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RE: A New Marine Protected Areas Act

I am writing on behalf of the Waitakere Ranges Protection Society (WRPS) to submit on the consultation document *A New Marine Protected Areas Act* (the consultation document).

Background on the WRPS

The WRPS was incorporated in 1973. Its purpose is the conservation and protection of the Waitakere Ranges and to oppose any activity that may threaten or adversely affect the natural environment in the area.

WRPS and its members are strong advocates for the conservation and protection of the natural environment of the Waitakere Ranges and was one of the key groups promoting the concept of the Waitakere Ranges Heritage Area (WRHA) for 35 years before it was achieved through an act of parliament in 2008.

General comments

The WRPS supports marine protection and considers it necessary to help protect our biodiversity. Our submission is focused on aspects of the legislation that might have an impact on marine protection in the area of concern to the Society; the marine environment around the Waitakere Ranges including areas important to the local fauna such as seabirds.

Overall, WRPS supports the need to revise and modernise the legislation, the continued use of no-take marine reserves, broadening the purpose of marine reserves to include conservation and biodiversity protection, and the continued use of marine mammal sanctuaries and extending these sanctuaries to include all marine species.

In this letter we have outlined our main comments on the proposals and in Appendix A provide specific responses to each question outlined in the consultation document.

Need to include the EEZ in the proposal

We consider that the Exclusive Economic Zone (EEZ) should be included in the proposed legislation.

Marine species are not restricted by a line on maps. Species will move between the territorial and EEZ waters and therefore it is important that the EEZ is available for consideration in developing MPAs if there is a significant need to protect a species or biodiversity in EEZ waters.

Including the EEZ in the legislation means it can be open for consideration for marine protection if required, but does not mean it will be included in MPAs. Not including it ensures that it cannot be considered for marine protection, even where there is a significant need in this part of the ocean, without ad-hoc legislation.

The consultation document indicates that there is insufficient information to include the EEZ. However, including it means that it can be considered in an MPA process and the required information gathered to make a responsible and informed decision. The UN Convention on Biodiversity states: “*where there is a threat of significant reduction or loss of biological diversity, lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize such a threat*”¹. Some of NZ’s most fragile and unique ecosystems are in the EEZ and if there was a threat of significant biodiversity loss in these areas, there should be the ability to consider an MPA without restriction by the Act. Therefore, it is vital that the EEZ and extended continental shelf be included in the Act.

This would also be consistent with other jurisdictions including Australia and Canada which allow for marine protection in their EEZs.

Assessment needs to be broad and emphasis should be on environment

The criteria and proposed assessment process for considering MPAs needs to be broader than outlined in the consultation document and include the full spectrum of environmental, social and economic impacts. A broad impact assessment will consider all the ecological, social, cultural and economic consequences, intended and unintended, positive and negative, of any project or policy proposal in the marine area.

In particular, the consultation document places higher importance on economic impacts than ecological considerations and omits social impacts. Marine protection needs to be considered first and foremost with a focus on biodiversity and conservation. Economic considerations are important, but should not constrain environmental stewardship and need to capture the positive economic benefits from marine protection and opportunities for sustainable economic activities, not just the loss of potential resources. At a minimum, a social assessment should be required to complement ecological and economic assessments and ensure the costs and benefits for the community are given due consideration.

Processes need to be accessible and flexible

It is important that the proposed processes are sufficiently accessible that community groups with limited resources can initiate and participate in them or at least gain access to the technical access and resources they need to investigate and propose MPAs in their area.

¹ Preamble, *UN Convention on Biological Diversity*

The process and proposed criteria should also be flexible to change. Including the criteria and process in the Act rather than as policy statements or secondary legislation could create an inflexible system that may not be able to adapt to future changes. Due consideration should be given to the need to include these aspects in the Act, especially given that there are examples of successful collaborative and consultative processes that are currently or have been undertaken under the current, non-legislative framework. The primary issue with work to date is the need for broader and more flexible tools to implement the resulting recommendations.

Finally, whether in the Act or elsewhere, the design of the consultation processes and information required to initiate a process must be accessible for community groups with small resources. The criteria need to be developed taking into account the capacity and capability of the groups to develop the information needed to initiate a proposal.

