefits outweigh the challenges involved with integration and coordination.

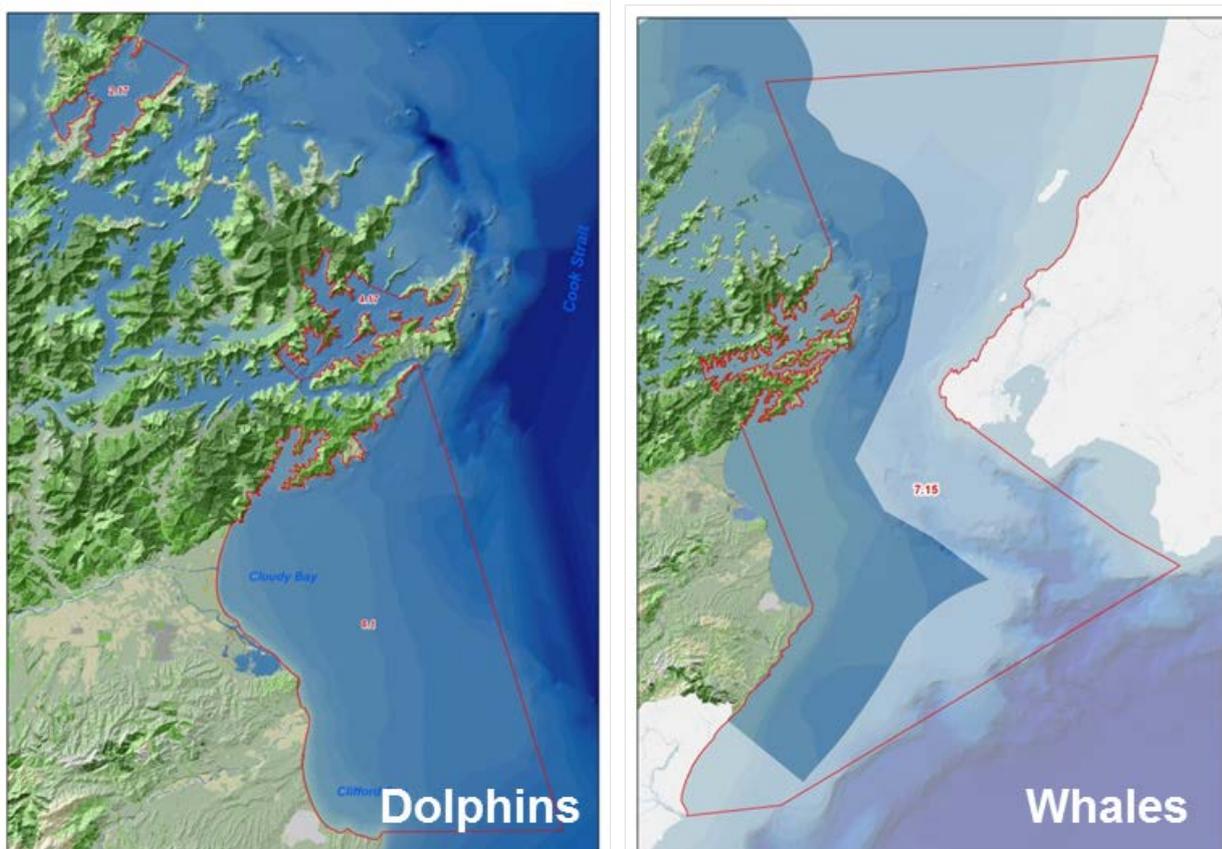


Figure 5: Areas identified by the Marlborough District Council and the Department of Conservation as important habitats for dolphins and whales in the Marlborough coastal marine area.

6. Creation of a Marlborough Sounds Recreational Fishing Park

Council SUPPORTS the establishment of a recreational fishing park ('fishing park') with several caveats.

Council does NOT SUPPORT its creation upon enactment of the legislation.

This is because the community will be denied the opportunity to undertake a collaborative process such as that outlined in the MPA consultation document. Council has supported the Marlborough Marine Futures group for several years, and wishes to see the community have the opportunity to develop its own solutions.

However, Council acknowledges that a statutory time constraint should be placed on that process, so that the government's aspiration for marine protection in the Sounds is not frustrated. Council SUGGESTS that a minimum of two years be given to enable the collaborative process the chance to flourish, and the set of MPAA tools to be fully explored. At the expiry of that period, if a solution acceptable to the community and the government cannot be reached for the Marlborough Sounds, the fishing park would come into being.

