

From: [Rebecca Bird](#)
To: S9(2)(a)
Cc: [Lou Sanson](#); [Michael Slater](#); [Natasha Hayward](#); [Government Services](#); [Lynn Hansberry](#)
Bcc: [Lesley Douglas](#); [Lauren Bland](#)
Subject: 20-B-0252- Advice- South East Marine Protection Update- Public Consultation
Date: Tuesday, 31 March 2020 3:41:00 pm

Kia ora S9(2)(a)

We wanted to get this across sooner rather than later to ensure the Minister can see our advice before discussing with Minister Nash. I understand Lou intends to follow up with the Minister directly.

Please don't hesitate to call me if you have any questions.

Nga mihi

Rebecca

20-B-0252- Advice- South East Marine Protection Update- Public Consultation

1. This email provides you with updated information on the implications of the national response to COVID-19 on the public consultation process for southeast marine protection.

Summary – Tuhinga Whakarapoto

2. On Friday 20 March 2020, Department of Conservation (DOC) officials provided advice to the Deputy Director-General Operations (DD-G Operations) regarding options for managing the southeast marine protection (SEMP) public consultation process. On the morning of Monday 23 March 2020, we understand the Minister of Conservation (MOC) indicated her preference for the current SEMP process to continue. The DOC advice (and MOC's indication) was provided under the context of a national response to COVID-19 being at Alert Level 2 – "Reduce".
3. Later on 23 March 2020, the Prime Minister announced an escalation of the national Alert Level (from Alert Level 2 to Level 3 for 48 hours, proceeding to Level 4 after 48 hours).
4. On 25 March 2020 a National State of Emergency was declared, and at 11.59pm the nation moved to Alert Level 4 – "Eliminate". This changes the context on which the 20 March 2020 DOC advice was based, and therefore requires reconsideration.
5. The public can no longer access hard copies of the public SEMP consultation document as copies of the document were displayed in DOC offices and some libraries which are now closed. Access to this information is a requirement of the Marine Reserves Act 1971 (the Act). It is likely any future submitters are now limited to those with home internet access.
6. Fisheries New Zealand has prepared advice for their Minister regarding options for stopping the current SEMP public consultation process.
7. Concurrent work on Crown-Treaty partner engagement has now been delayed. The planned 30 March 2020 hui in Otago with Ngai Tahu has been postponed with no future date or process for engagement agreed.

The following paragraphs are subject to legal privilege

8. S9(2)(h)
[Redacted]
9. S9(2)(h)
[Redacted]

Background and context – Te Horopaki

10. DOC and Fisheries New Zealand launched joint-public consultation on SEMP on 17 February 2020 and the consultation process is due to close on 17 April 2020.
11. For DOC, there are two main aspects to the current SEMP consultation: statutory consultation under the Act and concurrent consultation with our Treaty Partner.
12. On Friday 20 March 2020, the DOC SEMP team provided advice to the DDG-Operations regarding options for managing the current SEMP consultation process under the national COVID-19 response context of Alert Level 2.
13. On the morning of Monday 23 March 2020, the MOC indicated her preference for the SEMP process to continue.
14. Entering Alert Level 4 has significant implications for the statutory consultation process. Section 5(2) of the Act requires the plan of the proposed marine reserves “shall” be available during office hours at the appropriate DOC office. We can no longer fulfil that requirement. In addition, the restriction of non-essential travel and closures of libraries inhibit people’s potential ability to participate in the consultation in a normal manner. In addition, we can no longer readily access written submissions posted to DOC Head Office.
15. Treaty partner engagement has also been postponed. On 24 March 2020 a representative from Ngai Tahu advised they recommended postponing the proposed hui on 30 March due to the COVID-19 outbreak. People were either aiding their whanau, assisting with school closures or preparing themselves for the impending self-isolation. The advice was that any hui should be postponed until Papatipu Runaka are fully settled in and comfortable with these imposed restrictions.
16. The implications of the nation’s move to Alert Level 4 changes the context on which the 20 March 2020 SEMP team advice was based, and therefore requires reconsideration.
17. On 26 March 2020, Fisheries New Zealand officials advised their Minister is considering stopping SEMP consultation and they are preparing advice on the matter.
18. We have also received a number of media and public enquires regarding plans for SEMP consultation.

Public consultation

19. On 17 February 2020 DOC published public notices stating the Director-General’s intention to apply for an Order in Council to establish six proposed marine reserves and launched the Public Voice online interface for submissions. Under the Act, a two-month public consultation period is required from that date of notice.
20. We have facilitated public feedback by providing a comprehensive online interface for submissions as well as providing for email and postal submissions on the proposed SEMP network.
21. Up until late last week, DOC’s position had been that, while we must work within legislative constraints, as an acknowledgement of the pressures caused by COVID-19 we would consider late submissions on a case-by-case basis.
22. Our position has now evolved given the escalation to Alert Level 4 and the implications this has for public access to the consultation material and the associated public perception risk.

The following two paragraphs are subject to legal privilege

23. S9(2)(h)
[Redacted text block consisting of four lines of blacked-out content]
24. The advice is:
 - There would be a very high risk of legal challenge (that would have merit) if we

continue with public consultation on the basis that the process is now inherently flawed because of people's potential inability to participate in the normal manner given the circumstances.

- It is a legal requirement under s 5(2) of the Act that the plan of the proposed marine reserves "shall" be available during office hours at the appropriate DOC office. We can no longer fulfil that requirement.
- The Act doesn't make any provision for pausing or extending the consultation period. Therefore, the public consultation process would need to be cancelled completely rather than suspended with any suggestion of 're-starting' again as a continuation of this process. There is, however, nothing in the Act to prevent withdrawing the current process and then 're-notifying' a new two-month period at an appropriate time.

25. In terms of Treaty partner engagement, no new hui date or process for engagement has been agreed. Virtual hui run through Runaka offices were discussed but would be impracticable now that Alert Level 4 is in place. S9(2)(j)

The following paragraph is subject to legal privilege

26. S9(2)(h)

We have requested an urgent directive from the DOC Director-General

27. There are two main options under consideration:

- Continue with consultation (i.e., continue with current 2-month statutory public consultation that began on 17 Feb 2020 and will end on 17 April 2020, and subsequent amended process, which is still to be determined)
- Withdraw consultation (i.e., stop the current 2-month statutory public consultation, with a view to reinitiating a new 2-month statutory public consultation at some appropriate later date).

28. We require a directive to allow us to plan the next steps regarding SEMP consultation. We also need to communicate this directive to a range of audiences.

29. Continuing consultation would also require a clear communications plan as we would need to address issues around natural justice and public perception.

30. Withdrawing consultation would require clear communications around the status of current submissions and the process from here.

31. If the directive is to withdraw, we will also need to give further consideration to the process for commencing a new statutory public consultation process. For the sake of efficiency and to recognise the work submitters have already undertaken, our preference would be to re-release the current document in full and to give submitters the opportunity to re-submit their existing submissions. Whether or not this is possible will depend on how much time passes between withdrawing the current consultation process and starting a new process. Any changes in terms of technical, legal or Treaty partner engagement in the intervening period would also need to be considered. Again, this work will be progressed once a directive is confirmed.

Risk assessment – Nga Whakatupato

The following three paragraphs are subject to legal privilege

32. S9(2)(h)

- S9(2)(h)
33. S9(2)(h)
34. S9(2)(h)

Next steps – Nga Tawhaitanga

35. Once we have a directive, we need to consider the practicalities of this decision and when this should take effect, specifically how we'll notify the public and people who have already submitted.
36. If the directive is to withdraw, we will also need to give further consideration to the process for commencing a new statutory public consultation process.
37. We plan to do this with Fisheries New Zealand over the coming days, once a directive has been confirmed.
38. We will remain in close contact with Ngai Tahu to ascertain options for future engagement.

Contact for queries:

Rebecca Bird, Marine Protected Areas Significant Projects Manager. Mobile: 027 547 5782.

ENDS.

Nga mihi

Rebecca Bird

Marine Protected Areas Significant Projects Manager

Planning Permissions and Land - *Pou Tautoko a Motu*
Department of Conservation—*Te Papa Atawhai*



S9(2)(a)

Please note I work out of the DOC Wairau office in Renwick.

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From: [Rebecca Bird](#)
To: S9(2)(a)
Cc: [Vrutika Patel](#); S9(2)(a) [Lynn Hansberry](#)
Subject: 20-B-0200 - Advice - Rock Lobster industry and SEMP work
Date: Monday, 16 March 2020 5:17:00 pm
Attachments: [image001.png](#)

Kia ora S9(2)(a)

Please find below a response to the Minister's request regarding the Site D1 impacts. Please note, DOC requested the data from FNZ and we assessed it internally in order to respond quickly. We can still arrange for external analysis, but as limited data is available, this would be unlikely to result in a more detailed assessment than we have provided. Please let me know if you have any questions.

Purpose

This email responds to the Minister's query on 10th March 2020 after signing out 20-A-0084 on Rock Lobster Industry:

S9(2)(g)(i)

[Redacted]

[Redacted]

[Redacted]

DOC Response:

S9(2)(f)(iv)

[Redacted]

Released under Official Information Act


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Released under Official Information Act

Rebecca Bird

Marine Protected Areas Significant Projects Manager

Planning Permissions and Land - *Pou Tautoko a Motu*
Department of Conservation—*Te Papa Atawhai*

 S9(2)(a)

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From: [Rebecca Bird](#)
To: S9(2)(a)
Cc: [Government Services](#); [Bethanie Sant](#); [Vruttika Patel](#); [Debby Drummond \(ddrummond@doc.govt.nz\)](#); [Lauren Bland](#)
Subject: 20-B-0103-Advice-SEMP and DEV discussion
Date: Friday, 6 March 2020 11:06:00 am

Kia ora S9(2)(a)

Please find below responses to the Ministers requests following her 11 February meeting with Ngai Tahu, and the 12 Feb Dev Committee discussion.

S9(2)(j)

Happy to field any questions,

Thank you

Rebecca

1. DOC negotiating position on southeast marine protection engagement with Kai Tahu


S9(2)(j)

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

[Redacted]

[Redacted]

DOC Response

- DOC is drafting a negotiating position memo for the approval of the Deputy Director-General Operations (Michael Slater). Once this paper is finalised it will be provided to you for noting.
-  S9(2)(j)
- Fisheries New Zealand (FNZ) is also progressing a position paper and will provide this to DOC shortly.
- Once FNZ's concept paper is available to DOC, we will refine our positions and update you on this.

2. MBIE engagement on potential impacts of MR on sea bed mining and seismic surveys. What is MBIE's view?

MOC questions:

- A question was asked whether MBIE had been consulted especially re potential impacts of MR on sea bed mining and seismic surveys. Has it been and what is MBIE's view? If it has not been please canvass.

DOC Response

- On 25 July 2019 DOC officials met with MBIE to discuss the potential effects of progressing the Forum's Network 1 proposal on prospecting and mining activities/interests in the area. This Forum recommended that there be restrictions on all seismic activities within the network. MBIE's views during this meeting were that they:

-  S9(2)(g)(i)
- 
- 

Released under Official Information Act

S9(2)(g)(i)

- [Redacted] S9(2)(g)(i)
- No further correspondence with MBIE has occurred following the 25 July 2019 meeting. No contact has been made with existing interest holders of exploration, prospecting or mining permits.
- In joint-memo 19-B-O648 (para 41-44), DOC and FNZ advised that:

S9(2)(h)

S9(2)(g)(i)

3. Process delays - timeline and reasons for the delays since March 2019.

MOC Questions:

- It was twice referred to that Cabinet had considered the issue in March 2019 and it had taken until now to progress the issue. Please provide the reasons for the delays so I can speak to these in future. (It is not just consultation with Ngai Tahu).

DOC Response

- Delays in proceeding to public notification of the SEMP proposal were predominantly due to the time it took to secure meetings with our Treaty Partner, our obligations under section 4 of the Conservation Act, as well as meeting regulatory impact analysis requirements of Treasury. Below is a timeline.