Waitakere Coast as a first location for an MPA collaborative process

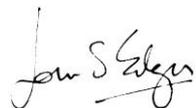
The WRPS has been having initial conversations about greater marine protection for the coast around the Waitakere Ranges with other groups. The marine environment is important for the Ranges as there are several species that live between the land and the sea, e.g. grey faced petrel, penguins and gannets; increasing interaction with marine species along the coast; and increasing interest in the wider marine area and issues.

For a variety of reasons, we consider that there is a case for greater marine protection in the seas adjoining the west Auckland coast; including the pristine environment, the range of biodiversity and habitat and a need to increase the representativeness of marine biodiversity in marine protection.

The west Auckland coast is a relatively pristine environment (for example, the Waitakere Ranges intertidal coast has four definite and 10 possible introduced species, or 10% of recognised introduced species. This compares to the 66 species found in the Waitemata Harbour²). There are also a variety of habits e.g. coastal cliffs, rocky coastlines, iron sand beaches, spits and a different biology to the east coast with cooler waters³. Finally, only a small proportion of NZ coastline is in marine protection compared to the overall marine protection of our seas.

We are interested in the proposed collaborative process outlined in the consultation document and given the uniqueness and need for marine protection, we would like to propose that the west Auckland coast is considered as a first example of the consultative process in action. We would be interested in discussing this further.

Yours sincerely



John Edgar ONZM
President

² Hayward, B. W., & Morley, M. S. (2004). *Intertidal life around the coast of the Waitakere Ranges, Auckland* Technical Publication No. 298. Auckland: Auckland Regional Council.

³ Auckland Wild West Coast Working Group (2003) *Discussion document for Greater Marine Protection For Auckland's Wild West Coast*

Appendix A: responses to discussion document questions

	Question	WRPS comment
<i>Section 2: The need for a new approach to marine protection</i>		
1.	Do you agree there is a need for reform of New Zealand's approach to marine protection?	Yes.
2.	Are there any significant issues that haven't been identified?	Some of the issues identified in the consultation document could potentially be addressed without legislation. Is there a clear intervention logic on why legislation is the most appropriate approach? Certain issues may also be overstated. For example, there are existing case studies of successful marine planning and collaboration on protection recommendations in New Zealand.
3.	Are there parts of the existing approach to marine protection that should be retained? Why?	Key features of marine reserves should be retained including protecting marine life, public access, restriction of fishing, offences and penalties.
<i>Section 3: The proposal: a new approach to marine protection</i>		
4.	Do you support the outlined objectives of the new MPA Act?	Objective 1 should cover the full ocean including the Exclusive Economic Zone (EEZ) and not just territorial sea. Objective two needs to consider all benefits to New Zealand including the social, community and cultural benefits of marine areas. Decisions should balance social, cultural and wellbeing considerations along with environmental protection and economic growth. Environmental protection should be given a greater weighting than other considerations in all decisions to recognise the need to protect and enhance our marine environment. Collaboration needs to include experts of all fields including academics and international experts in marine protection and use. How will the objectives be implemented? Will the existing MPA Policy and Implementation Plan 2008 be implemented or will revised policy guidance be provided?
5.	Are there additional objectives that should be included in marine protection reform?	The overarching objective should be to protect our marine environment including rare, natural, at risk or recovering areas. Any areas where protection is needed to ensure the conservation and sustainability of a species needs to be prioritised.

	Question	WRPS comment
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)?	Yes. However, marine reserves should be for areas that need recovery as well as those in their natural state. It is also vital that the specific-specific sanctuaries apply to the EEZ in the same manner that the existing protection measures for marine mammals and seabirds does now. It would be regressive if the existing provisions were removed in favour of the new proposal.
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?	We would be supportive of greater marine protection in our area of interest and it would support our activities to protect and enhance our region.
8.	Does the approach take account of the way the fishing sector operates? Why/why not?	Yes. The approach allows for collaborative development of marine protection with fisheries and allows for ongoing use of marine resources.
9.	Does the approach take account of the way the oil, gas and minerals sector operates? Why/why not?	Yes. The approach provides more than adequate allowance for oil, gas and mineral permits and engagement with this sector.
10.	Are there other economic interests that haven't been covered?	Sustainable tourism opportunities in future marine protected areas and general economic benefits of marine protection.
11.	Is the new MPA 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?	It depends how decisions are made in an integrated way with other decisions, e.g. oil and gas permits. If these impeded the decision making around marine protection, then it restricts making planned and integrated decisions. In addition, the proposed process may not ensure an adequate balance of environmental and economic concerns and gives little recognition to other issues such as community and social benefits.
<i>Section 4: How it will work: a new process for establishing marine protected areas</i>		