Council has no view on the boundaries of the proposed fishing park as set out in the MPA consultation document, as it would prefer to see that discussed by the community.

RECOMMENDATION 6:

That the proposed Sounds recreational fishing park not be created upon enactment of the legislation.

RECOMMENDATION 7:

That the community be given the opportunity to develop its own solutions in a collaborative process involving government agencies, within a specified timeframe of no less than two (2) years.

Council has an ongoing state of the environment monitoring programme for ecologically significant marine sites (<http://www.marlborough.govt.nz/Environment/Coastal/Coastal-Ecosystems/Significant-Marine-Sites.aspx>). That programme is now delivering quality information on the distribution and extent of important habitats for biodiversity within the Marlborough CMA. It is possible that some of these habitats will require protection in marine reserves, given their fragility and ecological role as fish breeding and nursery grounds.

However, the ability to create marine reserves within the proposed fishing park is unclear from the MPA consultation document. Council is SEEKING clarity on whether marine reserves can be established within the fishing park, should the government create it upon enactment of the legislation without enabling a community collaborative process to occur.

Council SUGGESTS that the MPAA should enable marine reserves to be created within the proposed fishing park. Otherwise, the fishing park may need to be statutorily revoked if, for example, the Long Island Marine

Reserve boundary is to be expanded, and/or new marine reserves are to be created within the fishing park boundaries. The fishing park would then need to be re-gazetted once the marine reserves were in place.

RECOMMENDATION 8:

That the MPAA enables the creation of marine reserves within the boundaries of a Marlborough Sounds recreational fishing park.

7. Management of a Marlborough Sounds Recreational Fishing Park

Council SUBMITS that it would be appropriate to be involved in the management of a future fishing park both at the governance and technical advisory levels. This would help ensure that there is integration with the range of Council's statutory functions, including navigational safety, biosecurity, and resource management.

Council CALLS for the ongoing provision of sufficient resources for regulation, compliance and enforcement, science and monitoring, and day-day management of the fishing park.

Council also recognises that a future fishing park may attract increased number of visitors and businesses, including charter operators. Council is concerned that additional pressure will be placed on already depleted fish stocks, such as blue cod and snapper. Accordingly, Council SUPPORTS the need for the MPAA to make provision for the issuing and management of concessions, and for setting the limits of acceptable environmental change in recreational fishing parks.

RECOMMENDATION 9:

That Council is involved in the management of MPAs within the Marlborough CMA at the governance and technical advisory levels.

RECOMMENDATION 10:

That MPAs created come with sufficient ongoing resources from central government for the ongoing research and management needed to achieve the purpose of the MPA.

RECOMMENDATION 11:

That the MPAA enables a concession regime to occur in MPAs to regulate commercial access.

8. Concluding Remarks

Council welcomes the reform of the current marine protection legislative framework. Council is aware of the concern in the Marlborough community at the decline in fish abundance, including highly-valued blue cod and snapper. Council is also concerned at the ongoing damage and destruction of biogenic habitats important for fish, from dredging, seabed trawling, and sedimentation from land-use practices and seabed disturbance. These issues require a high level of integration between central and local government, which is set to become more complicated with the novel involvement of the Ministry for the Environment in managing the proposed Seabed Reserves. The Marlborough community has become increasingly frustrated over the last few years at the lack of solutions to the decline in fish abundance and environmental damage, and have set up the collaborative Marlborough Marine Futures process to attempt to get more effective and integrated management. Council has provided ongoing support to the Marine Futures group as it values community discussions about how to better manage our extensive coastal marine area. Council is concerned that the proposed creation of a recreational fishing park in the Marlborough Sounds will cut across this process. Accordingly, whilst Council supports the fishing park, it recommends that the community be given an opportunity to develop its own solutions, with the support of central government and Council. Council supports the creation of more marine reserves in Marlborough, and would like to see this option available within a future fishing park. Council also sees it has an important role to play in managing MPAs. In closing, Council has been surprised by the MPA proposals and would prefer that central government agencies engage with it at a governance level for future initiatives that significantly affect its statutory functions and the wider community. In that light, Council also requests a greater involvement of local government representatives in the process of reviewing the submissions received on the MPA consultation document.

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