Month	Activity	Further Commentary
December 2018	Ministerial decisions and directives including a confidential directive until ministerial announcements.	This decision was kept confidential until Ministerial announcements in May.
March 2019	Cabinet presentation on Network 1 progression.	
May 2019	Ministerial announcement on Network 1 progression.	
May-July 2019	Agency preparation for public consultation and hui scheduling with Ngai Tahu following Titi season.	S9(2)(h)
August 2019	Murihiku Runaka hui at Bluff.	Focus on Irihuka/Long Point.
September 2019	23 Sept hui with Papatipu Runaka. Here it was indicated that DOC should not proceed with public notification without accurately representing the Ngai Tahu position in the public consultation document (i.e. the reasons for their opposition and the impacts of the proposal on their rights and interests). Our revised proposed notification date became mid to late October 2019.	DOC and FNZ were not able to secure a meeting with all Papatipu Runaka until 23 September 2019 and planned to publicly notify the proposal shortly after this meeting – indicating to Runaka that further engagement with them would proceed concurrently to the public process.
27 September 2019	DOC provided wording to Papatipu Runaka to review and include in the public consultation document outlining the Ngai Tahu position and provided 2 weeks for Papatipu Runaka to review and approve the wording in order to finalise the consultation document and proceed with a mid to late October notification date.	
9 October 2019	FNZ informed DOC that Treasury was requiring FNZ to include a bespoke RIA in the consultation document and a joint independent DOC-MPI RIA panel to assess and approve our consultation document from a RIA perspective. Notification could not occur until after this was complete.	
20 October 2019	A joint DOC MPI RIA Panel was set up to assess the consultation	

	document.	
25 October 2019	DOC representatives met with TRoNT to further discuss the SEMP proposal.	S9(2)(j)
7 November 2019	DOC communicated to Papatipu Runaka that TRoNT would co-ordinate the Ngai Tahu response to wording in the consultation document.	
16 December 2019	TRoNT gave its final approval of the wording of their position in the consultation document.	
16 December 2019	The RIA Panel gave its final approval of the SEMP consultation document.	
19 December 2019	DOC DG approved 6 Marine reserve applications for public notification.	
20 December 2019	DOC and MPI respectively briefed you and Minister Nash on the consultation document and a proposed public notification date of 17 January 2020.	
7 January 2020	We were informed that Minister Nash did not sign off on the consultation document and that he would not be back in office to do so until 23 January 2020. A revised notification date of 17 February 2020 was then made.	
17 February 2020	Public notification of the SEMP proposal then proceeded on 17 February 2020.	

S9(2)(f)(iv)

[Redacted]

[Redacted]

[Redacted]

[Redacted]

- [Redacted]

Released under the Official Information Act

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Contact for queries:

Rebecca Bird, Marine Protected Areas Significant Projects Manager.

Mobile: S9(2)(a)


ENDS

Nga mihi

Rebecca Bird

Marine Protected Areas Significant Projects Manager

Planning Permissions and Land - *Pou Tautoko a Motu*
Department of Conservation — *Te Papa Atawhai*

 S9(2)(a)

Please note I work out of the DOC Wairau office in Renwick.

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Links to files that were attached to this message:

RE: SEMP and DEV discussion .msg Outlook Item, 8.21 MB

https://doccm.doc.govt.nz/cs/idcplg?IdcService=GET_FILE&dDocName=DOC-6245346&RevisionSelectionMethod=LatestReleased&allowInterrupt=1

20-B-0103-Attachment 1- South-East Marine Protection S9(2)(f)(iv)

- DOC-6216290.docx Microsoft Word Document, 6.84 MB

https://doccm.doc.govt.nz/cs/idcplg?IdcService=GET_FILE&dDocName=DOC-6245347&RevisionSelectionMethod=LatestReleased&allowInterrupt=1

Open [WebCenter Content Server](#)



Department of
Conservation
Te Papa Atawhai

Departmental Memo

In Confidence

DOCCM: 6216290

Date: 3 March 2020

To: The Minister of Conservation

From: Natasha Hayward, Director Planning, Permissions and Land.

S9(2)(f)(iv)

S9(2)(f)(iv)

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Cabinet Paper Memo



Department of
Conservation
Te Papa Atawhai

GS ref: 20-K-0001

DOCCM: 6204361

In Confidence

Paper title: Proposed package of marine protection measures in the south east of the South Island

Minister lead: Hon Stuart Nash, Minister of Fisheries

Committee: Cabinet Economic Development (DEV) Committee

Date of meeting: 12 February 2020

DOC contacts: Natasha Hayward, Director Planning Permissions and Land [redacted] S9(2)(a)
Rebecca Bird, MPA Significant Projects Manager [redacted] S9(2)(a)

Purpose	To inform Committee members of the pending launch of public consultation on the South East marine protection package of measures.
DOC comment	<ul style="list-style-type: none">Minister Nash will present a short oral item to DEV on the public launch to consultation.DOC and FNZ intend to launch public consultation on 17 February 2020.FNZ have developed the attached Aide-memoire for their Minister.DOC supports the paper.Public consultation is a significant milestone in the MPA process. You may however encounter criticism from colleagues for undue delays and/or for not seeking cabinet approval on the consultation document. Your Ministerial roles as decision makers on marine reserve proposals could risk pre-determination if Cabinet approval was sought at this stage, so it is appropriate Cabinet receives a noting item only.

Talking Points

- I support the Hon Stuart Nash, Minister of Fisheries in his presentation and note this is a significant development in the MPA process for the South East South Island region.
- As noted, DOC and Fisheries New Zealand have undertaken important consultation with Kāi Tahu over 2019.
- I am very pleased the views of the public will now be sought to help inform our decisions later in 2020.
- [redacted] S9(2)(g)(i)

- The six Marine Reserve applications are made in the name of the Director-General.
- In summary, Cabinet or Ministers do not have a statutory role under the Marine Reserves Act 1971 at this stage of the Marine Reserves application process.
- Agencies have developed a combined consultation document including the marine reserve applications and fisheries regulations.

S9(2)(h)

S9(2)(f)(iv)

Document link: being released by Fisheries New Zealand

ENDS

Vruttika Patel

From: Rebecca Bird
Sent: Wednesday, 22 January 2020 12:01 p.m.
To: S9(2)(a)
Cc: Lynn Hansberry; Natasha Hayward; Government Services; Lauren Bland; Lesley Douglas; S9(2)(a); Leigh-Anne Wiig
Subject: Re further response 20-B-0005 South-East Marine Protection – update regarding delayed consultation process.

Kia ora S9(2)(a)

Apologies for the delayed response, please find below the answers to the email feedback and questions raised by the Minister on 9 January 2020. Please note, the attached maps and flowcharts are referred to in the response below.

Please don't hesitate to contact me if you have any questions.

1. MOC Statement:

The establishment of marine reserves needs to be part of a wider package which includes taiāpure and mahinga mātaītai. I have emphasised that with DoC from the start. S9(2)(g)(i)

DOC response:

Establishing mātaītai and taiāpure are not part of the SEMP Network 1 proposal we have been instructed to progress and consult the public on but are part of the ongoing discussions with Ngāi Tahu in relation to their aspirations for their rohe moana. This is discussed in detail below.

2. MOC Question:

So given the lack of any cross reference to taiāpure and mātaītai in the DoC consultation document what is in the companion document from FNZ which sets out the Type 2 MPAs ?

DOC response:

There is only one consultation document – the joint DOC-FNZ consultation document. Fisheries New Zealand do not have an equivalent requirement to develop an application under the Marine Reserves Act 1971, but are rather progressing their process for potential development of regulations under the Fisheries Act 1996, the first part of which is consulting with the public through a consultation document on the proposal.

Therefore, there isn't an equivalent document (like the Marine Reserve Applications) for the Type 2 MPA Proposals. What is in the joint consultation document is the entirety of the Type 2 MPA proposals and kelp protection measures as presented for public consultation.

The joint DOC and FNZ Regulatory Impact Assessment panel process that was completed for the joint consultation document, among other things, sought to:

- present both Type 1 and Type 2 MPAs and kelp protection and in a uniform manner in the consultation document to assist in consulting on the network as a whole; and
- ensure, as far as possible, that the consultation document was able to provide for meaningful public consultation, including being of a suitable length.

The current version of the consultation document is 46 pages. Pages 1 -15 presents information relevant to the whole Southeast marine protection network proposal, pages 16 – 32 present each marine reserve, and 33 – 45 presents the Type 2 MPAs and kelp protection.

Previous iterations (before the RIA panel assessment) were longer than this, and in parts had more detail. However, the RIA panel provided recommendations to streamline the information and present it in a manner that the panel considered best facilitated meaningful public consultation on the Southeast marine protection network proposal.

Having joint DOC FNZ RIA panel assessment and a 'bespoke RIA' in the joint consultation document was a requirement that came from the Department of Treasury, particularly as the consultation document was not going through Cabinet for approval following our Ministerial directives not to do so.

3. MOC Question:

How many mātaihai and taiāpure are proposed?

DOC response:

There are no mātaihai and taiāpure proposed as part of the SEMP Network 1 proposal. See further discussion below.

4. MOC statement:

At least five Type 2 MPAs were part of the Forum recommendations and several of these would be

S9(2)(g)(i)

DOC Response:

We are consulting the public on Network 1 and it does not include proposals for mātaihai and taiāpure.

You and the Minister of Fisheries directed DOC and FNZ to progress the statutory process for implementing the Forum's recommendations for the Network 1 Proposal.

The Network 1 proposal does not include proposals to establish any mātaihai reserves and taiāpure.

5. Why doesn't Network 1 (ie -the Forum recommendations) include proposals for mātaihai and taiāpure?

The SEMP Forum was started under a different government, whose direction was to run an MPA Policy process.

The MPA Policy does not provide for a mechanism to establish taiāpure and mātaihai and was thus out of scope for the Forum.

This was written into the Forum's Terms of Reference (i.e. they were to make recommendations consistent with the MPA Policy).

It should also be noted that the Forum Iwi representatives were not mandated to establish customary tools, which would require greater whanau/hapu/iwi engagement over longer timeframes.

It was also made clear by the Iwi representatives on the Forum, that:

- the Forum were not to propose mātaihai or taiāpure; and
- it would be inappropriate for a stakeholder forum to do so.

S9(2)(g)(i)

The only case where a mātaihai has been designated a type 2 MPA was in Patterson Inlet, after much discussion.

6. The impacts of establishing MPAs on customary tools has consistently been raised by Ngāi Tahu

S9(2)(j)

This was also identified in the Forum's recommendations report (page 244-245).

The impact of developing MPAs on the ability for mana whenua to then establish customary management tools has consistently been raised as an issue by Ngāi Tahu, particularly the different thresholds for establishing a mātaihai reserve vs marine reserves.

Again, this is explained in detail at page 244 and 245 of the of the Forum's recommendations report, but essentially:

- To establish a marine reserve the threshold for potential impacts on commercial fishing is that it cannot “interfere unduly with commercial fishing”; whereas
- To establish mātaítai the threshold for potential impacts on commercial fishing is that it cannot “prevent persons with a commercial fishing permit/quota entitlement from taking their annual catch entitlement in the quota/permit management area”.

The test is significantly harder for establishing a mātaítai, which often means they are reduced in size substantially, from initial proposals to meet this threshold. This is also compounded if a marine reserve is established in an area - the ability for mana whenua to then establish mātaítai becomes even more difficult (due to potentially additional commercial quota/permit displacement from a nearby marine reserve making it even harder to meet a mātaítai test in a nearby mātaítai proposal).

The Forum report notes at page 244:

“To date, the mātaítai reserves in the Forum region have taken a significant amount of time to be approved (up to 10 years) and have had their size significantly reduced from the initial proposal due to these tests. Kāi Tahu believe that such inequitable standards unfairly disadvantage them in efforts to exercise their customary rights, puts a lower value on those rights than on the Crown’s interest in establishing Marine Reserves and appears to be a breach of the Crown’s duty of good faith as a Treaty partner.”

7.

S9(2)(g)(i)

A taiāpure would not automatically put in place any set net or other fisheries controls.

Anyone can propose a taiāpure be established. The Minister of Fisheries decides on the proposal.

A taiāpure management committee may be appointed to oversee fisheries management in the taiāpure. A management committee is not compulsory. Committee membership is made up of those representatives of the local Maori community.

Fisheries controls and measures are at the discretion of the committee.

Discussions are continuing with Ngāi Tahu on their aspirations for mātaítai and taiāpure in the SEMP area

Mātaítai and taiāpure have their own timeline and statutory processes that will need to progress separately to the SEMP proposal.