	Question	WRPS comment
12.	What do you think would be the best process for initiating MPA proposals in areas where multiple categories of protection may be needed?	<p>Ensuring a collaborative process is commenced for a geographical area (e.g. the Waitakere Coast from the South Kaiapara Head to Manukau Harbour to the EEZ limit) that takes a first principles approach to reviewing the marine area. This should review the current marine ecological status, any existing protection, and investigate what additional protection is required and what tools could be used to implement further protection.</p> <p>It is important that the full range of existing tools continues to be available for consideration as part of any planning and investigative process for future MPAs.</p> <p>Finally, there needs to be a clearer policy statement, not necessarily in the Act but in associated guidance, on how a systematic investigation, planning and implementation of MPAs will be undertaken.</p>
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?	<p>The two proposed decision-making processes are reasonable for making decisions and engaging key groups of interest.</p>
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)?	<p>Engaging collaboratively with the public and interested parties is critical to any process to advance marine protection. Therefore, the collaborative process should be preferable to the Board of inquiry process.</p> <p>Either process needs to be designed to ensure it is accessible to community groups with limited funding.</p> <p>The terms of reference (TOR) should be developed in a more collaborative way for both processes. The Ministry for the Environment could develop a template TOR that is consulted on and then tailored in consultation with the relevant parties for each process that is set up. Even under a Board of Inquiry process, community groups should be provided the opportunity to engage in the preparation of a TOR and the assessment criteria.</p> <p>The assessment and decision making process must also take a more holistic view including biodiversity, social, cultural and wellbeing impact assessment alongside the proposed economic assessment. National and international frameworks should be used to ensure best practice assessment.</p>

	Question	WRPS comment
15.	Do you agree with the proposed review arrangements? Why/why not? Are there any additional approaches that should be considered for reviewing MPAs?	Reviews of marine reserves, mammal sanctuaries and seabed reserves should not be allowed. These tools should be used for the protection of marine areas in perpetuity. Reviews of recreational fishing parks should be undertaken regularly in line with fisheries standards.
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?	Yes, as long as Iwi are included in collaboration and consultation.
<u>Section 5: Recreational fishing parks</u>		
17.	Do you support the proposal for recreational fishing parks in the Hauraki Gulf and Marlborough Sounds?	Not applicable to organisation.
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, that is, would prominent landmarks help with identifying the boundaries of the park when you are on a boat?	Not applicable to organisation.
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?	Not applicable to organisation.
20.	What do you think about the proposed compensation scheme for commercial fishing affected by the creation of recreational fishing parks?	Not applicable to organisation.
21.	What do you think about who should manage the recreational fishing parks? How could the park management work together with existing groups?	Not applicable to organisation.
22.	How should benefits and changes created through the proposed parks be monitored? How could this work?	Not applicable to organisation.
<u>Section 6: Implementation</u>		

	Question	WRPS comment
23.	Do you agree with the proposed arrangements for transitioning existing MPAs? If not, what are your concerns?	Yes, as long as the existing protections are maintained or enhanced in each case, particularly the scope of existing marine mammal and seabird protection measures under the Marine Mammals Protection Act and the Wildlife Act.
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?	All possible tools including the proposed MPA tools, customary management areas, fishing restrictions and transport and communication restrictions (e.g. cable zones) should be available for consideration as potential tools in an integrated management package.
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)?	The new legislation must ensure the same or increased level of protection is enabled for marine reserves and species sanctuaries. All existing reserves and sanctuaries must be transitioned with no changes to their purpose and protection unless changes enhance their conservation function.
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?	Social assessment should be used as part of any MPA process to ensure adequate consideration and engagement of communities.
27.	What role can iwi/Māori play in managing MPAs? Are the proposed approaches sufficient to ensure iwi/Māori are involved in managing MPAs?	The role of iwi/Maori should be explored as part of the process to develop MPAs and implement management.
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?	Commercial tourism activities can be managed in a similar way via permits that are publically consulted. However, it is vital that permits are considered, implemented and regularly reviewed taking into account cumulative effects and not done on an individual basis. Otherwise there is a high risk of negative impacts from tourism activities.