

chapter eleven



Recommendations

As a result of the investigation and analysis undertaken in the preceding chapters and the case studies set out in Part Three of this report, we have developed a series of recommendations for government on how we consider legislative reform in this area should proceed and what it should address. These are set out below along with the rationale behind each recommendation. They address both the short-term urgent need to replace the Marine Reserves Act as well as the longer term need to provide a legislative framework through which marine protected areas can be integrated into broader oceans management through an oceans reform process.

Legislative framework

Recommendation 1

New legislation replacing the Marine Reserves Act should be developed without delay.

The current legislation is outdated, cumbersome and has become unworkable. It does not reflect current thinking about marine protection and as such, should be replaced.

Recommendation 2

New legislation should have as its primary purpose the protection of marine biodiversity. The legislation should also provide for a range of secondary purposes, including cultural and recreational benefits.

New legislation should recognise the value of protecting biodiversity as an end in itself, as well as providing for the other benefits that marine protected areas can generate.

Recommendation 3

New legislation should enable marine protected areas to be created within the territorial sea and the exclusive economic zone.

A well-known limitation of the existing legislation is the absence of a mechanism to establish marine reserves in the exclusive economic zone. This should be addressed so that the new mechanisms can be applied in the same way in both the territorial sea and the exclusive economic zone.

Recommendation 4

The legislation should provide for a comprehensive system of marine protection measures, under which all elements of New Zealand's marine protected areas network would be incorporated.

New Zealand's existing marine protected area network includes areas managed under a range of instruments and by a number of different authorities. New legislation should consolidate them all into one system, managed for the same overall purpose, by the same entity.

Recommendation 5

Transitional provisions should be developed to incorporate areas protected under existing legislation into the new regime.

New legislation would need to provide for a mechanism by which existing marine protected areas, for example, benthic protection areas and marine reserves, can be moved across to the new regime.

Recommendation 6

New legislation should provide for a set of categories of marine protection, ranging from a reserve/no-take zone to areas where some sustainable extractive activities are permitted, based on the IUCN system. There should be a minimum requirement that no-take zones protect at least one example of all identified habitat types.

This approach would allow for a range of levels of protection whilst providing a comprehensive framework within which marine protection can be undertaken. It would also recognise the range of benefits that can be derived from marine protected areas.

Recommendation 7

New legislation should explicitly recognise the special relationship of tāngata whenua with the marine environment, and provide opportunities to enable the exercise of customary rights within the marine protected area network.

The MPA Policy recognises that Māori customary fishing tools may be included as part of a marine protected area network and this should be given statutory recognition.

Marine protected area establishment process

Recommendation 8

New legislation should retain the ability for the Director General of Conservation to make proposals for the establishment of individual marine protected areas and to receive proposals from other parties. The provision should be broadened to permit any person to make a proposal.

The current legislation enables some specified parties to propose marine reserves. This has resulted in the establishment of reserves for which there is a strong sense of community ownership and responsibility, and the mechanism is highly valued. Equally it is appropriate that the government should be empowered to establish individual marine protected areas.

Recommendation 9

New legislation should provide for a process to develop a comprehensive and representative marine protected area network within the territorial sea and exclusive economic zone. There should be a timeframe for its completion (at the latest by 2020) and requirements for the responsible Minister to report to Parliament periodically on its progress.

The MPA Policy provides for a strategic approach to the development of a marine protected area network. However, it has no statutory force and has been implemented in only two bioregions. New legislation should require the objectives of the MPA Policy to be achieved and set out a means by which it should be done.

Recommendation 10

New legislation should set out a process for the involvement of stakeholders in the development of the marine protected area network, including provision for either comprehensive consultative processes or the adoption of a collaborative decision-making process, where appropriate.

Any initiative for developing the marine protected area network must include strong stakeholder involvement. In order to move past the adversarial approach to marine management which currently exists in New Zealand, more use should be made of collaborative decision-making, which seeks to produce proposals

which are acceptable to all stakeholders. Where collaborative approaches are not appropriate, full engagement of stakeholders and the public should be facilitated through consultation.

Recommendation 11

Detailed consideration should be given to the process for stakeholder engagement, and the outcomes expected of any collaborative process. Consideration should also be given to the means by which the problems with collaborative processes, identified in this paper, can be overcome.

Experiences show that collaborative processes can have significant benefits but there are a range of challenges which can be a barrier to success. As a result, collaborative processes should not be embarked upon without detailed planning, sufficient resourcing and careful consideration of the potential pitfalls.

Recommendation 12

The final decision on the establishment of new marine protected areas should be made by the administering authority (the Minister of Conservation) on the basis of recommendations from an independent board of inquiry. Where proposals are the product of a collaborative process, the board of inquiry's terms of reference should be limited to those matters on which the stakeholder group cannot achieve consensus.

An independent board of inquiry process similar to that used in the preparation of national policy statements under the Resource Management Act would ensure that both conservation and resource use interests can be considered in an objective way. If collaborative decision-making is to be used, limiting the board of inquiry's terms of reference would give greater meaning to the collaborative process, and incentivise participants to achieve agreement.

Management, monitoring and enforcement

Recommendation 13

New legislation should provide a strong framework for ongoing management of established marine protected areas. This should include the gathering of baseline

data upon establishment and on an ongoing basis, provisions for adaptive management and effective enforcement measures.

It is important that resources are invested in the gathering of data that can assess whether management measures are effective and consequently, whether they should be modified. Equally, the establishment of marine protected areas is largely useless if the rules governing them are not enforced.

Recommendation 14

Where appropriate, provision should be made for stakeholders involved in the identification of marine protected areas, and tāngata whenua, to be involved in the ongoing management of areas.

This would enable continued use of the social capital generated through stakeholder involvement in marine protected area design, and encourage local ownership of marine protected areas.

Longer-term oceans reform

Recommendation 15

Government should undertake reform of marine management, to provide for the management of marine protection and marine activities that is integrated across sectors.

Although new marine protected areas legislation will be a step towards better management of the marine environment, more substantial progress can be made through the development of a new approach to oceans management, which considers the whole marine area in a holistic way.

Recommendation 16

Oceans reform should include the provision of a legislative framework for marine spatial planning and better integration of marine management with catchment management, to allow terrestrial threats to the marine environment to be more effectively addressed.

Marine spatial planning will provide for better management of the range of marine activities, and in turn, better management of their impacts on marine protected areas. However, management of marine activities needs to be supplemented with improved management of coastal activities. Sedimentation, nutrient runoff and pollution are significant threats to the marine environment that cannot be addressed without this integration.