FNZ is responsible for mātaítai and taiāpure and expect to continue discussions with Ngāi Tahu on potential mātaítai and taiāpure in their rohe moana as part of the ongoing Treaty Partner engagement.

Two mātaítai applications have been lodged in the SEMP planning area since our reengagement with Ngāi Tahu on the SEMP process.

These applications will follow their own process, which includes community consultation (see attachments).

8. What are the current mātaítai and taiāpure proposals in the SEMP planning area?

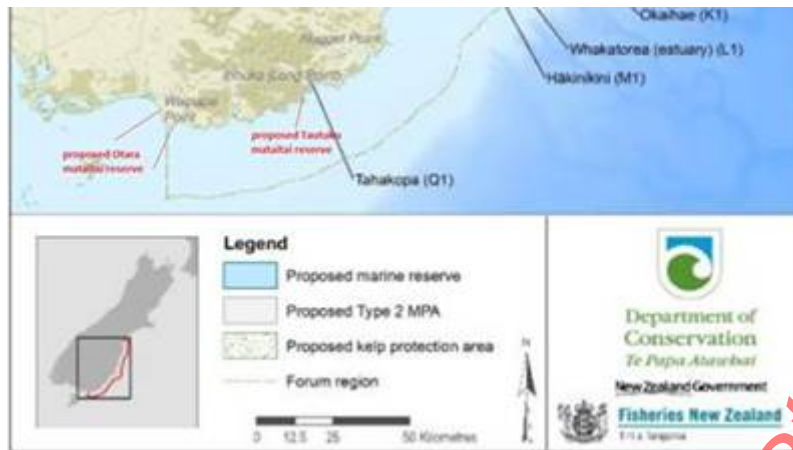
FNZ advise They are currently processing mātaítai reserve applications for areas near Otara and Tautuku. Their approximate locations are on the **map below**.

The Otara mātaítai application was received 12 November 2019. The proposed mātaítai area has a small overlap with the SEMP planning area around Waipapa Point, but does not overlap with any of the proposed marine protected areas in the SEMP proposal. FNZ is currently consulting with the local community on the application.

The Tautuku mātaítai application was received 4 December 2019. The proposed mātaítai area has some overlap with the SEMP planning area over the Tautuku Estuary, but does not overlap with any of the

proposed areas in the SEMP proposal. Fisheries New Zealand is preparing to consult with the local community on the application, consultation is likely to begin in January/February 2020.

There are no proposed taiāpure in the SEMP planning area.



9. MOC Question: What stage is Ngāi Tahu’s application for customary marine title at and when is this expected to be decided? If granted before the marine reserves are established, it would give Ngāi Tahu a veto right over each proposed reserve

DOC Response:

Ngāi Tahu’s application for customary marine title was lodged in 2017 (CIV-2017-485-000280) and is currently subject to case management.

The application is over 85% of the South Island’s coastal marine area under the Marine and Coastal Area (Takutai Moana) Act (CIV-2017-485-000280).

S9(2)(f)(iv)

[Redacted text block]

10. MOC Question: Why is there so much duplication in the MR document? The reserve proposals, boundaries, their impacts and benefits; and the activities which are prohibited are described in the body of the document and then again in the appendix 3 – potentially for statutory purposes. This makes for a much longer and less accessible document than appears necessary. Why doesn’t the document just do it once?

DOC Response:

Due to the preference of consulting on the network as a whole and in a consistent manner (i.e. under MRA and Fisheries Act), the different legislative requirements meant that there was necessarily a degree of replication.

The joint SEMP consultation document is prepared for the purpose of consulting the public on the proposed network of marine protection, which includes:

- The 6 proposed marine reserves
- The 5 proposed Type 2 MPAs; and
- The proposed kelp protection measure

The Marine Reserve Application is prepared on behalf of the DG for DOC for the purpose of making an application for marine reserves under section 5 of the Marine Reserves Act 1971.

Duplication of any material in the Marine Reserve Application is because the Marine Reserve Application should, as a stand-alone document, include all information that is necessary to meet the requirements of an application under the Marine Reserves Act, without referring to the Consultation Document.

11. MOC Question: If DoC and FNZ have worked on separate reports, is the agency plan to release them together and consult on them together at the same meetings? If so why is there no decent cross referencing (eg summary of the FNZ proposals in the DOC document) so public can see they are linked?

DOC Response:

There is only one consultation document – the joint DOC-FNZ consultation document.

12. MOC Question: Who is DoC proposing do an independent review of submissions?

DOC Response:

Section 5(6) Marine Reserves Act provides that you as the Minister of Conservation may obtain report from an independent source.

[Redacted] S9(2)(h)

[Redacted] S9(2)(k)

DOC is currently investigating options for such an independent reviewer and will brief you separately with proposed recommendations.

Ngā mihi

Rebecca Bird

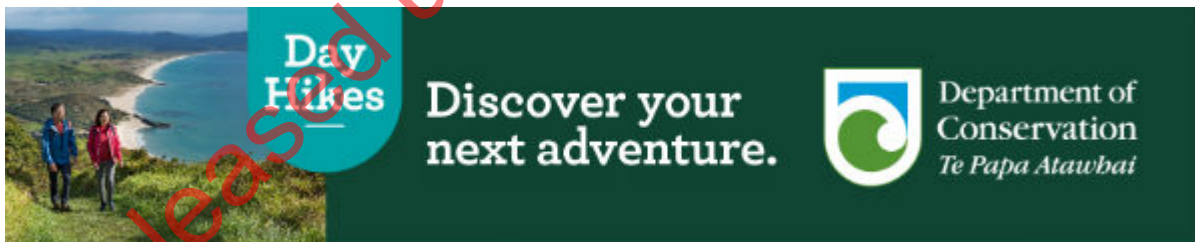
Marine Protected Areas Significant Projects Manager

Planning Permissions and Land - *Pou Tautoko ā Motu*
Department of Conservation—*Te Papa Atawhai*

✉ 18-32 Manners St, Wellington 6011 | P.O. Box 10-420, Wellington 6143 | 📞 M: [Redacted] S9(2)(a)

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From: [Redacted] S9(2)(a)

Sent: Thursday, 9 January 2020 1:33 p.m.

To: Rebecca Bird <rbird@doc.govt.nz>

Cc: Lynn Hansberry <lhansberry@doc.govt.nz>; Natasha Hayward <nhayward@doc.govt.nz>; Marie Long <mlong@doc.govt.nz>; Government Services <GovernmentServices@doc.govt.nz>

Subject: FW: 19-B-0005 South-East Marine Protection – update regarding delayed consultation process.

Kia ora Rebecca,

The Minister has responded with some feedback on your email. The Minister also has some questions below. Happy to discuss.

(FYI The Minister has asked the Press Secretary to liaise with DOC to put together: “a press release, underwater video footage of the area; FAQ, Executive summary of each of the documents is required for the media launch. Can you please liaise with DoC to organise this. My preference for the launch is two Ministerial press statements with Min Nash and I being available for a joint media stand up. That is what I assume DoC means by a “soft launch” . If not please advise.”)

It was [redacted] S9(2)(g)(i)

Some questions follow:

The establishment of marine reserves needs to be part of a wider package which includes taiapure and mahinga mataitai. I have emphasised that with DoC from the start. [redacted] S9(2)(g)(i)

[redacted] So given the lack of any cross reference to taiapure and mataitai in the DoC consultation document what is in the companion document from FNZ which sets out the Type 2 MPAs ? How many mataitai and taiapure are proposed ? DoC’s email below notes that Min Nash has not signed it off. Presumably DoC knows what is in it because they have been consulted in the same way that DoC has consulted FNZ over the MR consultation document. **Please ask DoC to provide MoC with a copy or at least a summary of the proposals.** There should be a summary of the Fisheries Act proposals in the MR consultation document.

At least five Type 2 MPAs were part of the Forum recommendations and several of these would be [redacted] S9(2)(g)(i)

[redacted] . The Forum report noted: *An historical agreement between Kāi Tahu and DOC that allowed rūnaka and whānau time to establish mātaimai reserves and taiāpure prior to Marine Reserves being established was recognised positively by Kāi Tahu. However, it was predicted that there would be opposition to MPAs, particularly Marine Reserves south of the Mata-au (Clutha River), in part due to the desire for additional mātaimai reserves to be established on The Catlins coast. The Kāi Tahu position on Network 1 was influenced by the position of each papatipu rūnaka on proposed MPAs for their rohe moana. Historically hard-won gains to recognise and provide for customary fishing rights of manawhenua are not held lightly or easily relinquished.*

[redacted] S9(2)(g)(i)

[redacted] S9(2)(g)(i)

Why is there so much duplication in the MR document ? The reserve proposals, boundaries, their impacts and benefits; and the activities which are prohibited are described in the body of the document and then again in the appendix 3 – potentially for statutory purposes. This makes for a much longer and less accessible document than appears necessary. Why doesn’t the document just do it once ?

If DoC and FNZ have worked on separate reports, is the agency plan to release them together and consult on them together at the same meetings ? If so why is there no decent cross referencing (eg summary of the FNZ proposals in the DOC document) so public can see they are linked?

Who is DoC proposing do an independent review of submissions?

[redacted] S9(2)(g)(i)

Thanks

E



Hon Eugenie Sage

Minister of Conservation | Minister for Land Information | Associate Minister for the Environment
Parliament Buildings | Private Bag 18041 | Wellington 6160 | New Zealand
Te Whare Pāremata, Te Whanganui-ā-Tara 6160, Aotearoa
E: esage@Ministers.govt.nz

From: Rebecca Bird [<mailto:rbird@doc.govt.nz>]

Sent: Wednesday, 8 January 2020 4:17 PM

To: [REDACTED]
Cc: Government Services <GovernmentServices@doc.govt.nz>; Lynn Hansberry <lhansberry@doc.govt.nz>; Natasha Hayward <nhayward@doc.govt.nz>

Subject: 19-B-0005 South-East Marine Protection – update regarding delayed consultation process.

Kia ora ^{S9(2)}(a) and ^{S9(2)}(a)

Please find below a short update for the attention of the Minister regarding delays to the South-East Marine Protection public consultation process.

1. In accordance with Ministerial instructions, DOC and Fisheries New Zealand (the agencies) have developed a joint consultation document that allows for public consultation on the whole proposed SEMP network. We provided a copy of the consultation document to you on 20 December for your noting (19-B-0969 refers).
2. On 4 December 2019, agencies provided Ministers with a joint briefing on the consultation process for the southeast marine protection process (19-B-0902 refers) noting that contingent on final approvals, public notification is planned for 16 January 2020.
3. As per the legislative requirements, the DOC Director General has approved the six marine reserve (Type-1) applications, ready for notification under the Marine Reserves Act 1971.
4. The Minister of Fisheries was provided with the Type-2 marine protected area (MPA) proposals, as his approval is required under the Fisheries Act 1996. Fisheries New Zealand sought his approval on 20 December 2019.
5. DOC and MPI Officials requested a quick turnaround for approvals in order to prepare for public notification in mid-January.
6. On 6 January 2020, we heard that Minister Nash has not yet provided his approvals. As we do not have the Minister of Fisheries' approval, we cannot proceed with our proposed "go live" date for public consultation on 16 January 2020.
7. The Minister of Fisheries is not expected back in the office until 23 January 2020, which will mean the next realistic "go live" date for public consultation will be after mid-February 2019. Fisheries officials are also awaiting confirmation from Minister Nash on whether he requires a public launch to consultation or not. If so, this may result in further delays.
8. In late December we also requested your office confirm your preference for the consultation launch, noting that agencies preference is to do a soft-launch for expediency.
9. [REDACTED] ^{S9(2)(g)(i)}
10. Once we have heard regarding the Type-2 approvals from Minister Nash, we propose to provide a more fulsome briefing to you outlining the proposed timeline for consultation and decision making.
11. Alternatively, we could consider splitting the consultation process to proceed with publically notifying the marine reserve applications separately – this is not in line with our joint ministerial directive and is not recommended due several inherent risks.
12. Under the Marine Reserves Act 1971, this decision would need to come from the DOC Director General as the Applicant.
13. You may wish to contact Minister Nash directly to request he expedite his approvals on the Type-2 proposals.

Feel free to contact me if you have any questions.

Ngā mihi

Rebecca Bird

Marine Protected Areas Significant Projects Manager

Planning Permissions and Land - *Pou Tautoko ā Motu*
Department of Conservation—*Te Papa Atawhai*

✉ 18-32 Manners St, Wellington 6011 | P.O. Box 10-420, Wellington 6143 | ☎ S9(2)(a)

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Ngā mihi

Rebecca Bird

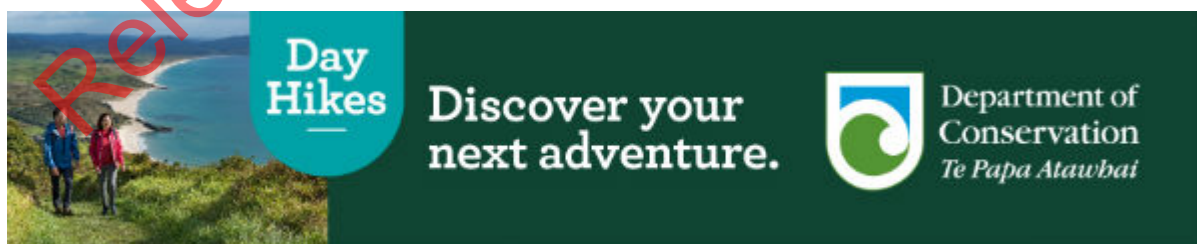
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Links to files that were attached to this message:

Taiapure flow chart (simple).pdf PDF File, 406 KB

https://doccm.doc.govt.nz/cs/idcplg?IdcService=GET_FILE&dDocName=DOC-6188991&RevisionSelectionMethod=LatestReleased&allowInterrupt=1

Mataitai flow chart (simple).pdf PDF File, 414 KB

https://doccm.doc.govt.nz/cs/idcplg?IdcService=GET_FILE&dDocName=DOC-6188992&RevisionSelectionMethod=LatestReleased&allowInterrupt=1

Otara map.jpg JPEG image, 6.08 MB

https://doccm.doc.govt.nz/cs/idcplg?IdcService=GET_FILE&dDocName=DOC-6188993&RevisionSelectionMethod=LatestReleased&allowInterrupt=1

Tautuku map.jpg JPEG image, 4.00 MB

https://doccm.doc.govt.nz/cs/idcplg?IdcService=GET_FILE&dDocName=DOC-6188994&RevisionSelectionMethod=LatestReleased&allowInterrupt=1

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Released under Official Information Act

From: [Leigh-Anne Wiig](#)
To: S9(2)(a)
Cc: [Philip Duffey](#); [Lynn Hansberry](#); [Rebecca Bird](#); [Debby Drummond](#); [Government Services](#); [Bethanie Sant](#); [Lauren Bland](#); [Fiona Oliphant](#)
Subject: 20-B-0008 request SEMP launch commissioning
Date: Thursday, 16 January 2020 3:37:22 pm

Hi S9(2)(a) and S9(2)(a),

Here is the information requested to help you prepare for the launch of the South East Marine Protection consultation document.

GSU – this completes 20-B-0008

Please note this package is still a work in progress and Fisheries NZ have not approved it.

We do not have any high quality underwater video footage of the area, but here is a link to the aerial footage of the coastline that was previously used.

Link out of scope

Give me a call if you have any further questions.

Cheers

Leigh-Anne Wiig

Senior Media Advisor | Kaitohutohu Matua Papaho
National Media Team, Wellington

Department of Conservation | Te Papa Atawhai

18 - 32 Manners Street - Te Aro - Wellington - 6011

PH: S9(2)(a)

lwiig@doc.govt.nz

<http://www.doc.govt.nz/>

Links to files that were attached to this message:

draft joint media release for SEMP consultation - DOC-6180968.docx

Microsoft Word Document, 25.1 KB

https://doccm.doc.govt.nz/cs/idcplg?IdcService=GET_FILE&dDocName=DOC-6269093&RevisionSelectionMethod=LatestReleased&allowInterrupt=1

SEMP Consultation Document - Executive Summary - DOC-

6182792.docx Microsoft Word Document, 21.9 KB

https://doccm.doc.govt.nz/cs/idcplg?IdcService=GET_FILE&dDocName=DOC-6269094&RevisionSelectionMethod=LatestReleased&allowInterrupt=1

SEMP consultation reactive Q and As - DOC-6184647.docx Microsoft Word Document, 25.4 KB

https://doccm.doc.govt.nz/cs/idcplg?IdcService=GET_FILE&dDocName=DOC-6269095&RevisionSelectionMethod=LatestReleased&allowInterrupt=1

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17 February 2020

Public feedback sought on marine protection for south eastern South Island

Fisheries New Zealand (FNZ) and the Department of Conservation (DOC) are seeking public feedback on a proposed network of marine protected areas off the southeast coast of the South Island.

The proposed network includes six marine reserves, where marine life would be fully protected and fishing banned, five marine protected areas, which would impose a range of restrictions to fishing, and one kelp protection area and where commercial harvest of bladder kelp would be prohibited.

There is currently no marine protection in this area between Timaru and Waipapa Point in Southland.

Fisheries New Zealand and DOC are encouraging people to have their say on the proposals.

“This proposed network, covering almost 1,300km² between Timaru and Southland, could be a significant step towards protecting marine biodiversity in this area,” says Fisheries New Zealand’s Director Fisheries Management, Stuart Anderson.

“We want to hear everyone’s views on the network – if people think it will be effective, and how it is likely to affect local communities.”

Last year, the Ministers of Fisheries and Conservation announced their intention to consult on the proposed network, which is one of two options put forward by the South-East Marine Protection Forum in 2018 for marine protection for the region.

The proposal contributes to protecting biodiversity under the Government’s Marine Protected Area Policy and will help New Zealand meet its international obligations to establish marine protected areas over 10 percent of coastal and marine areas by 2020.

“We want to hear from the public to get their views on establishing a marine protection network to protect a range of coastal and estuarine habitats and feeding areas for marine mammals, birds, fish and invertebrates,” says DOC Planning Director Natasha Hayward.

“These marine habitats are currently under pressure from the effects of human activities, including climate change.”

“This spectacular coastline is home to some of our most endangered species such as hoiho/yellow-eyed penguin, toroa/northern royal albatross and rāpoka/New Zealand sea lion. It also has rare deep-water bryozoan thickets that protect juvenile species from predators and giant kelp forests that are habitat for many fish species.”

DOC and Fisheries New Zealand are continuing to consult with Treaty partner Ngāi Tahu about the proposed network and their aspirations for their rohe moana.

People have two months from 17 February to 17 April to make submissions on the proposed network and individual marine protection measures within it. Online submissions can be made through Public Voice:
<https://survey.publicvoice.co.nz/s3/sem-p-consultation>

Once consultation closes, the submissions will inform the Minister of Fisheries' and the Minister of Conservation's final decisions on the marine protection proposals.

–Ends–

Contacts

Fiona Oliphant, DOC Media Advisor

Mobile: [REDACTED] S9(2)(a)

Email: foliphant@doc.govt.nz

Nicky Elliott, Senior Communications Advisor (MPI/FNZ)

Mobile: [REDACTED] S9(2)(a)

Email: media@mpi.govt.nz

Background information

The South-East Marine Protection Forum (the Forum) was established in 2014 to provide recommendations to the Ministers of Fisheries and Conservation on a network of Marine Protected Areas (MPA) from Timaru in South Canterbury to Waipapa Point in Southland. Forum representatives included Kāi Tahu as manawhenua, commercial and recreational fishers, tourism, science, the environmental sector, and the broader community.

In late 2016, the Forum consulted with the public, industry, and stakeholders on 20 sites for possible inclusion in a network of marine protected areas.

More than 2,800 submissions were received during public consultation.

Due to the wide-ranging views of the Forum and the sectors they represent the Forum was unable to reach consensus. This resulted in two alternate networks being recommended to the Ministers:

- Network 1 - covering 1267 km² and includes 18 of the 22 coastal habitats in the Forum area, seven of 12 estuarine habitats and two biogenic habitats.
- Network 2 – covers 366 km² and includes 10 for the 22 coastal habitats, no estuarine habitats and two biogenic habitats.

In May 2019, the Ministers announced that they would like their agencies to progress Network 1 through the statutory process, under existing legislation.

Agencies are now progressing

- proposed marine reserves through the Marine Reserves Act 1971; and
- proposed Type 2 MPAs as regulations under the Fisheries Act 1996.

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Executive Summary – Southeast Marine Protection Consultation Document

Context

The Southeast Marine Protection Consultation Document (the Consultation Document) outlines a proposed network of marine protection measures in the Southeast region of the South Island of New Zealand. The purpose of the document is to inform the public of the proposed marine protection network and obtain views through a public submission process, which will inform the Minister of Conservation and Minister of Fisheries' (the Ministers) decisions on the proposals.

The Marine Reserves Act 1971 requires for an Application to be publicly notified and allowed a 2-month period for the public to make any objections (or submissions). The Application for marine reserves, and a copy of the public notice are appendices to the Consultation Document.

The Proposed Network

Many pressures affect our marine environment, including our activities on land and in the sea, as well as climate change. These pressures have led to a decline in biodiversity and in the condition of marine habitats.¹

The proposed marine protection network is made up of six marine reserves (Type 1 marine protected areas or MPAs), five Type 2 MPAs and a kelp protection area. The proposed network aims to meet the objectives for protecting biodiversity under the Government's Marine Protected Area policy and will help New Zealand to meet its international obligations under the United Nations Convention on Biological Diversity 1993, in establishing marine protected areas over 10 percent of coastal and marine areas by 2020.

Consultation process

The Consultation Document:

- details the benefit of marine protected areas as a tool for conserving marine biodiversity as well as being an important component of sustainable marine management systems.
- details potential costs and impacts, including those outlined by our Treaty Partner, Ngāi Tahu.
- outlines the background and history of developing the proposed network, as well as the New Zealand Government-appointed South-East Marine Protection Forum *Roopu Manaaki ki te Toka* who after a thorough investigation recommended marine protection options for the southeast region. The Forum was unable to reach consensus and as a result proposed two alternative networks to the Ministers. The Ministers decided to progress consultation on one of the proposed options presented by the Forum; Network 1, with slight modifications.
- outlines in detail the Crown's specific obligations to Māori through in the development and implementation of marine protection measures.
- outlines the Crown's understanding of Ngāi Tahu's position on the proposed marine protection network, including potential impacts on their rights and interests.
- provides an analysis of the costs and benefits of implementing the proposed protective measures, in contrast to keeping the status quo.

¹ www.mfe.govt.nz/publications/marine/our-marine-environment-2019

Each proposed protective measure is outlined in detail and has a series of questions for submitters to consider in providing a submission. Submitters are encouraged to use an online portal but may also email or post their submissions.

Next steps

Following consultation, the proposed marine protection measures will be assessed against relevant legislative criteria, taking into account all available and relevant information, the submissions received, and the merits of the proposals. Once all of this information has been considered, one of the following decisions will be made.

- Retain the status quo – do not implement the proposed protection measures.
- Implement the proposed network as presented in this consultation document.
- Implement some or all of the proposed protection measures with amendments and/or conditions.

The Minister of Conservation will make her decision regarding the six proposed marine reserves following the process under the Marine Reserves Act 1971, implemented as an Order in Council. The Ministers will jointly make decisions on implementation of any proposed marine reserves.

The Minister of Fisheries will make his decision regarding the five proposed Type 2 MPAs and kelp protection measures under the Fisheries Act 1996, implemented as regulations.

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Reactive Questions and Answers for SEMP statutory consultation (as at 16/1/20)

Reactive Q and As

1. Will changes be made to the network as a result of consultation?

The forum considered many possible options for different MPAs and undertook to minimise the impact of specific MPAs on existing users. However, changes to the network may occur as a result of the consultation.

2. Why not consult on network 2 also?

The Ministers of Conservation and Fisheries requested their respective agencies consult on network 1, which best meets the objectives for protecting biodiversity under the MPA policy and New Zealand's obligations for marine protection in the southeast region.

3. Why are there only two months for consultation?

The legislated consultation period under the Marine Reserves Act is 2 months and cannot be extended.

FNZ add here re fishing regs

4. How long will it take before there are any MPAs in place?

Given the complexity and magnitude of the proposed MPAs, it is difficult to accurately estimate the timeframe for completion of the entire process. However, we anticipate that it will be late 2020 before any MPAs would be in place.

5. Why is this process taking so long? (Forum was established in 2014)

DOC and FNZ acknowledge that the entire process has taken some time, but agencies must follow the proscribed statutory processes.

The Forum was established in 2014 to provide recommendations to the Ministers of Fisheries and Conservation on a marine protection network, which they did in February 2018. In May 2019, the Ministers announced that they would like their agencies to progress Network 1 through the statutory process, under existing legislation.

The statutory process now being undertaken includes progressing the proposed marine reserves through the Marine Reserves Act 1971, and the proposed Type 2 MPAs as regulations under the Fisheries Act 1996. Both these processes require further public consultation.

6. Why do you need to carry out further consultation, given this has already been a widely consulted process?

Because we are legally required to under the relevant statutory processes

The Marine Reserves Act specifically requires a two-month statutory consultation period for any marine reserve proposals. Furthermore, the Forum did not consult the public on the network as proposed, but rather had a more wide-reaching consultation process with the purpose of forming recommendations to the Ministers.

This further consultation ensures the public has the chance to have their say on this proposal and that the Ministers are making decisions on these matters in consideration of the public's views and with the most up to date information at hand.

<FNZ insert Fisheries Act requirements>

7. What species will this Network protect?

The intent of the Policy is to protect biodiversity at the habitat and ecosystem level, rather than to provide comprehensive protection for individual species (e.g. marine mammals). However, many species are likely to be afforded protection from the proposed measures.

The spectacular coastline is home to some of our most endangered species such as the yellow-eyed penguin, northern royal albatross and New Zealand sea lion.

It boasts deep water bryozoan thickets, a regionally important biogenic habitat.

It also features giant kelp forests, globally recognised as a highly productive ecosystem.

Marine reserves in particular provide protection to exploited species allowing the ecosystem to recover to a more natural species composition. Globally, marine reserves have shown: Biomass increased an average of 446%; Density, or the number of plants or animals in a given area, increased an average of 166%; Body size of animals increased an average of 28%; and species diversity, or the number of species, increased an average of 21% in the sample area¹.

8. Are you consulting with Ngāi Tahu outside the formal consultation process?

Yes. Ngāi Tahu was represented in the forum and we have continued to consult with Ngāi Tahu and local runaka.

When making a decision under the Marine Reserves Act, the Minister of Conservation and the Minister of Fisheries must give effect to the principles of the Treaty of Waitangi. When making decisions under the Fisheries Act, the Minister of Fisheries must act in a manner consistent with the provisions of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992.

The Crown has acknowledged Ngāi Tahu rights as manawhenua under the Treaty of Waitangi through various pieces of legislation, including the Ngāi Tahu Claims Settlement Act 1998.

Under the Marine and Coastal Area (Takutai Moana) Act 2011, any whanau, hapū or iwi who consider they exercise kaitiakitanga in a part of the common marine and coastal area affected by the proposed marine reserves have a right to participate in the process and provide their views on the proposals. The Minister of Conservation must have particular regard to the views of affected whanau, hapū and iwi in considering the proposals.

9. Does Ngāi Tahu not support the proposed network, why?

It is not appropriate for DOC and Fisheries New Zealand to respond on behalf of Ngāi Tahu.

10. What is wānaka and why could it be allowed in a no-take marine reserve?

Wānaka may include sampling and strategic take of marine life for the purpose of enhancing mātauraka and retaining the generational connection with the rohe moana.

This issue is subject to further engagement with Ngāi Tahu and runaka and the public are welcome to provide their views on this proposal through the consultation process.

Exceptions to a no-take marine reserves like this would need to be expressly provided for and be consistent with the purpose of the Marine Reserves Act.

11. Why was the southeast region the focus of these MPAs?

The southeast South Island stands out as being the only large coastal region without marine protected areas. Its spectacular coastline is home to some of our most endangered species such as the yellow-eyed penguin, northern royal albatross and New

¹ Numbers from: Partnership for Interdisciplinary Studies of Coastal Oceans. 2007. The Science of Marine Reserves (2nd Edition, International Version). www.piscoweb.org. 22 page.

Zealand sea lion. It boasts deep water bryozoan thickets, rare in the world, that provide protection from predators for juvenile species and it also features giant kelp forests that provide habitat for many fish species.

New Zealand has made international commitments to protect marine biodiversity. Those commitments include conserving at least 10% of our coastal and marine area in ecologically representative protected areas by 2020. Currently only 0.4% of New Zealand's mainland territorial sea is incorporated in a marine reserve.

12. What area did the forum consider for marine protection?

The forum considered the marine area from Waipapa Point in Southland to Timaru in South Canterbury, including the internal waters, and out to the 12 nautical mile limit of the territorial sea. This is the forum region where 22 coastal, 3 biogenic and 11 estuarine habitats were identified.

13. What did the forum do?

The forum initially consulted widely with manawhenua, local communities and interest groups about marine protection, and at the same time considered available scientific information.

In October 2016 the forum released its public consultation document which contained 20 sites for possible inclusion in a network of MPAs, and called for submissions. It also held public information sessions throughout the region.

As a result of public consultation, 2803 submissions were received and were summarised to help the forum understand submitters views.

The forum then went through a deliberations process to determine which sites and what level of marine protection would be recommended to Ministers with a view to balancing the effects on users versus biodiversity protection outcomes. However, in the final stages of developing their recommendations, the forum could not reach consensus and recommended two alternative MPA networks for consideration by the ministers.

Network 1 - Included six marine reserves and five type 2² marine protected areas covering 1267 km² (14.2 %) of the forum region. It includes 18 of the 22 coastal habitats in the forum area, seven of 12 estuarine habitats and two biogenic habitats (with another biogenic habitat likely to occur in the network but not mapped i.e. seagrass in Site D1). It includes an additional area to protect kelp forest habitat that is not designated as an MPA.

Network 2 - Included three marine reserves and two type 2 MPAs covering 366 km² (4.1%) of the forum region. It includes 10 of the 22 coastal habitats, no estuarine habitats and two biogenic habitats.

14. Why did Ministers choose network 1?

Neither network represents the full range of habitats in the forum region. Ministers consider that network 1 best meets the objectives for protecting biodiversity under the MPA policy.

The proposed network would increase the area covered by MPAs in the southern South Island bioregion (which the south-east forms part) from 0.47% to 6%.

Its total area is:

- Approx. $\frac{3}{4}$ the size of Stewart Island.
- Just over the size of Arthur's Pass National Park (1144 km²)
- Just over the size of Auckland (1086 km²)
- Just under the size of Westland / Tai Poutini National Park (1319 km²)

15. How were fishers' views taken into account during the Forum's process?

The forum strived to take all views into account when determining what marine protection options would be recommended. The fishing industry was represented and fully involved in the forum and had opportunity to present their opinions on the process. In their formal recommendations to ministers, the forum demonstrated that fishing interests were considered in recommending both networks. Compromises were made by the forum to accommodate potential for effects on both commercial and recreational fishing interests. The fishing industry representatives and one recreational fishing representative's views were presented as Network 2 in the forum recommendations report.

16. What will the impacts on fishing be?

Whenever effective MPAs are established there will always be some effect on existing fishing. The displacement of fishing effort is reported in the consultation document, but this only shows part of the picture. Other effects on fishing include such things as loss of preferred fishing spots for some fishers, potential for increased fuel costs, potential effects on quota value. Consistent with the Policy, the Forum considered the potential for adverse effects on fishing and where possible selected sites that would reduce the impact where practicable. In some cases, fishing is also likely to benefit from the proposed MPAs through protecting habitats important to fisheries.

17. How much has this process cost so far? How much more will it cost?

The budget for the Forum process was \$2.5 million and cost (insert final Forum costs). The costs for the statutory processes are business as usual (BAU) costs absorbed by the respective agencies. The processes are still underway so the final costs haven't been determined yet.

18. What happens after the consultation?

DOC, Fisheries New Zealand and our Ministers must comply with the processes under the Marine Reserves Act and Fisheries Act. Consultation with our Treaty partners, Ngāi Tahu, and the public is an important part of the process. Following the consultation process for the marine reserves, type 2 MPAs and kelp protection area, the Ministers of Conservation and Fisheries will consider all submissions and make a decision against statutory criteria.

19. Who were the forum members?

Maree Baker-Galloway	Chairperson, Partner at Anderson Lloyd specialising in Environmental Law, Queenstown
Edward Ellison	Deputy Chair, representing the three Otago Rūnaka, Dunedin
Dr Philippa Agnew	Environmental sector representative, Oamaru
Steve Bennett	Recreational fishing sector, Dunedin (Note: Steve Bennett replaced Nelson Cross as a recreational fishing sector representative in December 2016.)
Stephanie Blair	Representing Te Rūnaka o Awarua, Invercargill
Simon Gilmour	Commercial fishing sector, Dunedin
Ate Heineman	Commercial fishing sector, Dunedin
John Henry	Representing Arowhenua and Waihao, Timaru

Dr Chris Hepburn	Marine sciences sector, Dunedin
Sue Maturin	Environmental sector, Dunedin
Neville Peat	Community sector, Dunedin
Dr Tim Ritchie	Recreational fishing sector, Dunedin
Fergus Sutherland	Tourism sector, The Catlins
Carol Scott	Commercial fishing sector, Nelson
Emeritus Professor Khyla Russell	Representing the three Otago rūnaka (alternate)
Gail Thompson	Representing Te Rūnaka o Awarua, Bluff (alternate)
Former forum members	
Pauline Reid	Representing Arowhenua and Waihao, Kāi Tahu (alternate). Note Pauline Reid passed away suddenly at her home on 26 September 2014. Pauline was a forthright and passionate proponent of customary interests in early forum meetings.
Nelson Cross	Recreational fishing sector, Kaka Point Note Former forum member Nelson Cross passed away on 06 November 2017. Nelson was a long term and dedicated advocate for recreational fishing interests on many fronts, including the forum.

20. Why aren't the recommendations relating to seismic restrictions and whitebaiting being progressed?

DOC and Fisheries New Zealand are currently consulting on the establishing the proposed network under the Marine Reserves Act and the Fisheries Act. The agencies acknowledge that this process does not include progressing all the forum's recommendations, which would involve progressing processes under other legislation (not the Marine Reserves Act or Fisheries Act) as well as proposed processes that don't fall within central Government. The Agencies will further consider progressing these recommendations of the Forum in a future process.

Departmental Memo



Department of
Conservation
Te Papa Atawhai

GS ref: 19 - B - 0969

DOCCM: 6165534

In Confidence

Date: 20 December 2019
To: Minister of Conservation
From: Marie Long, Director Planning, Permissions and Land Unit
Subject: **Southeast marine protection process consultation document - for noting only**

Purpose – Te Pūtake

1. This memo is to provide you with the final draft consultation document and an update on the quality assurance process in advance of public notification, as outlined in the 4 December joint MPI-DOC briefing (19-B-0902 refers).

Summary – Tuhinga Whakarāpopoto

2. On 4 December 2019, you received an update on the consultation process for the southeast marine protection process (19-B-0902 refers).
3. In that briefing, officials noted that the marine reserve applications do not require Ministerial approval due to the role of the Director-General, Conservation (the D-G).
4. The D-G has now approved the applications, ready for notification under the Marine Reserves Act 1971.
5. You subsequently provided your directive to DOC officials (19-B-0902 refers -received 3 December), requesting a copy of the consultation document and a detailed timeline for discussion.
6. DOC officials are providing the consultation document for your noting only (attachment 1).
7. The Minister of Fisheries is currently reviewing the proposed Type-2 marine protected area (MPA) proposals, as his approval is required under the Fisheries Act 1996.
8. Contingent on final approvals, officials are planning on initiating public notification on or around 16 January 2020.
9. A more fulsome briefing outlining the statutory process steps following public consultation, will be provided to you in January 2020.

Background and context – Te Horopaki

10. Please find attached the public consultation document (attachment 1) for your noting.
11. Under the statutory process in the Marine Reserves Act, marine reserve applications are approved by the D-G. Your role in considering objections and making a decision on the proposed applications comes after the public consultation process is complete (19-B-0902 refers).

12. DOC officials wish to protect the integrity of this statutory process and minimise the risk of any potential conflict of interest. We are therefore not requesting your feedback or approval on the consultation document.

The attached public consultation document is undergoing final approvals

13. As noted, the proposed Type-2 MPA proposals are with the Minister of Fisheries for his approval. Fisheries NZ officials advise their Minister's approval is expected by 20 December.
14. The D-G has now approved the marine reserve applications.

Te Rūnanga o Ngāi Tahu has provided their approval on the Treaty Partner rights and interests section

15. On 16 December, Ngāi Tahu provided their approval of the treaty partner rights and interests text covered under Section 2.5 (*Implications for whanau, hapū and iwi*), of the consultation document (attachment 1).
16. Ngāi Tahu representatives also requested a copy of the final consultation document, prior to public notification. Officials have agreed to provide this under strict embargo.

Quality Assurance Process

17. The RIA quality assurance process for the southeast marine protection consultation document has now been completed (19-B-0902 refers).
18. On 16 December, the RIA panel provided their final statement subject to some final minor editorial amendments. These amendments have now been addressed.
19. RIA panel has provided final approval on the consultation document and provided a covering statement: *"The discussion document substitutes for a Regulatory Impact Assessment. The Ministry for Primary Industries and the Department of Conservation have reviewed the discussion document and have confirmed that it is likely to lead to effective consultation and support the delivery of Regulatory Impact Analysis to support subsequent decisions.*

After consultation, the subsequent Regulatory Impact Analysis (RIA) for this policy proposal will need to explicitly assess each of the proposed sites against the criteria. In addition, the RIA will need to provide more detail on the proposed monitoring and evaluation for the preferred option."

Risk assessment – Nga Whakatūpatō

20. If the Minister of Fisheries does not provide his final approvals by the 20 of December and/or requires any amendments, the public consultation timeframes will be delayed and could affect the timeline for decisions. Officials will monitor this situation and provide an update you if this is the case.
21. If the D-G requires any amendments, these can likely be accommodated without affecting the public consultation timeframes.

22. S9(2)(g)(i)

23. As noted, it is important to minimise the risk of any potential conflict of interest in your receiving the consultation document, hence providing it for your noting only.

Next steps – Nga Tāwhaitanga

24. DOC and MPI Officials have requested approvals in order to prepare for public notification in mid-January. We are working collaboratively to ensure the systems are in place to support the joint notification.

25. If you require further advice on matters raised in this memo, officials are available to discuss with you in advance of public notification.

Attachments – Nga Tāpiritanga

26. Attachment 1: Southeast marine protection public consultation document

Contact for queries:

Rebecca Bird, Marine Protected Areas Significant Projects Manager. Mobile: S9(2)(a)

ENDS

Released under Official Information Act



Ministry for Primary Industries
Manatū Ahu Matua



12 December 2019

MPI Reference: B19-0658

DOC: 19-B-0887

Update on Marine Protected Areas reform

Purpose:

This paper provides an update on Marine Protected Areas reform policy development and the engagement process.

Minister	Action Required:	Minister's Deadline
Minister of Fisheries Minister of Conservation	Note and agree to the contents of this briefing.	We recommend that you discuss the contents of this briefing at your next joint meeting.

Contact for telephone discussion (if required)

Agency	Name	Position	Work	Mobile
Department of Conservation	Andrew Hill	Acting Director, Policy	-	S9(2)(a)
Ministry for Primary Industries	Emma Taylor	Director, Agriculture, Marine and Plant Policy	S9(2)(a)	S9(2)(a)

Key Messages

1. Officials have been progressing marine protected areas (MPA) policy development alongside initial engagement with iwi and stakeholders. We have outlined a possible policy framework in this briefing. Our thinking is evolving based on ongoing engagement with iwi/Māori, Te Ohu Kaimoana (Te Ohu) and stakeholders and following more detailed conversation with relevant agencies.
2. At a minimum, the discussion document will address context (including links with related work), the objectives of reform, the purpose and principles of legislation, geographic scope, Treaty considerations, proposed tools, a potential National Strategy, relationships with related legislation, and relevant establishment and management processes.
3. Feedback from engagement has been well received and constructive. There has been broad agreement that there are significant issues with the Marine Reserves Act 1971 and general support for key aspects of the reform.
4. A consistent message from our engagement has been for MPAs to be considered as part of a wider discussion about marine protection and management. This would look at broader objectives for the marine environment (including the relationship between protection, use and socio-cultural matters) and the range of tools that contribute to them, including MPAs.
5. Officials plan to progress work on broader marine protection in parallel with MPA reform. We plan to include specific content and consultation questions on broader marine protection within the discussion document, rather than focusing solely on MPAs. This would explicitly acknowledge the feedback we have received and inform broader marine protection work.
6. Note that some stakeholders have suggested progressing more fundamental reform of the marine management system *instead* of MPA reform. This would be a significant undertaking with protracted timeframes, which could undermine other government priorities. We do not recommend this option and consider the focus should be on progressing MPA reform in a way that does not preclude broader system reform should the circumstances be appropriate in the future.

Recommendations

7. Ministry for Primary Industries and the Department of Conservation recommend that you:

a) **Note** the most significant point of feedback from engagement has been support for a more holistic approach to marine protection that enables MPAs to be considered as part of a broader discussion about desired outcomes for the marine environment;

Noted

b) **Note** that officials will slightly broaden the discussion document to consult at a high-level on broader marine protection; and

Noted

c) **Agree** to forward this briefing to Hon David Parker, Minister for the Environment.

Agreed

S9(2)(a)

Emma Taylor
Director, Agriculture Marine and Plant Policy
Policy and Trade
Ministry for Primary Industries

Hon Stuart Nash
Minister of Fisheries

/ /2019

S9(2)(a)

Andrew Hill
Acting Director
Policy
Department of Conservation

Hon Eugenie Sage
Minister of Conservation

/ /2019

Background

8.

Out of scope

9.

10.

11.

Out of scope

Out of scope

12.

Out of scope

Released under Official Information Act

Out of scope

Released under Official Information Act

Out of scope



Out of scope



Out of scope

Released under Official Information Act

- b. Ngāi Tahu representatives felt the Crown would be acting in bad faith if it progressed with MPA reform before resolving the rebalancing and compensation issues raised in the South East Marine Protection process;

- c.

Out of scope
- d.

Out of scope

Released under Official Information Act

Out of scope

Released under Official Information Act

Out of scope

Connections with other ongoing work

34. Other current work programmes could have significant implications for the progression of MPA reform, in particular:

a. The South East Marine Protection process;

Out of scope

35. The decisions that you make on these issues are likely to have flow-on effects to MPA reform. For example, decisions made on the ground in south east Otago, Campbell Island and the Hauraki Gulf could set precedents, which could impact on policy design. The progress of all this marine work has the potential to impact on support or opposition from iwi and stakeholders.

Next steps

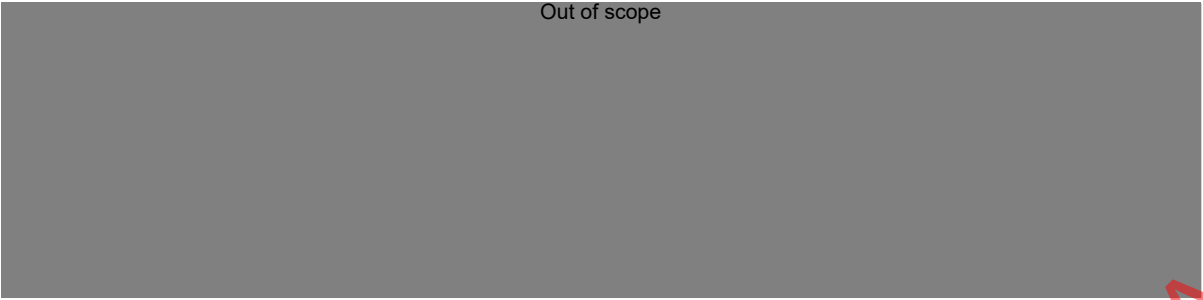
36.

Out of scope

37.


Appendix One - Feedback received during early engagement

Out of scope



3. Kāi Tahu did not wish to discuss MPA reform at Conservation Hui. They stated that their views had been expressed clearly through hui on the South East Marine Protection work. Kāi Tahu consider that MPAs, particularly no-take marine reserves, will displace and alienate their customary rights, and that this effect will be compounded across the generations. Kāi Tahu also consider it is important to recognise the cost MPAs impose on their commercial fishing interests.

Out of scope



Out of scope

Released under Official Information Act

Out of scope

Released under Official Information Act

Released under Official Information Act

Appendix Two: Te hā o Tangaroa kia ora ai tāua

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THE HĀ O TANGAROA

WHAKAPAPA
Māori descend from Tangaroa and have a reciprocal relationship with our tupuna

HAUHAKE
Māori have a right and obligation to cultivate Tangaroa, including the bounty, for the betterment of Tangaroa (as a means of managing stocks) and support Tangaroa's circle of life

TAKAI
Māori have an obligation to care for Tangaroa, his breath, rhythm and bounty, for the betterment of Tangaroa and for the betterment of humanity as his descendants

KAI
Māori have a right to enjoy the whakapapa relationship with Tangaroa through the wise and sustainable use of the benefits Tangaroa provides to us

The concept of "Te Hā o Tangaroa Kia Ora Ai Tāua" underpins the work of Te Ohu Kaimoana.

This statement means "the breath of Tangaroa sustains us" and refers to the ongoing Māori relationship with Tangaroa including his breath, rhythm and bounty. Recognising our ongoing, interdependent relationship acknowledges the Māori worldview that humanity is descended from Tangaroa and all children of Ranginui and Papatūmāku. We are part of the ongoing cycle of life.

The concept of "Te hā o Tangaroa kia ora ai tāua" is underpinned by whakapapa, takai, hauhake and kai.

Whakapapa recognises that when Māori (and by extension Te Ohu Kaimoana as an agent of law) are considering policy affecting Tangaroa we are considering matters which affect our tupuna - rather than a thing or an inanimate object.

We recognise that as descendants of Tangaroa, iwi Māori have the obligation and responsibility to Takai - care for our tupuna so that Tangaroa may continue to care and provide for iwi.

Our right and obligation of hauhake (cultivation) is underpinned by our takai obligations and responsibilities to Tangaroa. Ultimately our right to kai - to enjoy the benefits of our long relationship with Tangaroa and his contribution to the survival of Māori identity - depends upon our ability to Takai Tangaroa in a meaningful way.

Te Hā o Tangaroa underpins our purpose, policy principles and leads our kōrero every time we respond to the Government on policy matters. It is important to us that the Government understands the continuing importance of Tangaroa and recognises the tūhononga that Māori hold as his tūri.

All decisions and advice offered by Te Ohu Kaimoana on fisheries is underpinned by this kōrero to ensure the sustainability of Tangaroa's keke for today and our mokopuna yet to come.

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23



Department of
Conservation
Te Papa Atawhai

Departmental Memo

GS ref: 19-B-0825

In Confidence

DOCCM: 6114566

Date: 4 November 2019

To: Minister of Conservation

From: Marie Long, Director Planning, Permissions and Land

Subject: Talking points on the South-East Marine Protection Process to inform MPA ministers meeting

Summary – Tuhinga Whakarāpopoto

1. On 4 November 2019, you are meeting with Minister Nash to discuss marine matters including marine protection.
2. Please find below a short update on the South-East Marine Protection Process to help aid your discussion.

Background

3. On 11 May 2019, you publicly announced your intentions to proceed with the 'Network 1' proposal put forward by the South-East Marine Protection Forum (the Forum). You have decided to progress the Network 1 MPA proposals using the Marine Reserves Act (1971) and the Fisheries Act (1996).
4. You have also instructed the Department of Conservation (DOC) and Fisheries New Zealand to continue working with Kāi Tahu to explore how their aspirations for co-managing MPAs in their takiwā can be progressed.

Treaty Partner Engagement

5. DOC officials met with Te Rūnanga o Ngāi Tahu (TRoNT) in late July 2019. Fisheries officials then met with TRoNT in early October, and DOC and Fisheries New Zealand officials met together with TRoNT on October 25th 2019.
6. DOC and Fisheries New Zealand officials met with Papatipu Rūnaka collectively on 23 September 2019. In early August 2019 DOC and Fisheries New Zealand officials met with Murihiku (Southern) papatipu rūnaka (including Te Rūnaka o Awarua).

Treaty partner concerns

7. DOC and Fisheries New Zealand have now had the opportunity to hear and understand concerns expressed by both TRoNT and manawhenua that relate to marine protection generally, and specifically, the proposed South-East Marine protection proposed network. These concerns were outlined to you in an earlier briefing (19-B-0738) and will form the basis of your upcoming discussion with Papatipu Rūnaka. We will provide you a further briefing to aid these discussions.

8. [Redacted] S9(2)(j)

9. [Redacted] S9(2)(i)

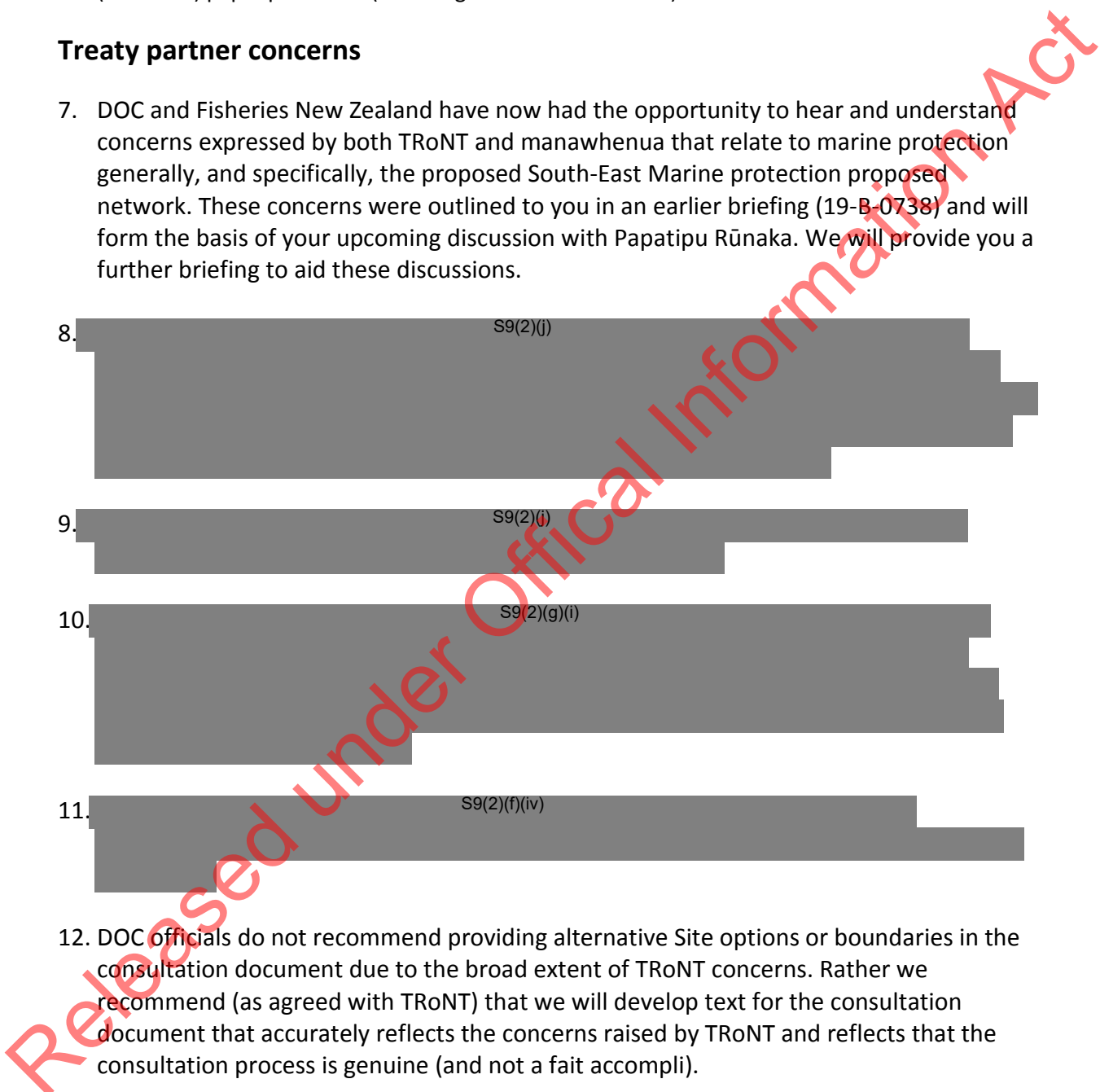
10. [Redacted] S9(2)(g)(i)

11. [Redacted] S9(2)(f)(iv)

12. DOC officials do not recommend providing alternative Site options or boundaries in the consultation document due to the broad extent of TRoNT concerns. Rather we recommend (as agreed with TRoNT) that we will develop text for the consultation document that accurately reflects the concerns raised by TRoNT and reflects that the consultation process is genuine (and not a fait accompli).

Public consultation

13. DOC and Fisheries New Zealand intend to run the public consultation on the Network 1 MPA proposals concurrently with our further engagement with Kāi Tahu on design of the co-management approach for the MPA network.



14. Acting on advice from Treasury, DOC and Fisheries New Zealand are currently engaging in a Regularity Impact Assessment process to inform the public consultation document and process. This work is ongoing but at this stage is anticipated to take at least two weeks.

15. [Redacted] S9(2)(h)

16. This will impact the timing for any Ministerial announcements on the establishment of the Network.

17. We are happy to discuss any of the above points with you in advance of your meeting and/or following your discussion.

Contact:

Anna Cameron, Management Planning Manager Phone [Redacted] S9(2)(a)

Attachments – Nga Tāpiritanga

[Redacted] Fisheries New Zealand Document

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Released under Official Information Act

Released under Official Information Act



Department of
Conservation
Te Papa Atawhai

Departmental Memo

GS ref: 19-B-0504

DOCCM: 6008719

In Confidence

Date: 22 July 2019

To: Minister of Conservation

From: Marie Long, Director Planning, Permissions and Land

Subject: **South-East Marine Protection - expedited statutory process**

Purpose – Te Pūtake

1. To update you on options for an expedited process to progress the marine protection proposal for the south-east of the South Island to aid your discussions with Minister Nash on 24 July 2019.

Summary – Tuhinga Whakarāpopoto

2. This briefing outlines the opportunities and risks associated with two expedited timeline options to progress the proposed marine protected area (MPA) network for the south-east of the South Island.
3. At your meeting with Minister Nash and agency officials on 12 June 2019, you considered the possibility of expediting the process to progress one of the MPA network proposals (Network 1) put forward by the South-East Marine Protection Forum (the Forum). You instructed the Department of Conservation (DOC) and Fisheries New Zealand to provide you with an expedited timeline for progressing the proposals.
4. You then directed the DOC officials at the 24 June Status Meeting to complete the SEMP statutory process work by December 2019.
5. On 17 July 2019, we were notified that Fisheries New Zealand had chosen to brief their Minister independently. We were subsequently provided with a copy of this briefing (**Appendix 1**). Fisheries New Zealand has recommended their Minister supports an 8-month timeframe through to decision-making with Ministerial announcements scheduled for March 2020. In this briefing, Fisheries New Zealand have expressed that the December 2019 timeframe is untenable in their opinion.
6. We understand you will be next meeting with Minister Nash on July 24. We are briefing you to help inform your discussions.

7. In this briefing, we outline two options for your consideration for an expedited timeline (**Appendix 2**). Option one allows for your ministerial announcement in December 2019. Option two allows for a joint-ministerial announcement in March 2020.
8. Option two is the Department's preferred option and is consistent with the Fisheries New Zealand recommendation.
9. In order to meet an expedited timeline, we will need to engage in public consultation in parallel to Kāi Tahu engagement. Having agreement from Kāi Tahu to progress in this manner will be crucial.
10. We believe that a joint letter from you and the Minister of Fisheries to Te Rūnanga o Ngāi Tahu (TRoNT) will assist in our efforts to proceed in this manner. We have also provided a draft letter setting out your commitment to this process is attached for your review (**Appendix 3**). Fisheries New Zealand has provided the attached letter to their Minister with the same request.
11. We suggest you discuss this letter at your meeting on July 24, 2019 and agree on whether to jointly sign and send the letter.

Context – Te Horopaki

DOC has provided two options for your consideration: a 5-month expedited process and an 8-month expedited process

12. We have prepared two expedited timeline options for your consideration to help inform discussions with Minister Nash (**Appendix 2**).
 - **Option one** focuses solely on the required process under the Marine Reserves Act 1971 and allows for your Ministerial announcement on the marine reserves in December 2019.
 - **Option two** includes the required processes under both the Marine Reserves Act 1971 and the Fisheries Act 1996 and anticipates a joint-Ministerial announcement on the MPA-network in March 2020.

Option one requires a separation of the statutory processes under the Marine Reserves Act 1971 and the Fisheries Act 1996

13. In their briefing to Minister Nash, Fisheries New Zealand officials have highlighted their significant concerns with a 5-month timeframe (option one). S9(2)(h)

14. Given your joint ministerial directive in December 2018 that agencies work to align the processes, your subsequent directive to DOC and, the Fisheries New Zealand assertion that a December 2019 timeframe is untenable, it would be necessary to separate out the statutory processes under the Marine Reserves Act 1971 and the Fisheries Act 1996 in order for DOC to work to an expedited timeframe under option one.

Risk assessment – Nga Whakatūpatō

Assumptions

15. The key assumptions for both expedited process options are:

- No further Cabinet approval will be required before public consultation;
- Discussions with other government agencies and Kāi Tahu, will take place both prior to and in parallel to the consultation process; and
- No significant amendments will be made to the proposals, which might warrant further consultation with affected parties.

Risks

S9(2)(f)(iv)

- | [Redacted]
- | [Redacted]
- [Redacted]
- | [Redacted]
- | [Redacted]
- | [Redacted]
- [Redacted] S9(2)(h)
- [Redacted] S9(2)(f)(iv)

Treaty Partner engagement – further discussion is required

19. [Redacted] S9(2)(j)

- | [Redacted]

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- [Redacted] S9(2)(j)

[Redacted]

[Redacted] S9(2)(h)

[Redacted] S9(2)(j)

[Redacted]

24. Both agencies believe that a joint letter from you and the Minister of Fisheries to Te Rūnanga o Ngāi Tahu (TRoNT) will assist in our efforts to proceed in this manner.
25. A draft letter setting out your commitment to this process is attached for your review (**Appendix 3**). Fisheries New Zealand has provided the attached letter to their Minister with the same request.
26. We suggest you discuss this letter at your meeting on July 24, 2019 and agree on whether to jointly sign and send the letter.

Process risks – further discussion

27. [Redacted] S9(2)(f)(iv)

[Redacted]

[Redacted]

¹ The Report of the Regulations Review Committee on the Marine Reserve (Whanganui A Hei (Cathedral Cove)) Order 1992 recommended that where the Director-General is the applicant for a marine reserve, an independent report should be obtained.

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Next steps – Nga Tāwhaitanga

30. DOC and Fisheries New Zealand officials are planning to meet representatives of TRoNT in late July to discuss design and delivery of a co-management framework for any future MPA network established in the south east of the South Island.

31. [REDACTED] S9(2)(j)

33. Subject to your approval and subject to Treaty Partner agreement to progress co-management and generational review discussions in parallel with public consultation, agencies will commence public consultation by notifying the release of the combined consultation document and calling for submissions by September. The consultation document is proposed to include both the marine reserve applications and proposals for making new fisheries regulations.

Attachments – Nga Tāpiritanga

34. The following attachments are included as appendices:

- Appendix 1– Fisheries New Zealand 17 July 2019 Briefing B19-0385
- Appendix 2 – High-level summary of process requirements and timeframe options under the Marine Reserves Act 1971
- Appendix 3 – Letter to TRoNT CEO Arihia Bennet.

Contact for queries:

Rebecca Bird –Marine Protected Areas Significant Projects Manager [REDACTED] S9(2)(a)

ENDS

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Priority – High

Security Level – In Confidence



Fisheries New Zealand

Tini a Tangaroa

17 July 2019

Document Number: B19-0385

Document being released by Fisheries New Zealand

Released under Official Information Act

Document being released by Fisheries New Zealand

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Document being released by Fisheries New Zealand

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Released under Official Information Act

B19-0385

Document being released by Fisheries New Zealand

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Appendix 2 – High-level summary of process requirements and timeframe options under the Marine Reserves Act 1971.

Process for establishing marine reserves under the Marine Reserves Act 1971

- **DOC notification and consultation:** The process for establishing a marine reserve under the Marine Reserves Act 1971 (MRA) requires an application to be made to the Director-General of Conservation (the DG). The DG can also be the applicant. The applicant must publicly notify the application including a description of the proposed marine reserve, and notice must also be given to specified people and entities, including adjoining landowners and local authorities. Anyone wishing to object to the proposed marine reserve has two months in which to do so. This timeframe is statutory and must be complied with.
- **DOC response and analysis:** If the Department responds to objections, it must do so within one month of the submission period closing. These responses, along with the objections received, and the application must be provided to you along with an analysis of all submissions. As the DG is both making and receiving the application, an independent report on the consultation process and analysis we provide you will also be commissioned to inform your statutory decision making.
- **MOC assessment and decision-making:** Your assessment of the proposals against the relevant statutory criteria and the decision-making processes will be completed once you have received the analysis provided by us, and the independent report.
- **Fisheries and Transport Ministers' concurrence decisions:** The Minister for Fisheries and Transport will need to provide their concurrence. The considerations of the Minister of Transport are relatively simple; however the Fisheries New Zealand Minister considerations are more complex. **Public announcement of your final decision can be made at this stage of the process.** If both Ministers concur, a recommendation can be put to the Governor-General that an Order In Council be made to declare the marine reserve.

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Marine Reserves Act Process Stage	Option 1 – 5-month timeframe	Option 2 – 8-month timeframe
<u>Notification and public consultation</u>	August –October	September –November
<u>Analysis of submissions and independent assessment of process</u>	November	December 2019 – January 2020
<u>Assessment and decision- making process</u>	December	January 2020
<u>Fisheries and Transport Ministers' concurrence decisions</u>	December	February – March 2020
<u>Ministerial Announcements</u>	December	March 2020
<u>Order in Council process</u>	January-March 2020	March-July 2020

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<u>Marine Reserve Gazetta</u>	March 2020	July/ 2020
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Vruttika Patel

From: Rebecca Bird
Sent: Wednesday, 15 May 2019 10:21 a.m.
To: S9(2)(a)
Cc: Government Services; Bronwyn Saunders; S9(2)(a); Leigh-Anne Wiig; Luisa Kliman
Subject: 19-B-0349-Advice-SEMPF media request

Kia ora S9(2)(a)

Please find a response to the questions from the reporter Southland Times below:

1. How many forums (tourism, fishing) etc and individuals were involved in the forum?

There was one Forum, comprising a Chair and thirteen members of whom three were Kāi Tahu representatives. There were also three Kāi Tahu alternate representatives. The list of Forum members is available here: <https://south-eastmarine.org.nz/about/members/>

2. Network one was the favoured option that was selected by tourism, environmental groups, community and science representatives, which groups were not in favour?

Network One was supported by environment, tourism, community and science sectors, as well as one of the two recreational fishing representatives. Network Two is supported by the commercial fishing representatives and the remaining recreational fishing representative. Please see Page 23 of the Forum's Recommendations Report: https://otagomarine.files.wordpress.com/2018/03/sempf-recommendations-report_web.pdf

3. What communities from the Southland were involved in the consultation?

The Forum ran its own consultation process including a full public consultation and notification process, a road-show and drop-in meetings throughout the Forum region. The summary of the Forum's consultation and all (redacted) submissions are available on the Forum website <https://south-eastmarine.org.nz/yoursay/summary-of-submissions/> More information on the consultation process run by the Forum is available here <https://south-eastmarine.org.nz/yoursay/consultation/>

4. Conservationists have said that protection is fragmented leaving, hoihoi penguins, hector dolphins and sea lions not fully safeguarded, why was is this the case?

The Forum was established to deliver recommendations for a network of Marine Protected Areas. By their nature and the policy criteria for their establishment, Marine Protected Areas are created to protect habitats, not specific species. This means that species (such as the megafauna referred to above) which range far beyond the area of habitat contained in the Marine Protected Area will not necessarily be fully protected by this network of Marine Protected Areas. The Department is working on a portfolio of measures to safeguard these species, of which this Network is just one.

5. When will the public consultation process begin?

Agencies are presently working to design the public consultation process. Further information about when the public consultation process will begin will be made available once the design process is complete.

6. Following public consultation, what would be the process from there?, when would the area become a marine protected area if all goes well?

Ministers are committed to making significant progress in the next 12 months. Following public consultation, DOC and Fisheries NZ will provide advice to Ministers in relation to the public submissions, and following this, the final statutory steps for the creation of the network under the Fisheries Act and Marine Reserves Act can be undertaken. For the Fisheries Act, this will include a cabinet approval process, and for the Marine Reserves Act, an Order in Council.

7. Explain Ngai Tahu involvement with the ongoing process, how is the model of co-management likely to work?

We are still working with our Treaty Partner to understand and reflect their aspirations for co-management, as such, we are unable to comment on the specifics of how the model of co-management is likely to work at this stage as these discussions are ongoing.

8. The sanctuary is expected to create a loss for fisheries but speaking to a tourism representative, they may be economic benefits from the tourism sector, what was the response from tourism groups? how can the sanctuary benefit the tourism sector?

In their recommendations report (page 40) the Forum note the importance of sea-based tourism to the Otago region. In addition, the summary of submissions reflects that some submitters were very much alive to the potential economic upside from tourism that a network of marine protected areas could provide. The marine protected areas can potentially have significant benefits to the tourism sector, because of increased recreation activities such as guided kayaking, snorkelling, diving and wildlife viewing.

9. What were the concerns raised by fishing groups, were concerns raised from commercial or recreational fishing groups?


Concerns primarily came from commercial fishing groups, who raised concerns about the impact that the new marine protected areas would have on catch quotas and catch areas.

Ngā mihi

Rebecca Bird

Marine Protected Areas Significant Projects Manager

Planning Permissions and Land - *Pou Tautoko ā Motu*
Department of Conservation—*Te Papa Atawhai*

 S9(2)(a)

Please note I work out of the DOC Wairau office in Renwick.

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Vruttika Patel

From: Amelia Smith
Sent: Tuesday, 12 February 2019 4:43 p.m.
To: S9(2)(a)
Cc: Sean Cooper; Government Services; Peter Brunt
Subject: 19-B-0077-advice-request-BPA reporting

Hi S9(2)(a)

The following bullet points refer to the Minister's request regarding the percentage figure in the Aichi Target 11 reporting in the 6th National Report.

The New Zealand Government is working on several initiatives to further advance marine protection in New Zealand, including the Kermadec/Rangitāhua Ocean Sanctuary, Sea Change – Tai Timu Tai Pari marine spatial plan, the Campbell Island/Moutere Ihupuku Marine Reserve review, and the Southeast marine protected area planning process.”

Ngā mihi,

Amelia Smith

Policy Advisor | Marine Policy Team | Policy and Visitors Group
Department of Conservation—*Te Papa Atawhai*
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Vruttika Patel

From: Amelia Smith
Sent: Tuesday, 6 November 2018 8:59 a.m.
To: S9(2)(a)
Cc: Government Services; Peter Brunt; Sean Cooper
Subject: FW: 18-B-1302-Advice-Questions on international Reporting of marine protection

Hi S9(2)(a)

This email responds to the Minister’s questions on Thursday 1 November about the international reporting of marine protection. The questions, and the answers to them, are outlined below.

Out of scope

[Redacted]

[Redacted]

Out of scope

[Redacted]

[Redacted]

Ngā mihi,

Amelia Smith
Policy Advisor | Marine Policy Team | Policy and Visitors Group
Department of Conservation—*Te Papa Atawhai*
DDI: S9(2)(a)

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From: [Rebecca Bird](#)
To: [Geoff Woodhouse](#); [Kayla Kingdon-Bebb](#)
Cc: [Government Services](#); [Astrid Nunns](#); [Marie Long](#)
Subject: 18-B-0255] –Advice – SEMPF Questions from the Southland Times
Date: Tuesday, 13 March 2018 12:03:11 pm
Attachments: [image001.jpg](#)

Kia ora,

The Minister has been asked to respond to the following questions about the South East Marine Protection Forum from the Southland Time by 2pm today. The Department has prepared advice to support the Minister in her official response. Please find this below.

Questions (as supplied by the Southland Times):

1. We've heard a figure of \$2 million+ mentioned for the cost of the 3.5-year Forum process. What was the approx confirmed final total, please?

The total estimated spend to date is \$1.843 million, which is within expectations for a process of this size and complexity. Please note that the project hasn't been closed out yet, so this figure is subject to change.

2. Option 1 supporters have expressed dissatisfaction with both options proposed in the final report, with recreational and commercial fishing interests (option 2 supporters) going further and calling for a renewed process to start from scratch. Is starting from scratch one of the possibilities on the table? Why/why not?

I am satisfied with the quality of the recommendations and the work behind it. The process saw a wide range of community views presented through submissions, and between various groups and sectors. The split in views led to two alternate networks being recommended (Network 1 and Network 2). Consensus is very difficult to achieve when there are competing views and this result is not unusual for these types of processes.

The views are held firmly by the representatives and have been worked through during a thorough deliberations process. I believe that a renewed process, starting from scratch, and allowing more time, would be unlikely to substantially change the final result.

Ministers (We) will now work through the recommendations and can accept, reject or decide on an alternative approach.

3. The "Fiordland Guardians" marine protection process, concluded with legislation in 2005, was an example of a successful approach to these sorts of questions, adopting an integrated community/agency process and uniting disparate interest groups in their shared aims for the region's coast. In your view, would this have been a better approach, and could it still be revisited?

I believe the approach taken on the south-east South Island has been effective.

The Fiordland Guardians process was managed very differently. In the 10 years since, the direction has moved on to a community-based Forum supported by government agencies, working within the scope of the MPA policy.

We have learned a lot from the Fiordland experience and others including the Subantarctic Marine Protection Planning process, the West Coast South Island Marine Protection process and the Kaikoura Coastal Marine Protection process. These lessons were considered in the South-East Marine Protection process, with the Forum Chair and members taking a keen interest in learning from other examples, from the outset.

Under the Marine Reserves Act, the MPA policy and implementation guidelines are our national guidance to achieve marine protection and aligns with our international obligations under the Convention on Biological Diversity.

The MPA policy was also used to successfully achieve marine protection outcomes on the West Coast South Island. Government has initiated these processes to create a national network of marine protected areas.

4. Specific criticisms have been levelled at alleged “in-built bias” within the Forum process, with Forum members including the chairperson allegedly weighted towards environmental interests, and a “top-down” imposition of a prescribed environmental goal for the Forum, rather than establishing a broader vision through initial stakeholder input. How much truth is there in these allegations, and how might they have influenced the outcome, do you believe?

I am satisfied that the Forum followed a fair and transparent process to develop their recommendations and that the Chair guided the Forum through this process neutrally.

The Forum strived to take all views into account when determining what marine protection options would be recommended. The MPA policy and implementation guidelines were developed with input from the public, through a consultation process.

The Forum extensively canvassed the views of the public and stakeholders, through more than 100 public drop-in sessions and over 2,800 public submissions to determine the areas that should be included in the final recommendations.

5. Some have argued marine protection issues cannot be solved by the narrow approach of establishing marine reserves alone, but instead only by adopting a holistic, “catchment to ocean” approach to research and policy. What is your opinion on that view?

As previously stated, we are guided by the MPA policy and international obligations. It’s important to take an ecosystem-based approach to managing these areas and this includes protecting the marine environment.

6. What deadlines, if any, have you and Stuart Nash set for the next stage/s of this process, and when might we see the first reserve/s established?

We are in the process of seeking advice from agencies (Department of Conservation and Ministry for Primary Industries). Any timeline is yet to be determined but this is a high priority for me as Minister of Conservation.

7. Any further comment you’d like to add?

No.

Please don't hesitate to contact me should you have any questions,

Nga mihi,

Rebecca Bird

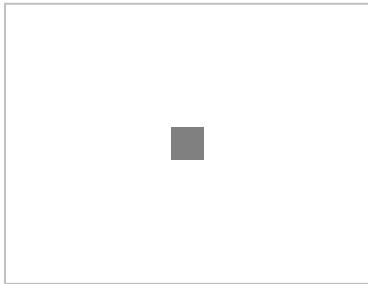
MPA Significant Projects Manager

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